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Re: CSA Consultation Paper 33-403

Index Wealth Management Inc., supports the Canadian Securities Administrators (CSA) consultation process to examine the feasibility of introducing a statutory best interest duty to address potential investor protection concerns.

We believe that the CSA should impose a fiduciary duty on all Canadian financial advisors, or as an alternative, join international securities regulators in the U.K., E.U. and Australia that have already imposed a qualified best interests standard on financial advisors who are regulated under their respective jurisdictions.

Under the current Canadian statutory securities registration regime, registered advisers and dealers are required to deal “fairly, honestly and in good faith” in all dealings with their clients, without there also being a general fiduciary obligation to act in the best interests of the client. This is often referred to as a suitability standard.

Could the current registration regime be improved to enhance the framework for investors to receive both qualified investment advice and improved protection?

When an advisor makes a recommendation to a client, there can be as many as five participants who have a financial interest in this process:

- The client
- The financial advisor
- The company that employs the financial advisor.

- The company that manufactures the product, if the financial advisor recommends this type of investment.
- A lender, if the financial advisor recommends that the investor borrow to invest.

When the recommendation is profitable, everyone on this list makes money. However, when the recommendation experiences a loss, the client is likely the only one of the five participants that suffers. All of the other participants have either been compensated, are still being compensated or have not experienced any monetary loss.

The financial advice industry is plagued by a principal-agent problem wherein individual investors (principals) rely on licensed representatives (agents) for advice. The information asymmetry that is present in this relationship (agents have information that the principals do not) can lead to numerous conflicts of interest.

A conflict of interest is present any time a financial advisor is not thinking exclusively about what is in the best financial interest of the client they are advising. Conflicts can result from any influence that affects or biases their judgment or recommendation. In some circumstances, the suitability standard can allow advisors to recommend suitable investments which are not necessarily investments that are in the best interests of the client (high fee vs. a lower fee alternative).

Many individual investors are not aware of the types of potential conflicts or biases that can affect the financial advice they receive. Many segments of the financial industry determine their profitability from a sales culture that forms the core basis for advisor compensation. Scrutiny of compensation models as they currently exist in the financial advice industry is increasing; with the result being that sales-based models are now more generally viewed with a jaded eye.

While the examination of a financial advisor's compensation model will increase a client's awareness of how potential conflicts and biases may occur, it does not provide any information about the abilities, skills or ethics of an individual financial advisor. Therefore, we believe that broad-based protection of individual investors can only be achieved through imposing either a fiduciary duty or a qualified best interests standard, which stipulates the duty that is owed by the advisor to the client receiving the advice regardless of the method of advisor compensation.

Most individual investors in Canada are unaware that the current regulatory regime places different standards of care upon financial advisors depending on how they act on behalf of their clients:

- Canadian courts have not concluded that the current regime creates, or is equivalent to, a broad fiduciary duty for all financial advisors. Instead, such a duty can only be determined by the nature of the relationship between the client and their adviser when certain conditions are satisfied.
- Four provinces (Alberta, Manitoba, Newfoundland and Labrador, and New Brunswick) have enacted a statutory "best interests" requirement that applies to advisers if they have discretionary authority over their clients' investments.
- Investment fund managers are currently subject to a general statutory best interest standard of conduct

As a result, there is currently no single standard of duty that applies to all registered financial advisers. This lack of uniformity can only produce confusion and misunderstanding between the expectations of many individual investors regarding the duty that is owed to them by financial advisers and how their interests are served.

Imposing a fiduciary or best interests standard would create an obligation on financial advisers to go beyond "fair, honest and in good faith". It would eliminate investor confusion and heighten investor protection from what currently exists under the existing regulatory regime. This duty would require that financial advisers would have to act in the best interests of their clients and ensure that:

- The client's interests are always dominant
- Conflicts of interest are avoided or always resolved in the client's favour
- Clients are provided with full and meaningful disclosure in a format that is easily understood and has relevance to them.
- Clients receive prudent unbiased advice.

Financial advisers should have an obligation to always act in the best interests of their clients when providing advice. This should be the core principal that underlies all advisor- client relationships.

Our firm believes that financial advisory services are not basic business transactions where information disclosure and the principle of "buyer beware" are solely sufficient as forms of investor protection. The increasing complexity of manufactured financial products and the information asymmetry that is present among a large segment of advisor- client relationships continues to lead to poor investment outcomes that can have lifelong implications because of financial hardship.

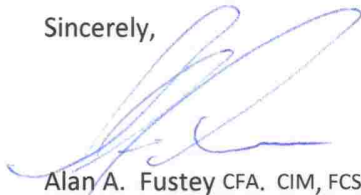
Some industry segments have suggested that the introduction of a fiduciary duty or statutory best interest standard would result in changes to compensation

philosophies or increased costs for advisers in how they provide advice to clients. As a result, they foretell that there could be a negative impact on choice, access or affordability of advisory services for clients to whom the standard applies. Although initially some clients may potentially lose access or experience increased costs from the advice channels they have previously utilized, we doubt that this would be a permanent issue.

The financial industry is extremely entrepreneurial in nature and has shown previously that it will find profitable ways to deliver advisory services under any regime that is imposed by the CSA. Therefore, we advocate the effects on profitability of certain segments of the financial industry should not be a consideration in any decision by the CSA regarding a change in the duty owed by financial advisors to their clients. The decision should be about what is right for the client, not what is right for the industry.

Index Wealth Management Inc. would welcome the opportunity to participate in any future forum that the CSA may provide to examine the feasibility of introducing a fiduciary duty or a statutory best interests standard.

Sincerely,



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