

# **Establishing an Individual Investor Association Using the U.S. Citizen Utility Board (CUB) Method**

## **A Key Solution to Problems in Canada's Investment Industry**

Submission to the Standing Committee on Finance and Economic Affairs  
by Democracy Watch  
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### **I. What is a Citizen Utility Board (CUB) and how have they been established in the U.S.?**

A Citizen Utility Board (CUB) is an independent, non-profit, organization of residential utility ratepayers. CUBs advocate for fair telephone, electric, gas and water rates and sensible policies before regulators, the government and the courts.

The key to CUBs is the right, by law, to enclose a pamphlet periodically in utility companies' billing envelopes. The pamphlet informs customers about the CUB and invites them to join for a nominal annual membership fee (\$20-30). The government requires the utilities to enclose the CUB pamphlet in billing envelopes 1-2 times each year, a very low-cost and effective method of reaching everyone who would want to join the CUB. In the 4 U.S. states that have CUBs, about 4% of utility customers have joined the CUB.

Citizen groups can be formed using the CUB pamphlet method not only for utilities, but also for any industry sector in which the businesses in the sector mass mail to customers or have some other mass point of contact with customers.

It is important to note that citizen groups can be created using the CUB method at no cost to either government or the businesses in the sector. Governments can loan the group the funds to print the first pamphlet (a loan which the group will very likely be able to pay back after one mailing), while there are no extra costs for businesses to insert the pamphlet into the envelope, and no extra postage costs either. If a government wants to subsidize the group at all, it can grant the group the funds needed to print the first pamphlet.

If the Ontario government simply required publicly traded companies on the Toronto Stock Exchange, and mutual fund companies registered in Ontario, to enclose a one-page pamphlet in their bi-annual reports to individual shareholders, the pamphlet would reach approximately 10 million individual investors. If 4% of these investors joined at an annual membership fee of \$30, the group would have 400,000 members and annual revenues of \$12 million, a broad-based, well-resourced, self-sustaining group that could do many, many things to help individual investors in Canada (**Please see** details below about how such an individual investors association can and should be created).

### **II. Why establish an Individual Investor Association in Canada using the CUB method?**

#### **1. The investment marketplace favours sellers in many ways**

The many problems in Canada's investment industry have been well-documented in several reports through the past decade, but little has been done to protect individual investors effectively from suffering unjustifiable losses, to educate investors effectively, and the perspective of individual investors is often ignored by policy-makers and enforcement agencies.

Such ongoing, widespread problems are evident in many other Canadian business sectors, but are not surprising given the common characteristics of these sectors. In each sector:

- consumers of products and/or services are not organized into associations to protect their interests;
- the cost for an individual consumer to protect their interests when they are treated unfairly is prohibitive;
- the businesses in the sector can easily take advantage of their market power to gouge consumers or treat them unfairly on a mass scale; and
- enforcement agencies have inadequate powers and/or resources and/or penalties are too low, or enforcement agencies have the dual role of industry association and regulator.

Compounding these ongoing problems is the fact that the investment industry is very able to represent its own interests, using money from their sales to pay for their lobbying efforts (including donations to politicians and political parties), lawyers to represent them in court, and advertisements to push their products and services. With about 10 million individual investors in Canada, companies only have to add \$1 to a service transaction charge and they will \$10 million overnight. Businesses often claim that they set up and pay for complaint handling and enforcement processes themselves, and that consumers should be thankful that they have done so. In fact, consumers, and consumers alone, always pay all of these costs. For example, consumers pay all of the following costs of promoting and defending Canada's big banks:

- approximately \$15 million for each bank on TV advertising alone each year;
- over 100 lobbyists and public relations officers working full-time in offices across the country (for each bank and through the CBA); and
- donations of between \$500,000 and \$1 million each year to the federal governing party (banks are consistently among the top 10 donors to the governing party and make the largest total donation of all industry sectors).

In contrast, there is little funding available for citizen groups to represent citizen interests before the government, the Ontario Securities Commission (OSC), in the courts and the general public. The funding that is available either costs too much to raise (for example, through direct mail appeals or door-to-door canvasses) or keeps citizen groups dependent on the whims of government, foundation or industry funders.

As a result, despite widespread, ongoing problems in the investment industry, only very small, very resource-limited groups have been created that are dedicated to representing and advocating for individual investors.

Creating an individual investor association using the U.S. CUB method would give investors an easy way to band their resources together to establish a broad-based, well-resourced group to represent their interests and balance the marketplace.

## **2. Sellers and governments cannot educate investors**

While the investment industry, and various governments, have created many educational materials and services for investors in the past decade, surveys show that consumers do not trust these materials.

Widespread and deep consumer skepticism about these materials and services is logical, given several factors:

- many consumers have experienced a seller from some business sector who has lied to them, and so their skepticism of all sellers has increased;
- many consumers have experienced a public official who has lied to them, and so their skepticism of all public officials has increased;
- even if consumers have not experienced a dishonest seller or public official directly, they have definitely heard about such a situation;
- consumers are constantly told "buyer beware";
- consumers know that sellers have many incentives to hide key information in order to close a sale;

An individual investor association funded and directed only by individual investors will be able to educate investors effectively because its educational materials and services will be trusted by investors. It will also be able to reach all investors through the pamphlet periodically enclosed in industry mailings, so that even if an investor did not join the association, they would be aware that the association existed and could be called upon if the investor had a question or problem.

### **3. Governments cannot make decisions in the public interest when consumers are not effectively represented in policy-making processes**

Often public officials believe that they can see the broader picture beyond that presented to them by industry lobbyists, and that they can keep the public interest in mind and address consumer concerns even if they don't hear from consumer advocates.

However, when consumer complaints are not compiled by an umbrella organization and presented regularly to governments, public officials actually have no way to keep in touch with the reality that consumers are facing. Industry lobbyists, of course, downplay any problems in their industry in their presentations to governments, and as a result public officials actually end up with a very skewed picture of what is actually happening.

An individual investor association created by sending a pamphlet to all individual investors will be able to represent investors' interests comprehensively and effectively in government policy-making processes.

### **4. Canadians want an individual investor association created using the CUB method**

A survey of 2,000 individual Canadians was conducted by Environics Research Group, using personal interviews, on using the CUB method for establishing citizen groups to watch over industry sectors. The key findings of the survey were as follows:

- 64% of respondents agreed that, if the businesses in an industry refuse to enclose the CUB flyer in their mailouts to customers, government should require the business to enclose the flyer. While the level of support varied across groups, a majority of *all* political, regional and educational groupings supported this requirement;
- 82% of Canadians surveyed named industries or business types which they believed should have a consumer watchdog organization to protect consumer interests. The favoured sectors were banking and other financial services (named by 40% & 11%, respectively, as either first or second choice), followed by electrical utilities (24%), phone companies (14%), car companies (14%), and cable TV companies (10%);
- 43% of respondents said that they would likely join such a CUB-like organization if they received a flyer along with the mailings of the industry (11% very likely to join; 32% somewhat likely to join);

- those at least somewhat likely to join such an organization were willing to pay, on average, a \$28 annual membership fee; those not likely to join thought that, on average, a \$17 annual membership fee is fair;
- of those at least somewhat likely to join, 50% were likely to make a donation above the annual membership fee. Of those "very likely" to join, 60% said they were very (20%) or somewhat (40%) likely to make such a further donation. Even 15% of those unlikely to join said they would be likely to make a separate donation to such an organization's work; and
- Canadians who said they were likely to donate, either in addition to, or in lieu of, becoming a member, said they were willing to donate, on average, \$33.70.

Of the 536 Ontario residents interviewed as part of this survey:

- 60% supported requiring the enclosure, including 23% who "strongly agreed";
- 39% said they would be likely to join a CUB-like organization if they received a flyer in the industry's mailing, including 11% who were "very likely" to join;
- the preferred sectors for a consumer watchdog group were banks and other financial services (38%), electrical/hydro utilities (18%), car companies (15%), phone companies (12%), and cable TV companies (11%); and
- 53% of those likely to join said they would likely make an additional donation, as did 16% of those not likely to join. Average expected donation was \$33.50.

A survey of citizen groups in Canada has also been undertaken by Democracy Watch. A total of 128 groups received the survey, 90 in English and 38 in French, of which 32 (25%) were returned completed, 23 in English and 9 in French.

The groups who responded to this survey included national and provincial arms of the Consumers Association of Canada, national environmental, anti-poverty and automobile associations, as well as groups working on cable, lending, seniors', local poverty, and broad public interest issues. Of the surveys returned, 28% were the French version, equivalent to the proportion that were sent out (30%). The key findings of the survey were as follows:

- 84% of the groups generally supported the CUB Model for funding consumer groups in Canada;
- of 29 groups who responded to questions regarding the role of industry and government, 72% supported government requiring industry sectors to enclose a CUB-like pamphlet in their mailings to customers;
- when asked about specific sectors, the respondents were strongly in favour of CUB-like organizations being set up to watch over the energy utilities sector (20 Yes, 0 No), the telecommunications sector (19,0), the banking and trust companies sector (19,0), and the life, health, property, and auto insurance sector (16,1);
- 56% agreed that membership monies collected from a CUB flyer should go to cover the costs of a new CUB-like organization, with 72% of those also wanting the new group to utilize the expertise of existing groups where those groups were providing adequate services to consumers;
- of funds received from donations above membership fees, 72% of respondents advocated that they go to a fund set up to support existing

groups, while 16% preferred keeping that money within the new CUB-like organization; and

- 90% of the groups who responded (26 of 29) supported electing at least the majority of a board from amongst, and by, the consumers who are members, with 13 of these groups preferring that the remaining board members be chosen from amongst the existing consumer groups.

### **III. What are the next steps to creating an individual investors association?**

The next steps to creating an individual investors association can be very simply taken by the Ontario government, as follows:

- Democracy Watch has a model law for creating CUB-like groups which can be used as the basis for a bill to be introduced and passed by the Ontario government;
- the law sets out the structure and operation bylaw of the association, and gives the association the right to have the pamphlet enclosed 1-2 times each year in the mailings of publicly traded companies and mutual fund companies;
- the government provides either a loan or grant to the group to pay the costs of printing the first pamphlet;
- the government appoints an interim board to direct the group until a specific number of members have joined, at which point the interim board conducts a nomination and election process for the association's first board of directors;
- the group repays the government loan (if applicable) and then pays all future costs of the group's operations through the future.