

# Securities Regulation in Canada: **White Paper Aims at Change**

Canada will face a diminished role in global capital markets if action isn't taken to improve its fragmented and cumbersome regulatory structure, says a recent white paper released by the Capital Markets Institute and the Canadian Foundation for Investor Education. It's an argument that the securities industry has been making for years, since the creation of the Porter Commission in the early 1960s. Authored by Douglas Harris, director of the Capital Markets Institute, the white paper aims to set change in motion by exploring and analyzing current proposals for reform and identifying their strengths and weaknesses. Such solutions include:

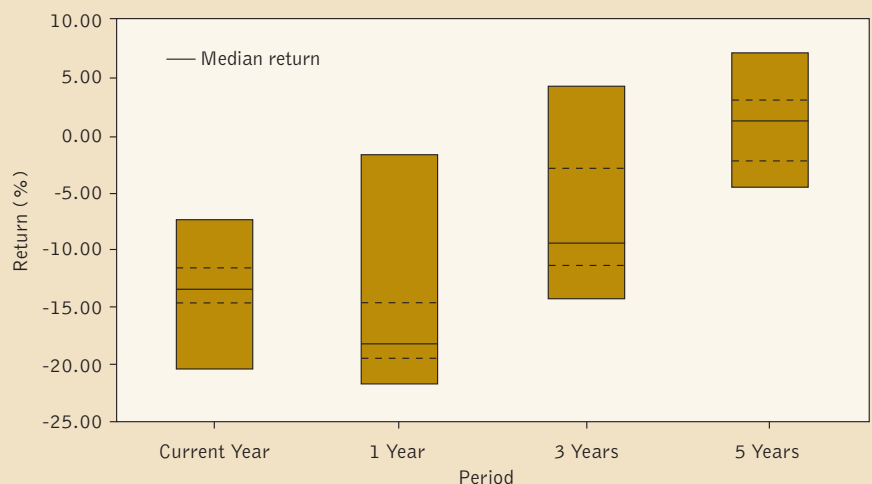
- Improving the status quo through improved coordination through the Canadian Securities Administrators (CSA);
- Centralized regulation through reciprocal delegation;
- Harmonized regulation through uniform legislation;
- The creation of a federal regulator;

- Opening securities regulation up to competition among various provincial governments and the federal government.

The paper also makes a number of recommendations for achieving reform, breaking down barriers and setting out guidelines for achieving a made-in-Canada solution for change. While there is an unprecedented level of support for reforming the current system, there are steps that need to be taken in order to move ahead. Harris recommends that Canada look to the experiences of the European Union (E.U.) and Australia for guidance. Huge strides have been made in these regions to achieve more streamlined markets. Following these examples, Canada should move forward to establish a joint federal and provincial committee to commission, oversee and report on the research and consultation necessary to recommend a new and effective regulatory structure.

## Spotlight on U.S. Equity Investment

This chart is a measure of the U.S. equity investments of pension funds in the Russell/Mellon Canadian Trust Universe as of September 30, 2002. It looks at the quarter, one-, three- and five-year periods. U.S. equities have delivered a one-year annualized median return of -18.32 per cent. However, the last quarter was slightly better, with U.S. equities returning a median of -13.43 per cent.



# CALL FOR PAPERS –

## Barclays Global Investors Canada Research Award

Submissions are welcome for the third annual Barclays Global Investors Canada Research Award. This year, \$10,000 will be granted to the author of the best paper, as determined by a panel of judges selected by the *Canadian Investment Review*. Submissions from academic researchers and industry professionals are welcome. Papers may deal with any area of the Canadian capital markets, including:

- Global investment
- Pension fund governance
- Alternative asset classes
- Portfolio management
- Investor behaviour

### DEADLINE

All papers for consideration must be received by February 1, 2003.

Entries must include an abridged version of the research suitable for publication in the *Canadian Investment Review* and the winning paper will be published in the magazine.

For further information and submission guidelines, visit [www.investmentreview.com](http://www.investmentreview.com) or contact Professor Paul Halpern, Chair, *Canadian Investment Review* Advisory Board, at 416-978-2825, [halper@rotman.utoronto.ca](mailto:halper@rotman.utoronto.ca).

## Letter to the Editor

### A Response to High Closing: An Alternative Interpretation, by Joel Fried (Summer 2002)

In my opinion the RT Capital case was straightforward and attempts to justify the manipulative activity that took place don't wash. Arguments made by those seeking to legitimize the activity are either out of context (theoretical rather than based on the actual situation) or irrelevant (arguing that RT's units did not increase in value much, so there's no problem).

High closing was specifically defined as a violation by the Toronto Stock Exchange (TSX) and firms had been repeatedly warned about it. Everyone involved in the RT trading

knew it was wrong and acted with impunity. Nevertheless, observers such as Joel Fried make theoretical arguments as to why their actions were okay and the Ontario Securities Commission (OSC) was off base.

If the OSC was off base, it was in determining the sanctions, not in analyzing the activity. High closing is manipulation because it involves intentionally pegging the price of a security at a higher level. Those who argue that it is not belong in the same box as those who argue that insider trading is okay, even