

773A Springland Dr.  
Ottawa, On  
K1V 6L9  
November 9, 2012



Ontario Securities Commission  
20 Queen Street West, Suite 1903  
Toronto, ON M5H 3S8

Dear Sirs;

Further to my letter of October 27, I enclose additional comments on Consultation Paper 33-403.

Yours truly

A handwritten signature in cursive script that reads "Richard Taylor".

Richard Taylor

ENC.

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Additional Comments on  
CONSULTATION PAPER 33-403 "THE STANDARD OF CONDUCT FOR  
ADVISERS AND DEALERS"

Further to my comments of October 27, 2012, I have been doing additional research and would like to add the following illustrations. I suppose my comments would best fall under the rubric of: **7) CONSULTATION ON THE APPROPRIATENESS OF INTRODUCING A STATUTORY BEST INTEREST DUTY WHEN ADVICE IS PROVIDED TO RETAIL CLIENTS.**

**Example One**

As I indicated I have been assisting a friend in her dealings with CIBC – the bank. (As her securities advisor and dealer). and for illustrative purposes I reviewed the prospectus for Brandes International Equity to see if the information she was provided with meets the standards for disclosure of conflict of interest as mandated under the current regulatory regime. I am sure that she never read the prospectus, because she would have been unable to understand the language used and to locate the relevant information, but for illustrative purposes I will summarize the current information on fees in the prospectus.

First, the prospectus lists some 16 funds with some 8 different classes (designated A AN F FN L M W I) for Brandes International Equity which is one of the mutual funds that she holds.

The management fees listed in the prospectus range from 1.2% to 2.2% with the applicable fee for her class of units listed at 2.2% (**NOTE:** While the prospectus lists a management fee of 2.2%, the fund facts document lists an MER of 2.77%. It also lists a fund expense ratio 2.82% . Morningstar lists an MER of 2.77% , while the prospectus lists a fee of \$28.39 per \$1000.00 or 2.84% for holding the fund for a year. In the following I will use 2.84% as the cost of holding the fund.)

There are three types of sales charges listed, a front end, back end, and low load back end.

There is a deferred sales charge for 7 years ranging from 5.5% to 1.5% .

Under the deferred sales charge option, there are:

A sales commission of 5%.

A trailing Commission fee chargeable units of 0.5%

A trailing commission fee of 0.75% free units

A trailing commission fee of 1.0% fro matured units.

Under this scenario we may imagine the investment advisor disclosing possible conflicts of interest, (as required by the current regulatory regime) along the following lines:

“For each \$1000 dollars that you put into the fund my bank will receive \$50.00 up front. In addition, if the value of the fund stays the same, the mutual fund company will deduct \$28.39 (or 2.84% of the value of the fund) each and every year that you continue to hold this fund. Of this amount my bank will receive \$10.00 and I will receive an undisclosed amount as a bonus for selling and keeping you in this product.

This means that if we can expect a reasonable return of 6% a year you will get to keep a little over half, and I, the bank and the mutual fund company will get to keep a little less than half. Our share however is a guaranteed percentage of the value of the fund and we cannot therefore lose money. Your share is not guaranteed, and you may actually lose money.

You won't be able to sell your investment for seven years without paying a substantial penalty, even though you will be retired before then, so we are fairly confident that we will continue to collect our share for the 7 years. In fact, if you continue to hold this investment for your lifetime, we should continue to collect our \$28.39 plus an expected 5% increase each year for the next 20 to thirty years.

Since the 2.84% is deducted off the top, it is extremely unlikely that you will receive a return equal to the appropriate benchmark. Nevertheless, we think this investment is appropriate for you. “

I think that if this sort of disclosure was made, my friend would have been much more likely to have selected a lower fee alternative. And probably the advisor would have been more likely to propose alternatives. Moreover, given the choice between obtaining cash for life through a high fee plan, and very little bonus for selling a low fee plan, even the most conscientious advisor would find it difficult to resist, consciously or unconsciously, recommending the plan that benefits him instead of the client.

I am sure that the advisor made no such disclosure.

Moreover, I think that it is fairly clear that while this may be a suitable investment, it is clearly not a best interest investment.

Therefore, simple disclosure of conflict of interest having failed, I think a best interest test is required.

## **Example Two**

While researching the impact of the trailing commissions on dealer incentives, I became interested to learn who the dealers were who actually received the commissions. At one time I had seen some material which claimed that the mutual funds paid the fees to dealers to compensate them for their advice. Since I had moved some mutual funds which I had bought through the bank to first TD Waterhouse and then RBC Direct Investing (both discount brokers) who both claim that they give no advice, I wondered whether they were receiving these fees to compensate for so called advice, or whether the fees were being paid to the banks where I bought the funds. I had no luck with TD Waterhouse, but later, in researching this comment, decided to try my luck with RBC Direct Investing. After consulting their back office, the people I called claimed that they could not tell me who was getting my money, because of privacy concerns. I followed up with a written complaint (see attached letter from RBC) and was informed that in fact the dealer who receives the money is the dealer holding the securities, not the selling dealer.

Obviously, the back office people should have been aware of the current regulatory requirement to disclose trailing fees being paid, but they evidently were not.

Although the amount involved in this latter case is probably not large enough to constitute a conflict of interest, the amounts involved in a trailing commission of 1%, are. I think that a legislated requirement to disclose possible conflicts of interest would be valuable.



RBC Direct Investing™

RBC Direct Investing Inc.  
200 Bay Street, North Tower  
P.O. Box 75  
Toronto, ON M5J 2Z5

**Without Prejudice**

November 2, 2012

MR RICHARD TAYLOR  
773A SPRINGLAND DR  
OTTAWA ON K1V 6L9

Dear Mr. Taylor:

**Re: RBC Direct Investing™ Account Number 681-45584-14**

Thank you for your letter dated October 29, 2012 addressed to the Complaints Department, RBC Direct Investing. Your letter raised concerns with regard to trailer fees on your mutual fund holding RBC Canadian Dividend Fund (RBF 1014) in your account 681-45584-14. As this matter falls within my area of responsibility, I will address your concern.

The RBC Canadian Dividend Fund is managed by RBC Global Asset Management. RBC Global Asset Management pays the firm that holds your Fund a trailing commission fee for as long as you own the fund. In your case, the trailer fee is paid to RBC Direct Investing and the current rate is 0.25% of the value of your holding per year.

This information can be found on the RBC Global Asset Management website under "Fund Facts" as well as the fund's simplified prospectus.

Mr. Taylor, RBC Direct Investing values your business and we look forward to fulfilling your investment needs in the future.

Sincerely,

Michael O'Brien  
Investigations and Communication Officer  
RBC Direct Investing