

# DIY INVESTOR COMPLAINTS ARE ON THE RISE, BUT WHAT'S THE RECOURSE?

## IPC conference panelists explore potential solutions



Blair Wiley (left) says order execution only platforms aren't inciting risky investment behaviours. Tyler Fleming of the Ontario Securities Commission and UBC's Christie Ford look on.

The dramatic rise in do-it-yourself investing coupled with increased market volatility have led to a flurry of calls to Osgoode's Investor Protection Clinic from Canadians seeking legal recourse for their losses.

The clinic's student intake team has assessed 17 DIY investor complaints since 2020, including files involving delayed transactions and trading at margin. A recent inquiry, for example, involved a discount brokerage client who invested \$20,000 and got hit with a margin call of \$150,000.

**"He thought he had an order limit in, so the price wouldn't go any lower," explains Fred Maefs, IPC's assistant director.** "Turns out, he was wrong."

The increase in IPC activity was sparked by the COVID-19 pandemic, which left many Canadians looking for somewhere to redirect their savings. According to Investor Economics, Canadians opened more than 2.3 million new DIY accounts in 2020 and another 3.6 million in 2021—up from 856,000 in 2019.

Both the Ombudsman for Banking Services and Investments (OBSI) and Investment Industry Regulatory Organization of Canada (IIROC) have also seen an uptick in inquiries and complaints.

The trend prompted a robust discussion at IPC's investment protection conference about the financial literacy of young Canadians in particular and whether order execution only platforms are leading retail investors to take on too much risk without the benefit of professional advice.

**"The answer is no," Blair Wiley, the chief legal officer** at Toronto-based online financial provider Wealthsimple Inc. said during a conference panel on the evolving retail

investment landscape. "We're big believers in financial inclusion. A few years ago, an OSC report said 50 per cent of millennials weren't investing at all. If this means more millennials, more Canadians are getting involved in the stock market, that's something to celebrate."

He pointed to "a lot of really good [investor] behaviour," but also admitted there are examples of people who mortgaged their homes to buy a risky crypto asset.

**"The regulators can't regulate out risk," said Stan Magidson, CEO of the Alberta Securities Commission and chair of the Canadian Securities Administrators.** "I'm not suggesting we go there and there are a lot of shades of grey between this but should we suggest a modicum of advice on OEO channels? Are certain products so dangerous that we adopt a warning system like the cigarette industry?"

When a DIY investor does suffer a loss, there are few options for recourse. In fact, none of the DIY investing cases reviewed by the IPC to date have led to actionable claims. "If you're investing on your own, you're largely on your own in terms of the consequences of those decisions," says Maefs.

Instead, the IPC is exploring the role they might play in educating DIY investors about their legal rights and responsibilities.

While securities regulators such as the Ontario Securities Commission (OSC) and IIROC publish resources directed at all types of investors, articles and tools like the OSC's Get Smarter About Money typically focus on the advantages and disadvantages of self-directed investing, common mistakes and how to determine if DIY investing is right for you.

**"These are great resources for investors who are thinking about opening a discount brokerage account," says Brigitte Catellier, IPC's associate director.** She questions whether there might be a way for Osgoode's IPC to bridge the gap by educating investors who are already engaged on an OEO platform.

"We're not talking about legal advice, but legal education," she adds

To learn more about the role and impact of Osgoode's Investor Protection Clinic, read our [2022 Annual Report](#) or visit our [website](#). To join our team as a supervising lawyer or donor, contact the clinic at [ipc@osgoode.yorku.ca](mailto:ipc@osgoode.yorku.ca) or 416-736-5538.