

February 23, 2023

Financial Services Regulatory Authority of Ontario (FSRA)  
Submitted via the FSRA website

**Re: Consultation on Proposed Amendments to the UDAP Rule – Deferred Sales Charges**

FAIR Canada is pleased to provide comments on the proposed amendments to the Unfair or Deceptive Acts or Practices Rule (the UDAP Rule) under the Insurance Act.

FAIR Canada is a national, independent charitable organization dedicated to being a catalyst for the advancement of the rights of investors and financial consumers in Canada. We advance our mission through outreach and education, public policy submissions to governments and regulators, and proactive identification of emerging issues. As part of our commitment to be a trusted, independent voice on issues that affect retail investors, we conduct research to hear directly from investors about their experiences and concerns. FAIR Canada has a reputation for independence, thoughtful public policy commentary, and repeatedly advancing the interests of retail investors and financial consumers.

FAIR Canada supports the proposed amendments, which would (1) prohibit insurers from issuing new individual segregated fund contracts that use deferred sales charges (DSCs) on or after June 1, 2023, and (2) introduce customer protections that address the use of DSCs for all individual segregated fund contracts. The proposed amendments are intended to minimize opportunities for regulatory arbitrage by the industry, and to close a significant gap that exists between securities and insurance regulations.

It is well known that commission structures, such as DSCs, create a conflict between the interests of the intermediary recommending the product and the consumer. Research has shown that this conflict can, and does, have a negative impact on consumer outcomes.<sup>1</sup> These structures skew advice towards products that pay these fees, as opposed to products that best serve consumers, and can reduce consumer confidence in the value of financial advice. Banning these types of compensation can help mitigate the risk of mis-selling and promote a fairer and more efficient financial marketplace for Canadians.

While we welcome the proposed amendments, we urge FSRA to consider whether a similar ban should be extended to other types of commissions, such as advisor chargeback. We also encourage FSRA to monitor practices before the proposed amendments come into

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<sup>1</sup>Douglas Cumming, Sofia Johan and Yelin Zhang, “[A Dissection of Mutual Fund Fees, Flows, and Performance](#)” (2016) pages 7-9.

force to ensure insurers do not rush to try to sell as many new segregated funds with DSC options before June 1, 2023.

Thank you for considering our comments on this important issue. We intend to post our submission on the FAIR Canada website and have no concerns with FSRA publishing it on its website. We would be pleased to discuss our submission with you. Please contact Jean-Paul Bureaud, Executive Director, at [jp.bureaud@faircanada.ca](mailto:jp.bureaud@faircanada.ca).

Sincerely,



Jean-Paul Bureaud  
President, CEO and Executive Director  
FAIR Canada | Canadian Foundation for Advancement of Investor Rights