

2023 ANNUAL REPORT
OF THE ONTARIO SECURITIES COMMISSION'S
INVESTOR ADVISORY PANEL

JUNE 2024

Introduction

The Investor Advisory Panel (IAP, or the Panel) is pleased to present our 2023 Annual Report outlining the IAP's activities, submissions, consultations, and meetings during the calendar year.

Since its formation in 2010, the IAP has been an active channel for bringing the perspectives and concerns of Ontario investors to the attention of policymakers mandated to protect them. We have worked closely with the OSC's Investor Office and with other OSC staff to address existing and emerging areas of concern and risk for retail investors, actively participating in the policymaking process – from issue identification to policy development to commenting on new rules and processes once they have been drafted and proposed for implementation.

Retail investor input is key to ensuring a healthy and fair regulatory regime. The IAP's mission is to provide that input, thereby serving as a useful policymaking resource for the OSC in its development and administration of rules that protect investors, promote fair, efficient and competitive capital markets and confidence in the capital markets.

How the Investor Advisory Panel Works

The IAP provides advice to the OSC at all three stages of the policy development process:

Stage 1

Issue Identification

We bring an investor perspective to the OSC to inform policymaking at the earliest stages by identifying and raising areas of interest or concern through face-to-face meetings with key staff. When appropriate, we follow up with specific recommendations.

Stage 2

Policy Development

We provide the OSC with an investor viewpoint, including identifying important matters and concerns on regulatory policy development. Throughout ongoing discussions with OSC staff and other key stakeholders, we engage in constructive and thoughtful dialogue regarding investor issues, and we propose relevant recommendations to help address such issues. We strive to ensure our recommendations are evidence-based.

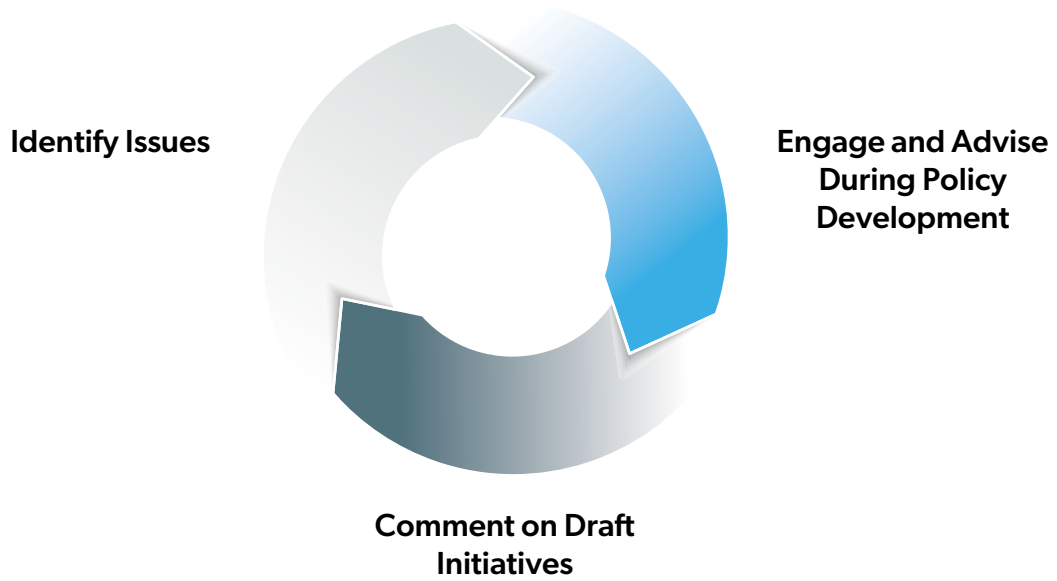
Stage 3

Policy Proposals and Discussion Papers

We regularly provide advice on policy proposals once they have been published for comment to ensure the investor voice is considered in final outcomes.

The IAP advises the OSC on policymaking through an investor lens.

How the IAP Engages with the OSC



Key numbers for 2023

10

Panel Meetings

3

Submissions, letters and reports to the OSC/CSA

5

Submissions to other bodies

12

Meetings with external organizations

2023 in Review

For the Investor Advisory Panel, events during the year highlighted the importance of securities regulation continuing to prioritize investor protection in a way that effectively keeps pace with a rapidly shifting environment for retail investors.

Seven broad themes made their way into the Panel's meetings and in submissions to the OSC and other bodies. These themes are set out below.

Theme 1: Access to Investment Advice and Self-Directed Investors

THE PANEL'S OBSERVATIONS:

There has been a steady increase in the number of Canadians who trade on order-execution-only (“OEO”) platforms. In its Fall 2023 update, Investor Economics reported that the number of do-it-yourself (“DIY”) trading accounts reached 11.4 million as of September 2023, a 6.5 per cent increase over the previous 12 months.¹ This follows on substantial growth in the sector during the pandemic, with 2.3 million Canadians opening DIY accounts in 2020 and 3.6 million in 2021.² In October 2023, the Investment Funds Institute of Canada published the results of its annual investor survey, in which it was noted that mutual fund and exchange-traded fund investors are relying less on financial advisors for their investment purchases.³ Investor behaviour and decision-making may be influenced by non-traditional sources of information such as ‘finfluencers’, gamification and other behavioural techniques.

The Panel has continued to monitor potential risks arising from the gamification of trading platforms. A September 2022 [study](#) by the OSC’s Investor Office noted that “investing platforms use a wide range of digital engagement practices to increase user engagement... and not necessarily to improve long-term outcomes for their retail investors.”

¹ [Retail Brokerage and Distribution Report](#) - Canada, Investor Economics (Fall 2023), p. 39.

² [Canadians opening Do-It-Yourself \(DIY\) accounts in unprecedented numbers](#), CIRO (February 2021) and [Regulators face pressure to review discount brokerage rules as DIY investors turn to social-media posts for advice](#), Globe & Mail (September 2022).

³ [Canadian Mutual Fund and Exchange-Traded Fund Investors Survey](#), Investment Funds Institute of Canada (October 2023).

THE PANEL'S ADVICE:

As the Panel noted in its [comment letter](#) regarding the OSC's Statement of Priorities for the 2024-2025 fiscal year ("SoP"), the Panel continues to be concerned that unsophisticated investors can easily access leverage-based or other complex investment products on OEO channels, and that current limitations that disallow OEO firms from providing advice may prevent investors from receiving timely information that could offer them increased protection.

The Panel encourages the OSC to evaluate the types of advice that could benefit DIY investors, including investors who are unable to access the registered advice channel. Our suggestions include that it may be appropriate to require OEO firms to publish clear risk warning 'pop-ups' and/or product disclaimers at the point in time immediately prior to the placing of orders by clients. As the Panel further noted in its SoP comment letter, we encourage the OSC to consider conducting a compliance review of influencers to determine whether measures are needed to regulate their conduct.

Theme 2: Client Focused Reforms

THE PANEL'S OBSERVATIONS:

In 2021, the Canadian Securities Administrators' ("CSA") Client Focused Reforms ("CFRs") came into effect. The CFRs introduced significant enhancements to registrant conduct obligations. Among other things, the CFRs require that registrants' material conflicts of interest be identified, documented, addressed in the best interest of a client and disclosed (the "conflicts of interest obligations"); and that registered firms take reasonable steps to better understand and approve securities that are purchased and sold for, or recommended to, their clients (the "know-your-product ("KYP") obligation").

Examination data by the CSA and Canadian Investment Regulatory Organization ("CIRO") suggests that the industry has not yet achieved satisfactory compliance with its conflicts of interest obligations under the CFRs. A [regulatory review](#) of firm practices published in August 2023 found that the majority of registered firms have deficiencies in their compliance practices regarding conflicts of interest obligations, including:

- failing to identify one or more material conflicts of interest,
- inadequate controls to address conflicts of interest in the best interest of clients, and
- missing or incomplete disclosure to clients regarding material conflicts of interest.

THE PANEL'S ADVICE:

As the Panel noted in its SoP comment letter, the Panel encourages the OSC to prioritize its collaboration with key stakeholders regarding implementation of the CFRs, including the CSA, CIRO, registrants and investors. In light of the importance of this investor protection development, the Panel is of the view that it is timely for the OSC to assess its implementation impact and effect on investors, and to meaningfully measure whether the CFRs are achieving the objectives that the OSC originally set out to meet with these reforms.

The Panel believes it is important for the OSC to determine whether the CFRs have resulted in unintended consequences — for example, whether firms have increased fees given additional costs of compliance, or have limited the shelf available to investors. Such information could assist regulators in ensuring the CFRs are attaining desired outcomes for investors.

Theme 3: Flow of Capital into Alternative Forms of Investing

THE PANEL'S OBSERVATIONS:

Data and research show that globally there have been increased capital flows into privately placed alternative assets, including private equity and private debt.⁴ A September 2023 survey revealed that 63 per cent of financial advisors, whose clients include institutional and retail investors, expect to increase their client or model portfolios' exposure to private credit and 83 per cent expect to increase their clients' exposure to alternative assets in the coming year.⁵ Crypto assets remain popular, notwithstanding the considerable volatility and risk of fraud in that market.

THE PANEL'S ADVICE:

We commend the OSC for the leading role it has played with the CSA in strengthening oversight of crypto trading platforms and enhancing registrant obligations through the CFRs. We believe, however, that there is more work to be done regarding investor access to alternative investments which are speculative and high-risk and to strengthen oversight of those who provide such access.

As we noted in the Panel's [comment letter](#) relating to the International Organization of Securities Commissions' ("IOSCO") Consultation Report on Policy Recommendations for Crypto and Digital Asset Markets, we are supportive of rules — similar to the recent [guidance](#) adopted in the UK — that restrict how crypto-assets can be marketed and that impose strict penalties for non-compliance.

⁴ [Growth in alternatives AUM to hit \\$23.21tn in 2026](#), CAIA Association (April 2022).

⁵ [Investor survey](#) conducted at the Ninepoint Alt Thinking Global Investment Forum, Ninepoint Partners LP (September 2023).

Theme 4: Investor Vulnerability to Fraud

THE PANEL'S OBSERVATIONS:

The Ombudsman for Banking Services and Investments' ("OBSI") 2022 Annual Report identified fraud as the leading banking-related issue in 2022, representing 31 per cent of all banking cases, up from 22 per cent in 2021. The report also noted that fraud-related investment cases had risen dramatically, representing 11 per cent of all investment complaints in 2022, up from one per cent in 2021.

Fraudsters have been using artificial intelligence to create convincing fake identities to generate false information and to engage in sophisticated targeting of victims. Deepfakes — where images or videos are convincingly altered to misrepresent someone as doing or saying something that was not actually done or said — have led to several high-profile instances of Canadians suffering financial losses.⁶ Affinity fraud — where fraudsters leverage their connections within cultural, religious or ethnic groups to encourage fraudulent investments — is also a significant source of fraud. During the Panel's meetings with stakeholders, we have heard that seniors are particularly vulnerable to fraud, with fraudsters taking advantage of instances of isolation, loneliness and/or lack of sophistication with online tools.

THE PANEL'S ADVICE:

The Panel applauds the OSC's Investor Office for the initiatives it has already taken to bolster consumer awareness of fraud-related risks, including re-launching the Get Smarter About Money [website](#), which includes resources on common investment scams and how to identify them. The Panel further encourages the OSC to maintain its focus on collaboration with other regulators and agencies to address the evolving fraud landscape and impact on vulnerable investors.

⁶ [A warning from experts: 'The deepfakes you see now are going to be the worst you're ever going to see'](#), CTV News (September 2023); [This is how an Ontario woman lost \\$750,000 in an Elon Musk deep fake scam](#), CTV News (September 2022)

Theme 5: The Designated Fund Proposal

THE PANEL'S OBSERVATIONS:

In August 2023, Ontario's Ministry of Finance ("the Ministry") proposed a regulation to enable the OSC to use money from enforcement orders and settlements allocated to the Designated Fund for two new purposes. The proposal contemplated that the OSC would be able to fund: a) information technology- and data capability-focused initiatives, and b) activities of the OSC's Office of Economic Growth and Innovation aimed at fostering innovation, capital formation and competition in Ontario's capital markets. This would mark a significant change for the Designated Fund, which to date has largely been used for the benefit of investors, either directly or indirectly.

The Ministry's consultation document indicated that the OSC would continue to be required to prioritize the allocation of money from the Designated Fund to harmed investors, and that the OSC would also be required to develop internal controls to ensure allocations from the Designated Fund were used appropriately.

THE PANEL'S ADVICE:

In its [comment letter](#) on the proposal, the Panel commended the Ministry for prioritizing allocations to harmed investors and outlining internal control requirements.

We encouraged the Ministry and the OSC to ensure that any uses of the Designated Fund be seen to directly benefit investors and that requests for expenditures related to the Office of Economic Growth and Innovation be assessed through an investor protection lens. Specifically, we advised the Ministry and the OSC to:

- Develop guidelines to prioritize investor protection initiatives over any other purpose;
- Include a reporting requirement that mandates the OSC to be publicly transparent about how funds are used and how the expenditures would benefit investors;
- Increase allocations to the OSC's whistleblower program and make material allocations to FAIR Canada, Prosper Canada, Canadian Association of Retired Persons, investor protection clinics and the OSC's Investor Office; and
- Amend Ontario's Securities Commission Act to enable the Capital Markets Tribunal to order restitution in appropriate circumstances, to increase the maximum fine that can be awarded for administrative monetary penalties to \$5 million and to increase the maximum fine for quasi-criminal offences to \$10 million.

Theme 6: Proposal to Grant Binding Authority to OBSI

THE PANEL'S OBSERVATIONS:

The Panel is pleased that the CSA published for comment a proposal to provide OBSI with authority to make binding awards to investors through a framework that is accessible, fair and efficient. The Panel has long advocated for the creation of an accessible, fair and efficient dispute resolution service that has binding authority as an essential element of a robust investor protection framework.

THE PANEL'S ADVICE:

As the Panel noted in its [comment letter](#) responding to the review of CIRO's (formerly the Investment Industry Regulatory Organization of Canada) Arbitration Program, we strongly support and encourage reform of the investment sector's external complaint handling system to improve the fairness of outcomes for investors by making the system more accessible, functional and transparent. The Panel also strongly [supports](#) a modern and robust governance structure at OBSI that has board independence and a deep understanding of consumer perspectives and investor protection issues as its core tenets.

In its February 2024 [comment letter](#) on the CSA's binding authority proposal, the Panel commended securities regulators for their leadership in developing the binding authority proposal and for working to elevate Canada's dispute resolution framework to accord with international best practices. The Panel observed that a binding dispute resolution framework will benefit investors, firms and capital markets as a whole.

Among other recommendations, the Panel encouraged the CSA to make the process as transparent, clear and easy for retail investors to understand as possible, and to ensure the framework promotes greater finality, efficiency and fairness to all parties.

Theme 7: Domestic and International Engagement

THE PANEL'S OBSERVATIONS:

In 2023, the Panel was pleased to meet and consult with a number of domestic and international regulatory, investor-centric and industry stakeholders, both in the context of scheduled IAP meetings and through bilateral discussions. These meetings and presentations helped to inform the Panel's understanding of the trends affecting retail investors in other sectors and jurisdictions and regulators' responses to them, as well as to exchange information regarding best practices in the advancement of investor protection in securities regulation.

Throughout 2023, the Panel engaged with a number of domestic and international bodies, such as the Financial Consumer Agency of Canada, CanAge, the Osgoode Investor Protection Clinic, the Australian Securities and Investments Commission, the United States Securities and Exchange Commission's (SEC) Office of the Investor Advocate, IOSCO and the World Bank to better understand the global and domestic trends affecting retail investors and to advise on best practices for advancing investor protection issues in Ontario.

THE PANEL'S ADVICE:

The Panel commends the OSC for being a leader in outreach and consultation with domestic and international counterparts and encourages it to continue in this role. The Panel members believe that the cross-sectoral and cross-jurisdictional sharing of information and best practices is critical to meaningfully advancing the interests of retail investors in Ontario.

The Year Ahead

Throughout 2024, the Panel will continue to encourage the OSC to prioritize investor protection as the cornerstone of its multi-pronged mandate. The Panel will also continue to engage and deepen ties with key relevant domestic and international stakeholders to promote the interests of retail investors.

About the IAP

The IAP is an independent advisory panel to the Ontario Securities Commission. The IAP's mandate, membership terms, operating procedures and remuneration and budget are set out in its [Terms of Reference](#).

Our Mandate

Our mandate is to solicit and represent the views of investors on the Commission's policy and rule-making initiatives. In order to fulfill our mandate, the IAP will:

- Advise and comment in writing on proposed rules, policies, concept papers and discussion drafts, including the Commission's annual Statement of Priorities,
- Consider views representative of a broad range of investors through consultation with and input from investors and organizations representing investors in formulating its advice and written submissions to the Commission,
- Bring forward for the Commission's consideration policy issues that may emerge as a result of the IAP's investor consultation activities and comments on the potential implications for investors posed by those issues,
- Advise and comment in writing on the effectiveness of the investor protection initiatives implemented by the Commission, and
- Engage with other advisory committees to the Commission, as necessary, to contribute to the retail investor perspective on matters before those committees

Investors are welcome to contact the IAP by email at: iap@osc.gov.on.ca or by writing to:

Investor Advisory Panel
c/o The Investor Office
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Our Membership

The IAP is comprised of members appointed by a selection committee composed of the Chief Executive Officer of the Commission and two Executive Directors following a public application process. Members of the IAP are appointed for terms of up to two years, with possible reappointment for one additional term.

How We Operate

The IAP generally meets monthly, in person and/or by video conference. We maintain frequent contact between meetings to develop our written submissions and to share and exchange views on developments in securities law and other relevant matters. During our meetings, we discuss upcoming submissions and plans for future outreach, research and consultation.

Our work plan is set to a large extent by the Commission's priorities and current developments in the investment industry. Our meeting agendas often will focus on specific OSC initiatives, including the Commission's annual Statement of Priorities and business plan, policy and rule proposals, and ongoing or under-development investor protection initiatives.

Independence

The IAP conducts its activities without direction or influence from the Commission.

The OSC Investor Office serves as the general liaison between the IAP and the Commission and serves as secretariat to the IAP. The Investor Office provides administrative support to IAP activities and facilitates our requests for staff briefings or research information conducted by, or available to, the Commission on specific policy and rule-making initiatives.

Transparency

Transparency of our work is important. We provide regular reporting through our [Investor Advisory Panel section of the OSC website](#), through our published reports, submissions, letters to the Commission and our Annual Report. We publish all meeting agendas on our webpage.

Consultations

To assist us in fulfilling our mandate, we regularly consult with organizations and financial and legal experts, industry associations and investor advocacy bodies.

IAP Members – 2023

Daniel Bach

Mr. Bach is a partner at Siskinds LLP, with extensive experience in investor recovery and dispute resolution on behalf of plaintiffs. His practice includes complex securities and consumer-related class actions on behalf of individuals, asset managers and pension funds. He is the past Chair of the Advocates Society's Securities Litigation Practice Group, and teaches, speaks and has published in the areas of securities litigation, corporate governance and class proceedings.

Brigitte Catellier

Ms. Catellier is Associate Director of the Investor Protection Clinic at Osgoode Hall Law School where she is also an adjunct professor. The Clinic provides free legal advice to people who believe their investments were mishandled and who cannot afford a lawyer. As Associate Director of the Clinic she oversees all activities including strategic direction, file management, student supervision and seminar instruction. She also teaches Financial Services Regulation in the Financial Law LLM at Osgoode Hall Law School. Ms. Catellier obtained her BCL/LLB degrees from McGill University and was admitted to the Quebec Bar. She is a Fellow of the Chartered Governance Institute and currently serves as Chief Governance Officer & Corporate Secretary at The Co-operators Group Limited.

Supriya Kapoor

Ms. Kapoor is the founder and principal of Aurelius GRP, an investment governance, regulatory and policy consultancy. As a regulatory consultant Ms. Kapoor provides advice and guidance to develop effective compliance programs, operational infrastructures, and robust governance structures to ensure investor needs and interests are being appropriately met. Ms. Kapoor has approximately 25 years' experience in securities regulatory compliance, including as Chief Compliance Officer and a member of senior management of multiple registered firms. Ms. Kapoor serves on various Independent Review Committees, industry committees and has previous experience on other OSC and CSA committees.

Deborah Leckman

Ms. Leckman is a member of the Board of Trustees of OPTrust, serves as an advisor to the Investor Protection Clinic at Osgoode Hall Law School, and is a former Commissioner to the Ontario Securities Commission. A CFA Charterholder, Ms. Leckman is a senior investment professional with over 30 years experience in the retail wealth and pension fund industries, and has held executive roles in the private and public sectors.

Parham Nasser

Mr. Nasser has over 15 years of regulatory and wealth management experience, which includes senior roles in regulatory analytics, digital transformation and loss valuation with the Ombudsman for Banking Services and Investments. He is a past Chair of the Canadian Advocacy Council of CFA Societies Canada and is a CFA Charterholder. Mr. Nasser currently serves as President, InvestorCOM.

James (Jim) Sinclair

Jim Sinclair has over 35 years of experience providing legal services in a wide variety of capital markets settings, often with a focus on investor protection and issues facing investors. Most recently, he served as General Counsel at Common Wealth, a company that offers a digital retirement platform to help Canadians achieve their retirement goals. Prior to that role, Mr. Sinclair served for over five years as General Counsel at the Ontario Securities Commission and was appointed Acting Director of Enforcement for some of that time, during which he helped usher in the OSC Whistleblower Program. Prior to joining the OSC, he was the Director of Legal Services at the Ontario Ministry of Finance, where he was engaged in significant securities, pension, insurance and tax reform. Before joining the Ministry, he was Chief Legal and Compliance Officer at a large investment management firm.

Ilana Singer, Chair

Ms. Singer is Senior Vice-President, Legal, Policy and Corporate Secretary at the Canadian Investor Protection Fund ("CIPF"). As a bilingual member of CIPF's senior management team, Ms. Singer leads a team with responsibility for policy, legal, communications and

corporate secretarial matters. Ms. Singer also serves as a World Bank securities expert, with a focus on investor protection matters, and has been a multilingual Toronto Centre Program Leader since 2005.

Ms. Singer was previously Chief Operating Officer and Deputy Director at FAIR Canada, an Adjunct Instructor for the Osgoode Hall Law School Investor Protection Seminar, and served as Chair of the Toronto Centre Securities Advisory Board. She is a graduate of the Securities Industry Institute (SII) offered by Wharton Executive Education in partnership with SIFMA.

Ian Tam

Mr. Tam has over 15 years of financial services experience, and currently serves as Director, Investment Research at Morningstar Canada. His responsibilities include ensuring the relevance and visibility of Morningstar's data, research, ratings and thought leadership among investors, as well as participating in public consultations and speaking engagements on significant securities regulatory developments. He is a member and former Chair of the Canadian Investment Funds Standards Committee and a CFA Charterholder.

Leslie Wood

Leslie Wood is a Chartered Professional Accountant and former senior executive in the investment fund industry bringing over 25 years of experience. She has successfully completed several mutual fund acquisitions, product re-engineering, systems integration and conversions, brand and distribution development, and oversight of all back-office operations and new product launches. Ms. Wood retired in 2016 and serves on multiple Independent Review Committees.

Outgoing Members

We extend our thanks and recognize the service of the following members whose term on the IAP concluded in 2023:

Ivy Lam

Cary List

Consultation – External Organizations

Canadian Public Accountability Board (CPAB)

- Carol Paradine - Chief Executive Officer
- Jeremy Justin - Vice President, External Outreach

CanAge

- Laura Tamblyn Watts – Chief Executive Officer

Financial Consumer Agency of Canada (FCAC)

- Judith Robertson – Commissioner
- Sara Ulmer – Secretariat Officer

Financial Services Regulatory Authority of Ontario (FSRA)

- Huston Loke – Executive Vice President, Market Conduct
- Antoinette Leung – Head of Financial Institutions and Mortgage Brokerage Conduct

FP Canada

- Tashia Batstone – President and Chief Executive Officer

Investor Protection Clinic at Osgoode Hall Law School

- Brigitte Catellier – Associate Director
- Adam Dickinson – Student Caseworker

Kalloghlian Myers LLP

- Serge Kalloghlian – Partner

Kenmar Associates

- Ken Kivenko – President

Ombudsman for Banking Services and Investments (OBSI)

- Sarah Bradley – Ombudsman and Chief Executive Officer
- Mark Wright – Director of Communications & Stakeholder Relations

Scotiabank

- Jonathan Davey – Vice President, Indigenous Financial Services

The Everton Carlisle Group Inc.

- Frank Barillaro – Managing Director

U.S. Securities and Exchange Commission's (SEC) Office of the Investor Advocate

- Cristina Martin Firvida – Investor Advocate
- Adam Anicich – Special Advisor and Investor Engagement Manager
- Stacy A. Puente – Ombudsman

Consultation – Ontario Securities Commission Staff

The following topics were discussed:

- Artificial Intelligence and the Capital Markets
- Collaboration with CPAB
- CSA consultation on Access-Based Model for Investment Fund Reporting Issuers
- CSA Corporate Governance Consultation Relating to Broader Diversity, Board Renewal and Director Nomination Process
- CSA Investment Funds Continuous Disclosure Modernization
- Digital Engagement Practices in Retail Investing
- Independent Review Committees
- Investor Research - Research Study: Crypto Assets 2022
- IOSCO Fintech Task Force: Crypto Digital Assets Recommendations
- SRO Oversight and Post-Close Initiatives
- Strengthening Investor Redress and OBSI
- Temporary Exemptions from the OEO Trailer Ban
- Total Cost Reporting

The IAP met with the following branches:

- Compliance and Registrant Regulation
- Corporate Finance
- Digital Solutions
- Executive Office
- Investment Funds & Structured Products
- Investor Office
- Market Regulation
- Office of the Chief Accountant
- Office of Economic Growth and Innovation

Submissions, Letters and Reports

January 31, 2023

[Ombudsman for Banking Services and Investments \(OBSI\) Governance Review](#)

March 6, 2023

[Review of the IIROC Arbitration Program](#)

May 30, 2023

[OSC's Investor Advisory Panel releases 2022 Annual Report](#)

July 24, 2023

[CSA Consultation - Access-Based Model for Investment Fund Reporting Issuers](#)

July 31, 2023

[IOSCO's Consultation Report on Policy Recommendations for Crypto and Digital Asset Markets](#)

September 18, 2023

[Proposed regulation that prescribes additional purposes for which the OSC can use enforcement money](#)

November 24, 2023

[Canadian Public Accountability Board's proposed rule changes](#)

December 18, 2023

[OSC Draft Statement of Priorities for 2024-2025](#)

