



Andrew Fitzpatrick
Assistant Vice-President
Government Relations & Public Policy
The Canada Life Assurance Company
330 University Avenue
Toronto, ON M5G 1R8
Tel (416) 552-3137/Cell (647) 938-1640
andrew.fitzpatrick@canadalife.com

July 20, 2020

The Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, ON
M5H 3S8

VIA EMAIL: comments@osc.gov.on.ca

Request for comments on proposed amendments to NI 31-103 regarding Registrant obligations to enhance protection of older and vulnerable clients

Quadrus Investment Services Limited (Quadrus) appreciates the opportunity to provide the following comments regarding the notice on enhancing protection of older and vulnerable clients. Quadrus is one of the largest mutual fund dealers in Canada with more than 3100 registered investment representatives. It is a subsidiary of The Canada Life Assurance Company.

We have provided our responses to the applicable questions below:

Should registrants be required to take reasonable steps to obtain the name and contact information of a trusted contact person for individuals who:

- ***In the case of a corporation, is a beneficial owner of, or exercises direct or indirect control over more than 25% of the voting rights attached to the outstanding voting securities of the corporation, or***
- ***In the case of a partnership or trust, exercises control over the affairs of the partnership or trust?***

It is our view that the trusted contact person requirements should not apply to these two situations.

Should the temporary hold requirements apply to holds that are placed where there is a reasonable belief that the client does not have the mental capacity to make financial decisions or should they be limited to cases of financial exploitation of vulnerable clients?

It is our view that the temporary hold process should apply to both mental-capacity related cases where the client is not represented by a POA or other legal representative, and to cases of financial exploitation of vulnerable clients. It is a reality that clients who lack capacity can do considerable harm to their finances without any third-party involvement. Registrants that are concerned that a client does not have the capacity to provide instructions should have this avenue available. This should particularly be the case where following instructions will cause the client harm.

Should the temporary hold requirements apply to holds that are placed on the purchase or sale of securities and the transfer of cash or securities to another firm?

It is our view that, in addition to the temporary holds on the withdrawal of cash or securities from an account, the requirements should also apply to holds that are placed on the purchase or sale of securities and the transfer of cash or securities to another firm or financial institution. This could help protect against scenarios where a vulnerable person is coerced into moving assets to a new advisor or institution with less knowledge of the client and that is less likely to recognize abuse.

Should we prescribe a time limit on temporary holds? Or is the notice requirement proposed by the CSA sufficient to protect investors?

It is our view that the notice requirement proposed by the CSA is sufficient and a time limit should not be prescribed on temporary holds. However, we are concerned that the requirement to provide an update every 30 days could in some circumstances be burdensome and discourage registrants from placing holds. Alternatively, in some situations, 30 days may be too long of a period to wait to provide an update. Consideration should be given to a reasonableness approach to a reporting interval.

Are the Draft Amendments regarding temporary holds adequate to address issues of financial exploitation of vulnerable clients or diminished mental capacity, or does more need to be done to ensure these issues are addressed?

Under the proposed amendments, we understand that registrants cannot place a temporary hold unless the firm reasonably believes that the client is vulnerable and financial exploitation has occurred or is occurring. Consideration should be given to including situations where the client does not have the mental capacity to make financial decisions and is not represented by a POA or other legal representative.

Even if the registrant reasonably believes that the conditions are met, there is no obligation to place temporary holds. In fact, the firm, “must not place a temporary hold” unless conditions are satisfied. As well, there are many steps to take subsequent to a temporary hold, including documenting, providing notice and reasons, reviewing and providing updates every 30 days until the matter is resolved. We note as well that that there is no safe harbour to protect the firm and registrants if it places a temporary hold in good faith or takes steps to protect a vulnerable client and it is later determined that this was not reasonable in the circumstances. The lack of a safe harbour, and the obligations when placing a temporary hold, will not encourage registrants to act to protect vulnerable clients. In our view, safe harbor immunity should be considered, similar to what we can find in the U.S. under FINRA’s rule 2165 when firms exercise discretion in placing temporary holds (<https://www.finra.org/rules-guidance/rulebooks/finra-rules/2165> https://www.finra.org/sites/default/files/2019-05/senior_safe_act_factsheet.pdf). We understand that FINRA was conducting a review recently to assess whether the safe harbour should be extended in the case of mental capacity matters (<https://www.finra.org/rules-guidance/notices/19-27>).

We understand that there will be a need to add an explanation of the circumstances under which a dealer would place a temporary hold, and a description of the notice that will be given to the client, to a dealer’s relationship disclosure document. We would like to better

understand what the CSA is looking for in terms of the notice description in that document.

We would be happy to discuss any of the points raised herein or to provide any additional information that you may find useful.

Regards,

A handwritten signature in black ink, appearing to read 'A. Fitzpatrick', followed by a horizontal flourish consisting of several parallel lines.

Andrew Fitzpatrick

Assistant Vice-President, Government Relations & Public Policy