

December 19-2022

Kathryn Royal kroyal@osc.gov.on.ca

Manager, Strategic Planning and Reporting

Ontario Securities Commission ("OSC")

OSC Notice 11-797 – Statement of Priorities ("Priorities") – Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2024

Thank you for the opportunity to provide an input on the [OSC Notice 11-797 2023-2024 Statement of Priorities](#).

To ensure transparent consultation of all views I agree to the OSC sharing my "unedited" communication and posting on the OSC website on an "as received basis" to allow any other contributors the opportunity to review my input on the issues before they comment, if desired. Should the OSC decide not to make this communication "public" I respectfully request that no material or references to my communication be made in any public releases by the OSC.

At the outset I really wonder if the OSC will pay attention to any retail investor concerns as in my opinion at least, the most important role the OSC has is investor protection an area that has been not progressing for many years as for one example, the Ombudsman For Banking Services And Investments ("OBSI") still does not have binding decision power, but here we go again, the OSC is going to review the aforementioned proposal.

What is really disconcerting and troubling is that the OSC Priorities released subsequent to the recent audit by Auditor General of Ontario ("AGO") does not reference any of the AGO recommendations. It is as if the AGO did not even audit the OSC, as OSC management made no reference to the AGO audit. I would trust that the AGO has significantly more valued input than any retail investor, but the AGO recommendations were it appears, totally ignored. Consequently, why would retail investors think that their comments would be considered? However, trying to remain optimistic, below is a summary of what I think should be prioritized for better investor protection:

- Priorities remaining on the list year over year and never reaching closure can not be categorized as priorities but are part of ongoing work. The only approach is to reduce the number of priorities, actually prioritize what the OSC actually intends to deliver and most importantly deliver on the Priorities. A huge list of #1 priorities is really meaningless.
- Ten (10) years and counting, the OBSI still does not have binding decision power. Without binding power how can the OBSI ever aspire to stronger investor protection? The recent Puri Report ("Investments") made twenty-two (22) recommendations including that the OBSI have binding decision power, with higher thresholds, and a clear recommendation with respect to a new systemic issues protocol but these do not appear in Priorities which is very disconcerting. The OSC finally going to develop a binding proposal for comment highlights the fact that the regulatory decision-making process moves at a glacial pace.
- The Priorities ignored the AGO recommendations for enhanced investor protection, rule-making process acceleration, and compensation to harmed investors. Personally, I have approached the OSC two (2) times over my investing career. The OSC did nothing two (2) times pointing to other regulators, that in one (1) case also did nothing.
- Priorities focusing on promoting initiatives related to fostering competition, creating exemptions, capital formation and burden reduction, are all initiatives that assist the financial industry and do not protect investors which supports my assessment that the OSC focuses on everything, except investor protection.

- Priorities focusing again on investor education, policy, research, and behavioural science activities. This is an annual recurring theme that in my opinion is used as a substitute for investor protections as the OSC points to this for aggrieved investors as opposed to enhancing investor protection.
- With respect to OEO brokerages whereas I welcome the OSC reviewing the DSC deferred sales charge ban if in fact the OSC actually follows through on that priority, the OSC is silent on who regulates the OTC side of the OEO business even though I advised the OSC of IIROC's position communicated to me as follows "***Whereas IIROC regulates its dealer members, IIROC does not regulate securities trading on US-based exchanges and marketplaces. This falls under the jurisdiction of the SEC and FINRA. Moreover, IIROC does not comment on SEC or FINRA rules.***" Therefore, I assume that no entity is accountable for regulating the OEO OTC market business even though they operate in Ontario, charging investors for their services. Unbelievable is my only conclusion.
- Given last years prioritization of Client Focused Reforms ("CFR") in reviewing the OSC's responses, would investors reasonably assume that the OSC will be more responsive to any adverse impacts during the implementation of the DSC and OEO trading commission bans?
- The OSC placing a high priority on Access = Delivery is very concerning for retail investor as Access=Delivery is directly correlated to less investor disclosure and protection as a news release is not delivery. The only reason for this initiative is to reduce costs for issuers. In that regard, hopefully retail investors will be treated as true "stakeholders" by the OSC.
- The SEC whistle-blower program is a huge success. The OSC should look at the attributes of that program and implement them in Ontario as soon as possible.
- The Ontario demographic is getting older. Notwithstanding that the OSC introduced a strategy in March 2018 at [OSC Staff Notice 11-779 Seniors Strategy](#) and is supportive to protect seniors the OSC must move a lot faster as seniors in most cases can not recoup losses as losses can be very impactful on seniors, far more so than other investors, recognizing that all investors should be protected. Case in point, in 2020 two (2) years after the introduction of the strategy, at the [OSC Investor Office](#), the OSC stated that they were still working on it. The FCAC / Canadian Banking Association ("CBA") Seniors Champion idea, although voluntary guidelines, represents another source to design and most importantly implement a seniors / vulnerable investors program on.
- Given all the policy and operational issues associated with discount brokers (OEO), a review of regulations is appropriate, especially given the number of new clients on that platform, the extensive wait times on the platforms that is being called out as requiring regulatory attention, and the rapid technological advances. This broker category provides services to millions of ordinary Canadians saving for their retirement or other life goals and as noted above is not fully regulated by IIROC, as confirmed by IIROC. That fact should be very concerning for the OSC and should be investigated by the OSC.
- Fine enforcement, investigation, financial quantum of fines that are currently very minimal and represent a cost of doing business as opposed to a deterrent, and the collection / security processes to ensure that any fines levied are actually collected needs a major overhaul as significant fines actually collected are proven in many jurisdictions to be a critical tool to ensure compliance. Consequently, the OSC to ensure compliance should implement significant fines that actually must be paid by brokerages which will go a long way to ensuring additional investor protection.

Notwithstanding all the Priorities, there are once again not enough that will increase investor protection which does not appear to be a OSC priority.

As an aside, has the OSC considered the benefit of collaborating with other provincial securities Commissions and share workload?

Thanks for your attention to these comments.

Rick Price