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Date: December 27, 2022

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Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission, New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
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Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
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Dear Sirs/Mesdames,

Re: Canadian Securities Administrators (“CSA”) Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers (the “Request for Comment”)¹

We submit the following comments in relation to the Request for Comment and the proposed amendments to National Instrument 81-106 – *Investment Fund Continuous Disclosure* (“**NI 81-106**”) and related instruments (the “**Proposed Amendments**”) that are designed to provide an access-based model for the delivery of annual and interim financial statements and management reports of fund performance (“**MRFPs**”, and with financial statements, the “**Designated Documents**”) by investment fund reporting issuers (“**IFRIs**” or “**Funds**”).

¹ [CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers \(September 27, 2022\)](#).

The stated purpose of the Proposed Amendments is to modernize existing delivery practices, reduce the regulatory burden on IFRIs, and enable more cost-efficient, timely and environmentally friendly delivery of documents, without diminishing investor protection. We strongly commend the CSA for these efforts. The Proposed Amendments make great strides towards achieving these objectives. However, we are of the view that the requirement to notify securityholders of the availability of new Designated Documents by way of a news release is unnecessarily burdensome and may frustrate or blunt the desired impact of these efforts.

Our comment letter proposes some further refinements to the Proposed Amendments that may help the CSA better achieve its goals. We have provided our general comments first, followed by responses to the specific questions in the Request for Comment. Capitalized terms not defined in this letter have the meaning given to them in the Request for Comment. Please note that this letter represents the general comments of specific members of our firm (rather than the firm generally or any one of our clients). Our comments are submitted without prejudice to any position taken, or that may be taken by our firm on its own behalf or on behalf of any client. We appreciate the opportunity to contribute to this discussion.

Introducing an Access-Based Model in Canada

The access-based model envisioned by the Proposed Amendments, as well as other recent developments in the non-investment fund regulatory landscape, are evidence that we are increasingly living in a digital age.² Throughout the world, countries are transitioning to electronic delivery and disclosure from paper-based models, benefitting both issuers and investors. We support this transition in Canada because it will further modernize the way in which documents are delivered to investors, and align Canadian rules and practices with other comparable jurisdictions, including the United States, European Union and Australia.³

The access-based model described in the Proposed Amendments would eliminate the need to send Designated Documents, to solicit Annual Instructions or Standing Instructions, as well as the requirement to send Annual Notices.⁴ Instead, to satisfy their delivery requirements, IFRIs must: (1) post the Designated Documents *in a prominent manner* on the Fund's designated website, along with an explanation about the availability of these documents and how they can be delivered on request; (2) issue, file on SEDAR and post on the Fund's designated website, a news release announcing the availability of the Designated Documents; and (3) only send the Designated Documents to securityholders upon request or in accordance with Standing Instructions, within specific deadlines.

While we disagree with the news release requirement (which will be addressed in Question 3 below), we generally support the shift to a predominantly digital, access-based model that requires securityholders to opt-in to receive paper or electronic copies of the Designated Documents. An access-based model will benefit IFRIs, investors and the environment, and lay a foundation for additional future advancements. These benefits are broadly considered next, followed by a discussion of the specific questions.

Benefits for Funds

For IFRIs, the transition to an access-based model will be a step towards reducing existing administrative burdens. IFRIs will only be required to send physical copies of Designated Documents to those investors who have specifically requested physical documents on a one-off basis or provided Standing Instructions. Furthermore, the Proposed Amendments will eliminate the requirement to solicit Annual Instructions from,

² [CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers \(April 7, 2022\)](#): Prior to the Proposed Amendments, the CSA released a Notice and Request for Comment requesting feedback on a proposal to implement an access-based delivery model for non-investment fund reporting issuers.

³ [CSA Consultation Paper 51-405 - Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers \(January 9, 2020\)](#) at pg. 3; DFIN, "[Fast Forward: Looking Beyond the SEC's New E-Delivery Rule](#)" (2022).

⁴ [NI 81-106](#) s. 5.1(2), 5.2, 5.2(5) and 5.3.

or send Annual Notices to, investors regarding the Designated Documents they wish to receive and their preferred delivery methods. Cost savings will also be realized as a result of the reduced need for paper, printing, postage and processing of delivery requests.

On the other hand, the requirement to issue and file a news release under the Proposed Amendments would impose additional costs, counteracting these IFRI benefits. This is discussed further under Question 3.

Benefits for Investors

The Proposed Amendments will benefit investors by increasing investor accessibility through the delivery of Designated Documents in a timely and efficient manner. As soon as Designated Documents are available online, investors can instantly access them through the Fund's designated website or SEDAR.

Designated Documents delivered in an electronic format can also enhance the investor experience. They are more convenient to access, easier to navigate and less cumbersome to transport than paper documents. They also allow for innovative features including hyperlinks, cross-referencing, search functions, copy and paste capabilities, forwarding, and potentially even the ability for Funds to track receipt and review of documents. These features may promote enhanced investor engagement and education.

Environmental Benefits

In addition, an access-based system that primarily relies on technology rather than paper copies will significantly reduce the negative environmental impacts of printing and transportation of Designated Documents.

Question 1: Standing instructions to receive paper copies. Under subsection 5.3(2) of the proposed amendments to NI 81-106, a securityholder can provide standing instructions in order to receive a paper copy of a designated document that is filed by the investment fund. These instructions will apply to the next designated document filed and continue to apply until the standing instructions are changed by the securityholder. While the costs of complying with this requirement may be greater than the costs for the delivery of electronic copies, we are of the view that these costs are outweighed by the benefits to securityholders being able to provide standing instructions to receive paper copies. Do you agree? Please explain.

We agree with this proposal in principal. Securityholders should have the option to receive paper copies of the Designated Documents if they wish. However, we recommend that the requirement to obtain standing instructions be phased in over a period of time. We understand that many IFRIs may not have the necessary systems in place to maintain standing instructions as they currently solicit instructions on an annual basis.

According to the Canadian Internet Use Survey, 94% of Canadians have home internet access.⁵ As such, we expect that the number of individuals who are unable to access Designated Documents online will be relatively small. However, it is important to ensure that these investors are not disadvantaged by the Proposed Amendments.

⁵ Government of Canada, "[Canadian Internet Use Survey](#)" (October 29, 2019).

Question 2: Standing instructions to receive electronic copies. Under subsection 5.3(4) of the proposed amendments to NI 81-106, a securityholder can provide standing instructions in order to receive an electronic copy of a designated document that is filed by the investment fund. These instructions will apply to the next designated document filed by the investment fund and continue to apply until the standing instructions are changed by the securityholder. We are of the view that the cost of complying with this requirement is de minimis while the benefits to securityholders of being able to provide standing instructions to receive electronic copies is significant. Do you agree? Please explain.

Again, we agree with this proposal in principal. For the same reasons provided in our response to Question 1, securityholders should have the option to receive electronic copies of the Designated Documents if they prefer but IFRI's should be provided with a reasonable period of time to implement the necessary systems to collect and monitor standing instructions.

Electronic delivery can eliminate up to approximately 76% of the costs associated with sending these types of documents in paper format.⁶ In addition to significant cost savings for IFRIs, digital delivery also increases investor access to Designated Documents when compared to the issuance of a news release. Unlike a news release, electronic delivery directly targets specific investors, providing convenient and immediate access. By giving securityholders the option to receive paper or electronic copies, any investor who is interested in reviewing the Designated Documents has their needs met. This obviates the need for the news release requirement, as discussed further below.

Question 3: Notification Methods. Under subsection 5.4(1) of the proposed amendments to NI 81-106, an investment fund would be required to file a news release and to post that news release on its designated website, indicating that the designated document is available electronically and that a paper or electronic copy can be obtained upon request.

a. Would this be an effective way to notify securityholders that designated documents are available? If not, please explain why.

We do not believe that the issuance of a news release would be an effective way to notify securityholders that the Designated Documents are available on SEDAR and the Fund's designated website. The news release requirement introduces significant unjustified administrative and financial costs for IFRIs.

News releases are expensive for IFRIs. Each news release costs approximately \$1500. OSC staff conducted a study of 30 IFRIs, finding that none of the news releases currently issued by these Funds relate to the publication of the Designated Documents. As such, news releases issued as a result of the Proposed Amendments will add to the compliance burden for IFRIs. With approximately 3600 IFRIs, two additional news releases per year would result in approximately \$10.8 million in incremental costs.⁷

Designated Documents are passive in nature and do not require immediate action by investors, negating one of the main reasons for a news release. Furthermore, these costs are unreasonable considering that few investors elect to receive copies of the Designated Documents. The OSC estimates that currently, when Funds send Annual Notices or Annual Instructions to IFRI securityholders, less than 4% of the securityholders request copies of Designated Documents.⁸ Fidelity Investments Canada ULC, the 4th largest mutual fund company in Canada, also reported that in 2019, approximately 1.81% of all securityholders

⁶ Broadridge Investor Communications Corporation, "[Re: Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#)" (July 6, 2022) at pg. 2: Based on Broadridge's analysis of over 3,400 Canadian issuers. This statistic is specifically referring to financial statements and MD&As (not MRFPs).

⁷ [CSA Notice and Request for Comment](#) – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers (September 27, 2022) at pg. 19: IFRI count current as of December 31, 2020.

⁸ [CSA Notice and Request for Comment](#) – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers (September 27, 2022) at pg. 18.

requested the annual financial statements and 0.72% requested the annual MRFPs.⁹ The Investment Fund Institute of Canada reported opt-in rates of less than 4% for paper copies of the interim and annual documents in 2019.¹⁰ These figures indicate that notification to securityholders of the availability of Designated Documents by means of a news release would not be important to the large majority of investors..

The few investors who *are* interested in receiving copies of the Designated Documents do not require a news release to notify them of their availability. This category of investors are aware that IFRIs must file annual and interim financial statements, along with the complimentary MRFPs. These Designated Documents are released on a known schedule, generally 90 days after each calendar year end and 60 days after each interim period.¹¹ Interested investors will know when to search for these documents based on their regular filing deadlines.

Even if a news release is issued, there is no guarantee that it will come to the attention of the few interested securityholders, especially since the Proposed Amendments would result in all IFRIs having to issue news releases at virtually the same time, resulting in a flood of news releases which would be difficult for investors to process.

Finally, news releases generally cater to more sophisticated entities rather than retail investors. Broadridge Investor Communications Corporation conducted a qualitative research study that recorded the steps retail investors took in order to access financials statements and ancillary documents for stock that they own. Out of the 50 participants, none searched for media releases.¹²

In conclusion, the news release requirement is expensive, unnecessary and inefficient. This requirement should be eliminated from the Proposed Amendments. Alternative notification models should be considered, to ease regulatory burden on IFRIs and advance the goals of the Proposed Amendments.

b. Should the news release or the designated website include any information other than the information required in subsection 5.4(2) of the proposed amendments to NI 81-106?

As noted in our response to Question 3(a), we do not think a news release should be required. It is sufficient to post the information noted in subsection 5.4(2) of the proposed amendments to NI 81-106 on the designated website.

c. Are there any alternative ways of notifying securityholders we should consider that would be effective and practical? Please provide specific details on how to implement your proposal, along with an outline of the costs and benefits of your suggested approach. Are there any obstacles to using your suggested approach? For example, if you propose notification by email, how would an investment fund obtain a securityholder's email address? What should be the outcome if the securityholder does not keep their email address updated or does not provide consent to receiving these communications by email?

There should be no mandatory notice requirement regarding the publication of Designated Documents. We believe that investors under the Proposed Amendments should be able to opt in to receive notifications in the same way that they can opt in for receipt of paper or electronic copies.

⁹ Fidelity Investments Canada ULC, "[Re: CSA Consultation Paper 51-405 - Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#)" at pg. 2.

¹⁰ Investment Fund Institute of Canada, "[IFIC Submission Re: CSA Consultation Paper 51-405 Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#)" (March 9, 2020) at pg. 4.

¹¹ [NI 81-106](#) s. 2.2 and s. 2.4.

¹² Broadridge Investor Communications Corporation, "[Re: Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#)" (July 6, 2022) at pg. 5.

In our view, this is appropriate, given the low risk to investors. As described in detail above, the majority of investors do not want to receive the Designated Documents in the first place. Given the high rate of internet use and access across Canada, those who are interested will have little difficulty in locating the documents, during the time of their expected release. As such, filing a Designated Document on SEDAR and a Fund’s designated website should be sufficient to constitute delivery of that document, without further action.

Where securityholders opt in for notification, the notification system used should be targeted to the intended recipients, convenient, effective and financially reasonable for IFRIs to implement. We encourage the CSA to research various notification methods to determine which ones are most preferred by investors and Funds. Technology has become more sophisticated, providing several user-friendly options that can both reduce regulatory costs and enhance investor access and engagement. Three options are contemplated below.

(1) Opt-in Notification by Email

Email subscriptions are a common method utilized to provide specific individuals with notifications and updates. For example, the CSA’s website provides an option for interested individuals to enter their email address to stay informed about news and events at the CSA.¹³ IFRIs should be provided with a reasonable transition period to set up similar subscription mechanisms to collect email addresses from interested securityholders. This would allow Funds to easily notify those securityholders that the Designated Documents have been posted.

Under the Proposed Amendments, IFRIs will be required to post the Designated Documents on their designated websites. As such, all IFRIs will have a digital presence (most already do, according to the OSC).¹⁴ These designated websites provide an ideal location through which to collect email addresses and send out email notifications.

If securityholders wish to receive Designated Documents in electronic format, they should be required to provide an email address (which would constitute consent for the receipt of such documents by email). The Proposed Amendments to NI 81-106 under paragraph 5.4(2)(d) state that a securityholder may request copies of, or provide Standing Instructions for, the Designated Documents by contacting the manager of the Fund.¹⁵ Section 4.1 of the Proposed Changes to Companion Policy 81-106CP explains that an “investment fund should comply with any reasonable request.”¹⁶ A similar approach would be appropriate for collecting email addresses for notification purposes. No new concerns are introduced if a securityholder does not keep its email address updated. The implications would be no different from a securityholder not updating their regular mailing address.

This notification method would likely satisfy retail investors. In 2021, True North Market Insights conducted an independent study of 2,000 retail investors across Canada.¹⁷ They concluded that retail

¹³ CSA, “[CSA Regulatory Sandbox](#)” (2022): Scroll to the bottom of the page to view the option to enter your email for updates.

¹⁴ [CSA Notice and Request for Comment](#) – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers (September 27, 2022) at pg. 19.

¹⁵ [CSA Notice and Request for Comment](#) – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers (September 27, 2022) at pg. 9 (Annex A).

¹⁶ [CSA Notice and Request for Comment](#) – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers (September 27, 2022) at pg. 13 (Annex B).

¹⁷ True North Market Insights, “[Canada Investor Quantitative Report Research Findings](#)” (July 2021): Full report attached to Broadridge Investor Communications Corporation September 17, 2021 comment letter to Proposed Amendments to National Instrument 51-102 Continuous Disclosure Obligations and other Amendments and Changes Relating to Annual and Interim Filings of Non-Investment Fund and Reporting Issuers.

investors want continuous disclosures either sent to them automatically, or to receive a digital notification.¹⁸ Of the retail investors that prefer to be notified, 66% preferred notification by email.¹⁹

Given the widespread adoption of subscription-based models, it is expected that these costs would be less than the implementation of the news release requirement under the Proposed Amendments.

(2) Opt-in Push Notifications

The CSA may also wish to consider other technological platforms and notification methods, especially as the technology continues to advance. Systems that electronically “push” disclosure information to specific investors would both increase investor engagement and reduce costs for IFRIIs. These could include web alerts, social media notifications, mobile/web applications, text messages, and other push notifications which could be selected by each securityholder based on their own personal preferences. Each of these alternatives would be less burdensome for IFRIIs and more effective than alerting interested securityholders via a news release. It is difficult to comment specifically on the expected costs of these options since these may vary between platforms.

We note that regulators in the United States are encouraging the use of digital mailboxes and electronic delivery systems. In 2010, the Securities and Exchange Commission and New York Stock Exchange undertook a 5-year “Enhanced Broker Internet Platforms” pilot program, which demonstrated that digital delivery solutions could facilitate all regulatory disclosures while increasing investor engagement and savings for issuers.²⁰

Some of the concerns with the adoption of a push notification system would include: (i) the potential for a large amount of discrepancy between the systems adopted by IFRIIs which could result in investor confusion; (ii) certain push notification systems being compatible with specific browsers and devices; and (iii) the security of the personal information of investors. If a push notification system is pursued, the CSA may need to provide a list of acceptable/reliable platforms, and impose requirements to ensure that investor data is protected.

(3) Opt-in SEDAR+ Notifications

Eventually, SEDAR+ may provide an avenue for notifying investors. SEDAR+ will replace seven legacy systems to provide one source of essential securities information and data from all provincial and territorial regulators.²¹ It is understood that, once live, additional functionalities will be added to improve the interface and investor experience. These may include “occasional updates delivered to your smartphone.”²²

If securityholders are able to set up alerts or real time notifications on the SEDAR+ platform, it would further the objective of having one centralized and reliable source of information. Furthermore, utilizing SEDAR+ could provide an incredible opportunity for hyper-linking information. Ideally, a push notification would be sent directly from SEDAR+, informing an investor that Designated Documents have been filed

¹⁸ Broadridge Investor Communications Corporation, “[Re: Proposed Amendments to National Instrument 51-102 Continuous Disclosure Obligations and other Amendments and Changes Relating to Annual and Interim Filings of Non-Investment Fund Reporting Issuers](#)” (September 17, 2021) at pg. 4.

¹⁹ Broadridge Investor Communications Corporation, “[Re: Proposed Amendments to National Instrument 51-102 Continuous Disclosure Obligations and other Amendments and Changes Relating to Annual and Interim Filings of Non-Investment Fund Reporting Issuers](#)” (September 17, 2021) at pg. 4.

²⁰ Broadridge Investor Communications Corporation, “[Re: Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#)” (July 6, 2022) at pg. 7.

²¹ CSA, “[SEDAR+ Frequently Asked Questions](#)” (2022): Legacy systems include: (1) SEDAR, (2) CTO: Cease-Trade Order Database, (3) DL: Disciplined List, (4) Various filings currently made in paper format or in local electronic filing systems, (5) SEDI: System for Electronic Disclosure by Insiders, (6) NRD: National Registration Database, and (7) NRS: National Registration Search.

²² David Fountain (Chief Information Officer of the CSA), “[SEDAR+: Our new Canadian securities platform system](#)” (February 2022).

by the applicable IFRI and providing direct links to: (1) the specific filing, (2) the IFRI's SEDAR+ profile where the investor can access all filings, and (3) other SEDAR+ features,

Electronic notification should be at the forefront of SEDAR+ efforts. These developments, if paired with a public awareness campaign regarding the new functionalities and uses of SEDAR+, could be extremely impactful.

Question 4: Designated websites. The effectiveness of the Proposed Amendments depends in part on whether investors will be able to easily find and retrieve the designated documents that they are interested in on a fund's designated website. Subsection 11.1(5) of 81-106CP provides that a designated website should be designed in a manner that allows an individual investor with a reasonable level of technological skill and knowledge to easily access, read and search the information and the documents posted on the website, and download and print the documents.

a. Is this guidance sufficient? Are there additional best practices beyond the guidance in Part 11 of 81-106CP that should be highlighted?

The guidance provided is sufficient. Given the high rate of internet access across Canada, it is expected that interested securityholders will not struggle with navigating the designated websites and finding the information that they are looking for.²³

b. Alternatively, should the CSA establish specific requirements for the posting and maintenance of any regulatory document on a designated website in order to create more consistency and comparability in terms of investor experience in accessing these documents? In responding, please specify the additional guidance or specific presentation requirements that we should consider and outline the reason for your preferred approach. Where possible, please also outline if there are any significant cost or benefit differences between these two approaches.

It may be beneficial to provide guidance on the length of time that Designated Documents must be accessible through the designated website, after which the investor would need to access the Designated Document through SEDAR. Perhaps a link on the IFRI's designated website directing investors to its SEDAR page, where all historical information is located, should be required. We do not expect there to be any additional costs associated with imposing these requirements.

Question 5: No further broadening of access-based model. Both CP 51-404 and CP 51-405 were limited in scope to non-investment fund reporting issuers. In response to these publications, commentators said that the reasons underlying an alternative delivery model for non-investment fund reporting issuers are equally applicable to investment fund reporting issuers. While the underlying principles may be similar, there are fundamental differences between non-investment funds and investment funds that justify the application of different delivery models between these types of issuers.

We have reviewed the delivery requirements applicable to investment funds and are of the view that extending the Proposed Amendments beyond financial statements and MRFPs is not appropriate at this time. Specifically, we have considered the delivery requirements for the following documents:

- ***Fund Facts document and ETF Facts document: The Fund Facts and the ETF Facts are plain language documents that concisely highlight key information about a mutual fund that our research has identified as important to investors. The Fund Facts is required to be delivered prior to the purchase of a mutual fund, and so it does not lend itself to being part of an access-***

²³ Government of Canada, "[Canadian Internet Use Survey](#)" (October 29, 2019).

based model. For consistency, we think an access-based model should not apply to ETFs and that ETF investors should also continue to receive the ETF Facts. These documents are an important way to assist mutual fund and ETF investors in their decision-making process and in discussions with their financial advisors.

- *Prospectuses for mutual funds and ETFs: The prospectus delivery requirement does not apply to a dealer selling a mutual fund or an ETF. Instead, for a mutual fund that is not an ETF, a dealer is required to deliver a Fund Facts prior to purchase. For ETFs, a dealer is required to deliver an ETF Facts document instead.*
- *Prospectuses for scholarship plans: In our view, an access-based model for this type of document is not appropriate. Like mutual funds and ETFs, we consider the delivery of key informational documents as important to assist scholarship plan investors in their decision-making process. We think the key informational document for a scholarship plan is its prospectus.*
- *Prospectuses for non-redeemable investment funds (that are not ETFs): We think investment fund investors should have a consistent means of obtaining the information they need to make a purchase decision. As discussed above, we are not proposing an access-based model for Fund Facts or ETF Facts documents or scholarship plan prospectuses. For consistency, we also think it is appropriate to retain the current prospectus delivery requirements for non-redeemable investment funds.*
- *Proxy materials: In 2021, the CSA adopted a notice-and-access system for the solicitation of proxies for investment funds that is substantially similar to the regime for non-investment fund issuers. Notice-and-access differs from an access-based model in that it permits delivery of proxy-related materials by sending a notice providing securityholders with summary information about the proxy-related materials and instructions on how to access them. In our view, an access-based model for this type of document, with no notice, is not appropriate. As discussed in the Non-Investment Fund Proposal, stakeholder comments in response to CP 51-404 and CP 51-405 cautioned the CSA against introducing an access-based model to documents that require a time sensitive response from investors.*

The CSA has published for comment an access-based model for prospectuses of non-investment fund reporting issuers under the Non-Investment Fund Proposal. We think the typical investor in non-investment fund reporting issuers has different informational needs than the typical investor in investment fund reporting issuers. We are not proposing an access-based model for offering documents (Fund Facts, ETF Facts, or prospectus as applicable) of investment fund reporting issuers because we think there are significant benefits to the typical investor in investment fund reporting issuers in receiving the relevant offering documents rather than only having access to them. We have the following additional questions:

a. Do you agree with our views about the delivery requirements for each type of document described above? Please justify your response with reference to the costs and benefits of an access-based model for each type of document.

We respectfully disagree with the CSA's views regarding the delivery requirements for the listed documents and the position that the access-based model for IFRIs should be restricted to the Designated Documents. In comparison to non-investment fund reporting issuers, the rationale for supporting an access-based model is equally, if not more, applicable to IFRIs as investors would benefit from more timely and efficient access to information. As such, we recommend that the access-based model be extended to other documents as it has been for non-investment fund reporting issuers.

Investors receive a large amount of unwanted regulatory mailings.²⁴ Transitioning additional documents to an access-based model, in which investors have the ability to opt-in to electronic delivery and/or notifications gives investors the decision-making power.

Offering Documents

In addition to the Designated Documents, the access-based model is appropriate for offering documents, such as the Fund Facts, ETF Facts, and prospectuses.

Access-based models for prospectuses have already been implemented in United States, European Union and Australia.²⁵ The adoption of a similar model in Canada would better align Canadian practices with other major jurisdictions. Prospective investors are aware that information relevant to their decision is available on SEDAR.²⁶ If interested, these investors are likely to seek out available information, including the listed offering documents, through SEDAR rather than wait for the delivery of paper copies on their doorstep. The short-form prospectus regime has already embraced the idea of an access-based model since several documents are incorporated by reference and may be accessed on SEDAR by investors. This further enforces the sufficiency of an access-based model in this context, as opposed to mandatory (and costly) paper delivery.

There is an added benefit of an access-based model in the context of offering documents. Specifically, the access-based model may provide greater certainty regarding investors' withdrawal rights. Currently, withdrawal rights must be exercised within two business days after receipt of a prospectus.²⁷ With conventional paper delivery, this time frame may be difficult, if not impossible, to accurately determine. Under an access-based model, the electronic delivery of the document provides greater certainty regarding the commencement and expiry of the withdrawal period.

Proxy Materials

The delivery of proxy materials, and other time-sensitive documents that require securityholder action, would also benefit from the use of an access-based model. Technology currently exists that permits the tracking of receipt and review of documents online. An access-based model may evolve to incorporate these features.

As of 2021, proxy materials have been subject to a notice-and-access system where issuers are required to provide notification to securityholders with summary information about the proxy-related materials and instructions on how to access them. This notice-and-access system resembles an access-based model with mandatory notification and the addition of summary information. Since proxy materials are action-oriented and time sensitive documents, notice of the availability of the documents should be mandatory. Our only recommendation would be to provide the notices electronically rather through regular mail or news release. It is worth noting that since inception, it has been estimated that the notice-and-access system has saved issuers in the non-investment fund context approximately \$29 million in 2021.²⁸

²⁴ Fidelity Investments Canada ULC, "[Re: CSA Consultation Paper 51-405 - Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#)" at pg. 2: "Many of our investors tell us that they prefer electronic delivery. Fidelity has also heard customer complaints over the years about the mass proliferation of regulatory required mailings they receive."

²⁵ [CSA Consultation Paper 51-405 - Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers \(January 9, 2020\)](#) at pg. 3.

²⁶ [SEDAR Filing Types, Filing Subtypes and Document Types \(November 21, 2022\)](#).

²⁷ [Ontario Securities Act](#), s. 71(2).

²⁸ Broadridge Investor Communications Corporation, "[Re: Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#)" (July 6, 2022) at pg. 7.

b. If you think the CSA should adopt an access-based model for a specific type of document, please describe the model and explain how that approach would be beneficial to funds, dealers and investors.

For the reasons provided above, we support extending the access-based model to other documents, such as the Fund Facts, ETF Facts, and prospectuses of IFRIs. For added clarity, our support for this model necessarily entails eliminating the news release requirement. In relation to the Designated Documents, we have recommended that notice be given on an opt-in basis by way of email or a form of push notification. However, we recognize that for offering documents, it may be appropriate to make email or push notifications mandatory, especially if the availability of these documents initiates the withdrawal rights period. As noted under our response to Question 3, interested investors can provide their email or signup for push notifications for the Funds that they are interested in, and then receive notice of available offering documents.

To alleviate investor protection concerns and provide for an orderly transition, the access-based model for offering documents could initially supplement the current delivery requirements, before replacing them. The CSA could also provide IFRIs with a suitable transition period, during which they can collect email addresses for notification.

Generally, an access-based model for offering documents would present the same primary benefits as the access-based model for the Designated Documents. These have been discussed at length from an investor accessibility, IFRI burden reduction, cost reduction, and environmental perspective.

c. Are there alternative ways, other than adopting an access-based model, to improve or modernize the current delivery requirements for investment fund documents other than designated documents? For example, does securities legislation impose any impediments to greater adoption of electronic delivery? Could the methods of electronic delivery be modernized? If so, please describe any methods, provide the reasons why those methods are an improvement and explain what regulatory changes would be required to use any proposed method.

Generally speaking, we are of the view that facilitating an online experience is superior for the majority of Canadian investors in relation to all documents. Where an access-based delivery model is available and investor protections are not compromised, the default should be electronic delivery. Paper delivery should remain available to all investors as an option upon request.

Greater adoption of electronic delivery models would be better aligned with the current evolution of the global investment fund industry, in which it is apparent that investors want to interact with information in a way that is timely and convenient.

The investor base in Canada is increasingly made up of younger generations who have relied more heavily on electronic as oppose than paper-based formats. For the first time in 2021, millennials accounted for one-third of the working-age population, and are now its largest age group.²⁹ It is critical that that our regulatory system remains on pace with this evolution.

Conclusion

Thank you for allowing us to provide our comments on the Proposed Amendments. We truly appreciate the efforts of the CSA in modernizing the way that investors receive and interact with Fund information, and

²⁹ The Vanier Institute of the Family, "[Census 2021: Generations and Population Aging in Canada](#)" (May 3, 2022).

in reducing regulatory and financial burdens for IFRIs. We hope our comments are helpful in this process. We welcome any additional opportunities to further engage in this topic.

Yours truly,

Michael Burns

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