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OSC panel to talk priorities

By Barry Critchley

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The story is more about who - and who doesn't - get invited as it is about what is to be discussed. We are referring to the OSC's seven-person Investor Advisory Panel which is meeting for two hours Thursday with about a dozen so-called industry "experts, investor advocates and stakeholders." FAIR Canada and the Canadian Coalition for Good Governance are two groups attending as will practising lawyers (Ed Waitzer and Joel Wiesenfeld) and Glorianne Stromberg, a former OSC vice-chair.

But there is no room for some well-known experts including Diane Urquhart, a former equity research boss at two brokerage firms who is now a full-time independent financial analyst working as an expert on investment-related class action lawsuits and the Nortel bankruptcy on behalf of the disabled. Prior to this she wrote and was extensively involved in asset-backed commercial paper and income trusts.

"It would be great to be invited because I could share my experience in working with thousands of Canadians who have lost millions of dollars through securities offences and flawed investment products. My non-invite suggests that the panel is not that interested in improving securities enforcement and investor protection in Canada. But I have a lot of other things to do," she said.

She noted that over the years the OSC has made numerous attempts on the matter of investor protection, none of which have amounted to much. "I don't think the panel has the authority or power to do anything. It's not empowered," she said when referring to the body that was re-formed in August 2010 and has issued 10 reports so far.

Thursday's panel was originally supposed to respond to the OSC's Annual Statement of Priorities. Only problem: The OSC has not yet issued its draft annual statement of priorities requesting comments. Another problem: Comments from the participants will be off the record - it's unclear whether any journalists were invited - while written submissions provided to the panel will be held in confidence. Let's hope the food is good.

Anita Anand, the panel's chair said: "We invite people who are experts in the area. We [didn't] broadcast it ... we got a list together and invited those people. We wanted certain individuals around the table. We don't have a list of people who are rejected." But there are no advisors. "We have lawyers who represent brokers," she said.

Anand said Thursday's discussion will be about what those priorities should be. As well, some of the panel's previous recommendations - on such matters as the exempt market, on the Ombudsman for Banking Services and Investment and on an advisor's fiduciary duty - will also be discussed to determine "if they are priorities from a substantive law standpoint." Other countries, including Australia, have imposed fiduciary duty on advisors.

Once the OSC releases its statement of priorities, the panel will do an investor "outreach." In 2011, the panel did a similar outreach and according to a 24-page report, found "participants put unconditional confidence and trust in their

advisor ... there is very limited knowledge about both compliance and recourse ... retail investors do not feel their interests are a priority of the OSC."

The panel has made many good recommendations, none of which it seems have been implemented. Asked whether she is disappointed with the lack of progress, Anand said, "We are active on a number of issues we think are important," adding that she is "hopeful" there will be more movement on the issue of fiduciary duty.

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