BY ELECTRONIC MAIL

December 16, 2020

Mr. Robert Day
Senior Specialist, Business Planning
Ontario Securities Commission
Email: rday@osc.gov.on.ca

Dear Mr. Day:

Re: Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2022

We are writing to provide comments with respect to the draft of the Ontario Securities Commission's (the "**OSC**") Statement of Priorities (the "**Statement**") for its financial year ending March 31, 2022.

Fidelity Investments Canada ULC ("**Fidelity**") is the third largest mutual fund company in Canada. Fidelity manages over $167 billion in retail mutual funds, ETFs and institutional assets for Canadian investors. For over 70 years, including 33 years in Canada, Fidelity has put investors first by working hard to help them achieve their financial goals.

Introduction

We genuinely appreciate that the OSC is alive to the challenges faced by investors and the investment fund industry in response to the COVID-19 pandemic. The OSC has made significant strides in adjusting its priorities accordingly. As we become more accustomed to working in a virtual environment, Fidelity maintains that it is necessary for the OSC to continue to streamline and rationalize existing regulation. We believe that, now more than ever, the OSC should lead the charge on completely digitalizing the investor experience.

We resolutely support initiatives that achieve the best outcomes for investors and believe that regulation should be evaluated based on its ability to enhance one or more of the fundamental principles of Canadian securities regulation, as outlined in the *Securities Act* (Ontario): (i) providing protection to investors from unfair, improper or fraudulent practices; (ii) fostering fair and efficient capital markets and confidence in the capital markets system; and (iii) contributing to the stability of the financial system and the reduction of systemic risk.

We hope that you will find our comments in the pages that follow constructive. We look forward to seeing some of them reflected in the final statement of priorities for the ultimate benefit of investors.

Digitalization

The recent shift to working remotely has affirmed that digitalization is critical to the future of the capital markets generally, and specifically, for retail investment funds and investors. We include in "digitalization" completely eliminating the use of paper for regulatory materials, electronic delivery as the default mechanism for delivery, access equals delivery, e-signatures, creating digital mailboxes and removing barriers to other electronic initiatives.

Most investors prefer to receive information about their investments via digital forms of communication, according to the OSC's own Investor Experience Research Study. This study, conducted during the early stages of the COVID-19 pandemic, asked investors about their actions and attitudes related to investing. The key finding was that most investors prefer to receive information about their investments via email (48% of surveyed investors) and websites (40%).[1]

Yet, our industry is subject to requirements that default to mail. For example, requirements for paper caused Fidelity and other companies to have to keep staff in the office during this precarious time. Orders have continued to come in on paper with paper cheques. As well, the industry is still required to mail paper notices like the annual reminder letter (reminding investors how to redeem their funds) or mail financial statements, which are rarely read.

The pandemic has shown us not only that we can adapt very quickly to an electronic model that services the needs of the industry and investors in a practical way, but that an electronic model more affectively addresses the OSC's goals of reducing regulatory burden and improving the retail investor experience. We encourage the OSC to act upon the hard lessons learned this year and prioritize working with the other regulators to digitalize the investor experience.

Access Equals Delivery

Fidelity has consistently advocated for an access equals delivery model for investment fund issuers. We appreciated the opportunity to comment on the CSA's consultation paper 51-405 ("**CP 51-405**") in our letter dated March 13, 2020. We were, however, surprised that the CSA chose to forego including investment fund issuers in this initiative. The rationale for supporting the access equals delivery model is equally, if not more, applicable to investment fund issuers.

We strongly urge the OSC to take this opportunity to adopt access equals delivery for investment fund issuers. The access equals delivery model will significantly reduce regulatory burden and enhance the accessibility of information for investors.[2] Further, it is necessary to continue its progress to modernize the capital markets. The CP 51-405 notes that similar models have already been implemented for prospectus delivery in the United States, the European Union and Australia.

In addition, the access equals delivery model aligns with the access habits and needs of Canadian investors. With respect to Fidelity's continuous disclosure documents, we have seen a very low percentage of investors opt-in to receive annual financial statements and management reports of fund performance ("**MRFPs**"). In 2019, 1.81% of Fidelity investors requested the annual statements, and only 0.72% requested the annual MRFPs. These numbers were even lower for the unaudited interim financial reports and MRFPs (the "**Interim Reports**"). We note that this take-up rate has remained generally consistent since the introduction of National Instrument 81-106 *Investment Fund Continuous Disclosure* ("**NI 81-106**"), almost 15 years ago. As such, we

[1] https://www.osc.gov.on.ca/documents/en/Investors/inv_research_20200819_osc-investor-experience-survey-final-report.pdf
[2] https://www.osc.gov.on.ca/documents/en/Securities-Category5/csa_20200109_51-405_fund-reporting-issuers.pdf

believe that financial statements and MRFPs would be effectively delivered to those who do wish to access them through the access equals delivery model.

The access equals delivery model will undoubtedly enhance the investor experience by providing investors instant access to current information about their investments that is more navigable than paper disclosures. Moreover, it allows for innovative features, including hyperlinks and document search capabilities. The access equals delivery model will also achieve the dual goal of reducing printing costs and being environmentally conscious in a world where fewer and fewer investors read regulatory documents in paper copy.

Electronic Delivery

In addition to recommending access equals delivery for continuous disclosure documents such as financial statements and MRFPs, the OSC should mandate that delivery of the remaining regulatory documents be satisfied by electronic delivery. Over three years ago, the CSA announced that they were considering whether electronic delivery should be permitted given the "widespread use of internet, social media and technology in communications generally" and the fact that electronic delivery would "further reduce the use of paper to fulfill delivery requirements, thus reducing costs for reporting issuers, and promoting a more environmentally responsible approach to document delivery."[3] Subsequently, as part of the OSC's regulatory burden reduction project, the OSC listed as part of its reforms that it would try to identify opportunities to promote electronic delivery of investment fund continuous disclosure documents.[4] *Both the OSC and the CSA agree that electronic delivery is the most practical way to proceed as it is cost-effective and wastes fewer resources*. Electronic delivery would relieve regulatory burden on reporting issuers while enhancing the investor experience.

Although National Policy 11-201 - *Electronic Delivery of Documents* ("**NP 11-201**") purports to be permissive of electronic delivery, it sets out a burdensome, onerous and complicated regime for electronic delivery of documents required to be delivered under securities laws. This is the likely reason many registrants still deliver documents by mail. The main problems with NP 11-201 are that the language essentially imposes a requirement that investors provide their express consent to e-delivery, and that the deliverer demonstrate the intended recipient had notice of and access to the document delivered electronically, and that the intended recipient actually received the document. The electronic delivery requirements in NP 11-201 are also subject to requirements in the various provincial e-commerce acts and do not contemplate an access equals delivery model. We believe that NP 11-201 should be repealed and replaced by a national instrument that creates a regime where the default method of delivery under securities laws is electronic.

We also note that Ontario pension legislation has established a regime where the default method of delivering documents is electronic. On December 10, 2019, the *Pension Benefits Act* (Ontario)[5] was amended to include new provisions pertaining to the electronic delivery of certain documents required to be delivered to pension plan members. Provided a notice is sent to the pension plan member's last known address that contains certain specified information, the pension plan member will be deemed to have consented to electronic delivery of documents on a go forward basis.

[3] https://www.osc.gov.on.ca/documents/en/Securities-Category5/csa_20170406_51-404_considerations-for-reducing-regulatory-burden.pdf
[4] https://www.osc.gov.on.ca/documents/en/20191119_reducing-regulatory-burden-in-ontario-captial-markets.pdf
[5] Pension Benefits Act, R.S.O. 1990, c. P.8, available at: https://www.ontario.ca/laws/statute/90p08

In our view, the OSC has been inattentive to the interests of both investors and issuers in taking an inappropriate length of time to implement any change in either access equals delivery or electronic delivery. The industry has been patiently waiting for almost 20 years. We encourage the OSC to work with the CSA and other regulators to swiftly mandate electronic delivery.

Regulatory Burden Reduction

Annual Reminder Letter

In our experience, investors do not read the annual reminder letter, and it only serves as a basis for complaints received by us from investors and financial advisors alike. Under NI 81-106, an investment fund that relies upon standing instructions in respect of the delivery of financial statements and MRFPs to investors must send an annual letter reminding those investors of their right to receive these documents and how they can change their standing instructions, if desired. Often, other reminders are contained in this letter, including the annual redemption reminder required by securities legislation and annual disclosures required by exemptive relief. Fidelity believes that this information can be effectively communicated via an investment fund manager's website and, accordingly, we encourage the OSC to remove the requirement to deliver this letter altogether.

Interim Reports

In our view, none of the measures suggested in the list of actions for investment funds comes close to the savings for the industry as eliminating the requirement for a fund to prepare and file the Interim Reports. We have seen a very low percentage of investors opt-in to receive the Interim Reports, which leads us to believe that these documents are not meaningful to investors. Yet the Interim Reports are costly and labour intensive to prepare, review, file and deliver. For Fidelity, the elimination of the Interim Reports would result in annual savings of over $3 million. We expect that this would represent savings in the range of $50 million for the investment funds industry as a whole.

We believe this recommendation would not negatively impact investors. Investors would continue to receive the audited financial statements and MRFPs on an annual basis. Investors would also continue to receive meaningful financial information through other disclosure documents, which are updated more frequently.

Single Fund Facts Document

Investment funds that are reporting issuers are required to prepare and file a fund facts document for each series of an investment fund. Since the fund facts regime came into force in 2011, the variety of series offered by investment funds and the number of fund facts and ETF facts documents have grown exponentially. As well, the investment fund industry has not established consistent naming standards for the series it offers. Therefore, it can be very difficult for an investor to compare series across fund companies.

A single fund facts document will make it easier for both investors and financial advisors to compare funds across different manufacturers, which is consistent with the regulatory objective these documents were designed to achieve. Allowing for a single fund facts document would significantly reduce the burden of preparing and filing these documents annually on a series level. For Fidelity, this would reduce the number of fund facts from approximately 3,396 to 542 (in English and French), a reduction of 2,854 fund facts. In 2019, Fidelity filed 8,572 fund facts (in both English and French) in connection with annual renewal filings, preliminary filings and amendments, which amounted to costs of approximately $1,063,165. If we were able to file a single fund facts per fund for these filings, it would have only cost approximately $124,000, a savings of almost $1 million.

The real beneficiaries of this change would be the investor, the financial advisor and the dealer. Investors will have the ability to compare costs across series and have all the information about a fund in one document, which is much better disclosure for the investor. In addition, financial advisors must keep track of all the versions of the fund facts for one fund and deliver the correct version to the investor. Streamlining the fund facts disclosure would undoubtedly improve financial advisors' work lives. Lastly, dealer shelves should be easier to manage with this meaningful improvement.

Conclusion

We believe that the OSC is well-equipped to lead the charge on digitalizing the investor experience. In the face of adversity, we have shown resilience and ingenuity and a proven ability to quickly adapt to a virtual and electronic model that will service the needs of the industry and investors more efficiently than ever.

The interest of investors is of the utmost importance to Fidelity. We are pleased that the OSC's Statement shares our commitment, and we support many of the OSC's priorities. We believe in working closely with regulators and policymakers to put investors first and strengthen protections.

Once again, we would like to thank the OSC for the opportunity to comment on the Statement and we would be pleased to discuss any of our comments.

Yours sincerely,

"Rob Sklar"

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