SIPA Sentinel

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Small Investor Protection Association - A voice for small investors

Why Do Most Investors Trust Their "Financial Advisor"

Why do most investors trust their Financial Advisor? It seems that almost all, if not all, investors trust their "Financial Advisor" as we are led to believe that we can. Also, only a fool would willingly give their money to someone they knew could not be trusted.

The Ontario Securities Commission website states:

> *The Ontario Securities Commission administers and enforces securities law in the province of Ontario. Our mandate is to provide protection to investors from unfair, improper and fraudulent practices, and foster fair and efficient capital markets and confidence in capital markets.*

The British Columbia Securities Commission states:

> Our mission is to protect and promote the public interest by fostering:
>
> - A securities market that is fair and warrants public confidence
> - A dynamic and competitive securities industry that provides investment opportunities and access to capital
>
> The mandate of the Enforcement Division is to protect the investing public through the investigation of complaints and the enforcement of the Securities Act.

The general impression created by regulators in Canada is that they protect investors and investors can have confidence in the market place. That is why investors trust their financial advisors. But should they?

Granted many dealers' representatives are trying to look after their clients' best interests, so why does the financial service industry oppose making fiduciary duty mandatory for those who sell financial products or offer advice?

Is the public being misled when the regulators allow the financial services industry to use false or misleading titles? Who wouldn't trust a "Financial Advisor & Vice President"?

Why do regulators have a category of "Adviser" for someone registered to give advice, but allow the industry freedom to use titles for which there is no registration category? Most "Financial Advisors" are registered as "Dealer's Representatives" (a term that replaced Sales Representative) and there is no legal requirement for them to have a fiduciary duty or even to look after investors' best interests. There are many dealers' representatives entitled "Financial Advisor" providing good service to their clients, so why not make it mandatory for all to accept responsibility for their actions and be required by law to look after their clients' best interests. It would seem that financial service regulators should make it mandatory that all registrants have a fiduciary responsibility to their clients and be required to look after their clients' best interests. That would seem the right thing for regulators to do, particularly if they claim to protect investors.

For the present it remains an Investor Beware environment for investors. Check the CSA Disciplined Persons List at https://www.securities-administrators.ca/disciplinedpersons.aspx?id=74

REGULATORS ARE RAISING AWARENESS FOR SMALL INVESTORS

Although much has been said about investor education and the need for investors to learn more about investing, and this is important in a Buyer Beware environment, it is much more important for small investors to become aware of how the investment industry operates.

Many investors have discovered that they have fared better after they became DIY (Do It Yourself) investors. With the introduction of discount brokers for investors who could select their own investments, and the development of ETFs which enabled mutual fund investors to buy a product that provided diversification similar to mutual funds but without the high fees, small investors found they could achieve improved investment performance.

The regulators are also helping with investor awareness by their websites providing Alerts and Warnings as well as a list of disciplined registrants so that investors relying upon an adviser can check their qualifications with the regulators.

The OSC provides the following Investor Alerts and Investor Warnings on their website:

Investor Warnings

This section provides information about individuals and companies that appear to be engaging in activities that may pose a risk to investors. This information is not exhaustive. You should always check the registration of the individual or company you're dealing with and research the investment before you buy. If you have questions about any of these individuals or companies, or are suspicious about an investment opportunity, contact us for assistance.

Investor Alerts

December 4, 2013	Investor Alert: Glendale Growth & Trust and Leonard (Lennie) Goldman
November 28, 2013	Investor Alert: Rosswell Group
October 25, 2013	Investor Alert: SUNS Group
October 24, 2013	Investor Alert: International Youtrade Investments MA Ltd. and You Trade Holdings Limited
July 2, 2013	Investor Alert: EquityStar Momentum Growth Fund

Warning List

January 16, 2014	Galaxy Investment Management Limited

December 16, 2013	Better Life Investment Inc. doing business as the thebetterlifeinvestment.com
December 16, 2013	The Better Life Investment Group doing business as the thebetterlifeinvestment.com
November 21, 2013	Qualified FX SA doing business as qualifiedfx.com and qualifiedfx.net
October 30, 2013	Novee Forex doing business as www.noveeforex.com

The Canadian Securities Administrators (CSA) is an umbrella organization of Canada's provincial and territorial securities regulators whose objective is to improve, coordinate and harmonize regulation of the Canadian capital markets. It aims to achieve consensus on policy decisions which affect our capital market and its participants. It also aims to work collaboratively in the delivery of regulatory programs across Canada, such as the review of continuous disclosure and prospectus filings.

While the CSA co-ordinates initiatives on a cross-Canada basis, provincial or territorial regulators handle all complaints regarding securities violations in their respective jurisdictions. This provides a more direct and efficient service since each regulator is closer to its local investors and market participants. Enforcement of securities regulations is also done on an individual basis by each province or territory.

The CSA also provides a comprehensive disciplined persons list that includes data from the provincial regulators as well as the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA). The list does not include individuals from the banks and insurance companies that sell products nor considered as securities. Although Segregated Funds seem similar to Mutual Funds they contain an insurance component and so are not classified as a security and therefore are not governed by the Securities Acts.

CSA Disciplined Persons List

www.securities-administrators.ca/disciplinedpersons.aspx?id=74

The disciplined persons list is intended to assist the public and the securities industry in conducting due diligence. This list reveals the names of all persons disciplined by the Alberta Securities Commission since 1987, the Autorité des marchés financiers since 2007, the British Columbia Securities Commission since 1987, the Bureau de décision et de révision since 2007, the Manitoba Securities Commission since 1999, the New Brunswick Securities Commission since 1991, the Nova Scotia Securities Commission since 2002, the Ontario Securities Commission since 1997, the Saskatchewan Financial Services Commission since 2005, the Quebec provincial court since 2007, the Investment Industry Regulatory Organization of Canada (IIROC) since 2004, the Mutual Fund Dealers Association of Canada (MFDA) since 2004 and la Chambre de la sécurité financière since 2001.

Administrative tribunal hearing decisions and settlement agreements are public records. As the government agencies responsible for protecting investors and the integrity of the securities markets, we consider it important to make this type of information readily available. This is why we identify the names of the person that have been subject to sanctions, no matter how serious and whether or not the sanctions have expired.

Browse Alphabetical List

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Not all disciplinary actions are contained on this list, so check the CSA site to confirm what is included.

FRAUD IN CANADA IS DECIMATING CANADIANS SAVINGS

There are many types of fraud in addition to investment fraud. All fraud is damaging to Canadians and robs them of their savings. Canadians must become aware of invasion of fraud that is robbing our society.

In Canada MARCH IS FRAUD AWARENESS MONTH. Please take the time to pay attention and learn about fraud in its many forms.

Many Canadians are losing their savings due to fraud. A CSA sponsored study indicates over 70,000 Canadians were victimized by fraud in one year. Studies show that not all fraud is reported. In fact it is probable that not all fraud is discovered as the Canadian public remains trusting and our laws are lenient for white collar criminals. In the financial services field there is reliance on self regulation and Governments have failed to legislate fiduciary responsibility for those who handle Canadians' savings and investments.

The RCMP website provides details of typical RRSP scams that have victimized many Canadians. If Canadians would first check with the regulators to determine the details of their individual "Financial Advisor" the chance of being victimized would be far less. The following is copied from the RCMP website as they try to alert Canadians to help us avoid fraud.

RRSP fraud or RRSP borrowing schemes

You're told that you can withdraw money from your RRSP right now without paying taxes. It may also be a locked-in retirement account (LIRA), a pension plan or other registered funds. To do so, you will need to transfer the funds to an investment that will earn you a high return, for example, 40% per year. You're told that this investment is also RRSP eligible, which is why you won't pay any taxes. The fraudster is so confident about this investment that he'll offer to advance you part of the future return in cash. For instance, if you invest $50,000, he may give you $25,000 in cash. The fraudster explains that you're not risking anything: "Anyway, if you had taken the money out of your RRSP, you would have had to pay half in taxes."

What are you risking by making this investment?

- Your money is not invested in the vehicle in question at the incredible rate. Instead, you may be investing in a company that's worthless or that belongs to the fraudster. You will therefore lose your $50,000.
- Besides, contrary to what the fraudster told you, the investment is not RRSP eligible.
- You will receive a notice from Canada Revenue Agency claiming taxes for the funds withdrawn from your RRSP. You may very well have to pay the taxes even if you were a victim of fraud.

- In order to pay the taxes owed, you'll have to use the $25,000 so generously offered by the fraudster.
- So in the end, the only winner is the fraudster, who makes off with
- your $25,000 ($50,000 – $25,000).

Amounts withdrawn from your RRSP, LIRA or pension fund are taxable.

Be wary when people make amazing promises. When something is too good to be true, it usually is.

This fraud has several variations. For example, some fraudsters will tell you that in order to withdraw money from your RRSP without paying taxes, you must first transfer your RRSP to an "on-line broker" (discount broker/dealer). To give their scheme a veneer of credibility, fraudsters will let you select a broker. They will then ask you for your passwords so they can access your accounts, telling you that they will manage them on your behalf. Fraudsters will then use this information to empty your accounts at the first chance. Remember that you must NEVER disclose your passwords or personal information such as your social insurance number, your mother's maiden name, etc., except to companies in which you have complete trust and confidence. Some fraudsters are extremely adept at winning their victims' trust.

This is a timeless warning for all Canadian Savers and Investors. By simply checking the individual's credentials with the regulators this type of fraud can be avoided. The RCMP website also provides an excellent outline of investment and securities fraud at http://www.rcmp-grc.gc.ca/scams-fraudes/inv-fra-eng.htm

Investment and Securities Fraud

Investment and securities (or stock market) fraud encompasses a variety of illicit activities and strategies, which generally include the deception of investors or the misrepresentation by capital market participants.

- Ponzi/Pyramid schemes
- Insider Trading
- Illegal Distribution
- Registrant misconduct
- Market Manipulation
- Other investment and stock market related fraud
- Protect Yourself

WHAT CAN BE DONE TO PROTECT FROM FRAUD?

While it may be impossible for most of us to become an educated investor because of life's commitments to family and work, we need to learn a few basics about investing and how to protect our savings and investments from fraud or major loss.

The simple recipe for the average Canadian to avoid fraud or major loss is:

1. Before you invest in anything other than a bank account or a Canada Savings Bond check the credentials of any individual you are considering for savings or investments.
2. Do not invest in any product, project or plan until you have checked the individual's credentials with the regulators. Most frauds and scams are offered by individuals who are not registered with the regulators and therefore escape scrutiny until it is too late for the vicitms.
3. Do not use leverage – Most investors who suffered major loss had leveraged investments. That is using borrowed money from a bank, mortgaging your house, or using a dealer's margin which allows you to borrow money secured by your investments. Do not depend on your "Financial Advisor" to have the knowledge to be successful with leveraged investing. To use leverage you must be an educated investor and be able to monitor and evaluate your investments. For most of us it is safer not to use leverage.
4. After you have checked out your "Financial Advisor" with the provincial regulators, or gained sufficient knowledge to become a do-it-yourself investor, invest cautiously using diversification. Beware of any investment plan that offers leverage regardless of how good it seems. Keep in mind that most "Financial Advisors" are in fact commission based product sellers. Their income is dependent on the amount of assets in their clients' accounts or Assets under Management (AUM). Registrants know they can increase their AUM (and income) either by gaining new clients (hard work) or convincing existing clients to borrow money and use leverage (the easy way).

Saving and investment should be a good experience and provide for a better life and security. It is devastating for those who work most of a lifetime saving and investing to provide for the future only to lose it all due to fraud or mismanagement by a trusted adviser. It happens all too frequently and it is next to impossible to restore all that has been lost.

Tax-Free Savings Accounts (TFSA) – What are they?

The TFSA is much more than a savings account. It is a registered savings plan in which you can place the same investments as you would in your RRSP. Bonds, shares and mutual funds may all be placed in the TFSA. It would have been clearer if it had been named a Registered Tax-Free Savings Plan. There are annual limits. This year the limit for 2014 is $5,500. However the limit is cumulative so if you don't deposit the full amount in any year it is carried forward so this year you could contribute $5,500 plus any unused contribution room from previous years.

Most Canadians now have a Registered Retirement Savings Plan (RRSP) and understand that deposits to this account are tax free. That is no tax is charged on income placed in an RRSP. However all money withdrawn is taxed as income upon withdrawal without any favourable treatment for capital gains or dividend income. In effect the RRSP is a tax deferral plan. The RRSP enables Canadians to invest their savings before taxes so that the tax they would have paid is in fact earning additional income.

The TFSA on the other hand does not allow tax deferral and only after tax dollars may be invested. However the major advantage is that all income earned in whatever form, whether it is interest income, dividends, or capital gains is accumulated tax free. When savings are withdrawn from a TFSA it is not taxed. An additional benefit is that in times of need withdrawals may be made and redeposited the following year. Here is what the Government of Canada says:

Save with the Tax-Free Savings Account

The Tax-Free Savings Account (TFSA) is a flexible, registered, general-purpose savings vehicle that allows Canadians to earn tax-free investment income to more easily meet lifetime savings needs. The TFSA complements existing registered savings plans like the Registered Retirement Savings Plans (RRSP) and the Registered Education Savings Plans (RESP).

How the Tax-Free Savings Account Works

- As of January 1, 2013, Canadian residents, age 18 and older, can contribute up to $5,500 annually to a TFSA. This is an increase from the annual contribution limit of $5,000 for 2009 through 2012 and reflects indexation to inflation.
- Investment income earned in a TFSA is tax-free.
- Withdrawals from a TFSA are tax-free.
- Unused TFSA contribution room is carried forward and accumulates in future years.
- Full amount of withdrawals can be put back into the TFSA in future years. Re-contributing in the same year may result in an over-contribution amount which would be subject to a penalty tax.
- Choose from a wide range of investment options such as mutual funds, Guaranteed Investment Certificates (GICs) and bonds.
- Contributions are not tax-deductible.
- Neither income earned within a TFSA nor withdrawals from it affect eligibility for federal income-tested benefits and credits, such as Old Age Security, the Guaranteed Income Supplement, and the Canada Child Tax Benefit.
- Funds can be given to a spouse or common-law partner for them to invest in their TFSA.
- TFSA assets can generally be transferred to a spouse or common-law partner upon death.

Canadian Anti-Fraud Centre (CAFC)

Fraud continues to be a major problem in Canada and is one of SIPA's major concerns. While SIPA does focus on investment fraud there are many types of fraud where victims are losing their savings. As fraud is a criminal act in Canada the police have been concerned with fraud for many years and SIPA has dialogued with the police and participated in presentations regarding investor protection. The police have worked for many years developing a system to deal with fraud and have an intake system to handle calls from the public.

If we are to combat fraud the public must participate by reporting fraud or suspected fraud. Always report fraud to the Canadian Anti-Fraud Centre at info@antifraudcentre.ca or by dialing 1-888-495-8501 or on-line by visiting the CAFC website at http://www.antifraudcentre.ca/ The following information is copied from the Canadian Anti-Fraud Centre website.

> The Canadian Anti-Fraud Centre was officially created in North Bay, Ontario, in January 1993 by Barry Elliott, a member of the Ontario Provincial Police (OPP) Anti-Rackets Branch and later developed into Project Phonebusters.

As the magnitude of Project PhoneBusters became apparent, a Memorandum of Understanding was signed with the OPP in 2001, making the RCMP a contributing partner. Armed with a new strategy, the centre was renamed the PhoneBusters National Call Centre (PNCC).

In 2010, the PNCC was renamed the Canadian Anti-Fraud Centre (CAFC) to reflect the fact that its scope had expanded beyond telemarketing fraud. The CAFC is jointly managed by the RCMP, OPP and the Competition Bureau Canada and its mandate has expanded to include many versions of Mass Marketing Fraud (MMF) – these frauds are essentially schemes that target many victims at the same time whether by telephone, facsimile, postal mail or the internet. Often, MMF involves identity crime, which includes identity theft and identity fraud. As a result, the CAFC also accepts these reports. With the Competition Bureau as a partner, the CAFC deals with deceptive marketing practices and with spam issues related to fraud.

The CAFC remains located in North Bay, the city where it was founded. The Call Centre Unit has 11 full-time Call Takers who are able to field more than 300 calls each day from citizens reporting frauds. Of those calls, the Centre logs data from more than 25,000 victims each year. The Call Takers are dedicated, trained anti-fraud specialists who provide advice on the steps that victims should take to recover lost funds and to protect themselves in the future. Each spring, the Call Centre takes on additional personnel to deal with the increased call volumes brought on by publicity for Fraud Awareness Month during the month of March.

The CAFC has established itself as Canada's central fraud data repository. It has become a trusted source for fraud data and for educational and prevention resource materials. The CAFC plays a crucial role in educating the public about specific mass marketing fraud pitches and in collecting and disseminating victim evidence, statistics and documentation, all of which are made available to law enforcement agencies.

SIPA'S NEW WEBSITE AT www.sipa.ca

In 2013 SIPA engaged Ted Meyerscough to design a new website for SIPA and to update the material on the website. The process took longer than anticipated as the material entered over the years was quite extensive and much of it required up dating. It will be an ongoing process and Ted has been retained to maintain the website as we go forward.

Larry Elford in Lethbridge, Alberta is now operating a Facebook site for SIPA and members are encouraged to visit it at: https://www.facebook.com/groups/240100382792373/ The following is a post with a link to YouTube and an important message on BNN regarding Adviser Responsibility (or lack of) and hidden fees.

Larry Elford
5 minutes from BNN, worth watching. Reveals how hidden investment tactics and hidden fees are the norm in Canada from investment sellers. In my experience, the result is that pros pay 1% or less for top expertise, while average retail investor gets duped and beaten up for up to 5% (or higher) in secret hidden costs. Pros retire rich. Dealers get rich. Uninformed investors never retire :)
http://www.youtube.com/watch?v=xVegOJY8P1k&feature=youtu.be