February 22, 2013

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Attention:
John Stevenson
Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1900, Box 55
Toronto, ON M5H 3S8

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montréal (Québec) H4Z 1G3

Dear Sirs / Madames:

Re: CSA Consultation Paper 33-403: The Standard of Conduct for Advisers and Dealers Exploring the Appropriateness of Introducing a Statutory Best Interest Duty When Advice is Provided to Retail Clients

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PFSL Investments Canada Ltd. ("PFSL") appreciates the opportunity to submit comments with respect to the Canadian Securities Administrators' ("CSA") Consultation Paper - The Standard of Conduct for Advisers and Dealers: Exploring the Appropriateness of Introducing a Statutory Best Interest Duty When Advice is Provided to Retail Clients (the "Consultation Paper"), published on October 25, 2012. PFSL is one of the largest mutual fund dealers in Canada and is a member of the Primerica Financial Services group of companies.

We have worked closely with the Investment Funds Institute of Canada ("IFIC") on their comprehensive submission and we agree with the industry-wide concerns it raises, as well as the alternative solutions it proposes. It is the product of months of thoughtful work and we believe

that the comments are well balanced. In addition, there are certain points on which we would like to comment:

- reasons for implementing a best interest standard;
- current regulations provide adequate protection for investors;
- difficulty in defending assessments against complaints and possible legal action;
- increase cost to serve modest investment accounts;
- an accelerated focus on high net worth investors;
- fewer advisers serving middle-income investors;
- commission-based compensation model should remain an option for investors;
- acting as a guarantor of an investment recommendation; and
- the need for a cost benefit analysis.

Clarity of and Need for a Best Interest Standard

One of the difficulties in commenting on the Consultation Paper is that the concept of best interest is not well defined with respect to advisers and dealers and their activities. Without such clarity it is difficult to assess the impact on dealer and adviser conduct, the benefits to investors, if any, and the resulting impact on the market. We believe, however, that there is a high likelihood of a significant negative impact in all of these areas.

The Consultation Paper does not provide examples of harm to investors under the current rules that a best interest standard would prevent. We would expect that empirical evidence of market failures and how a change in standards would prevent these would be thoroughly investigated and discussed with all affected parties prior to consideration of any change to the current standards.

Investors Well Served and Protected Under the Current System

We believe the current regulatory environment offers adequate protection to consumers. Under Rule No. 2 of the Mutual Fund Association of Canada (“MFDA”) Rules, registered advisers and dealers are required to deal fairly, honestly and in good faith in all dealings with their clients. In order to meet this obligation, agents must obtain and maintain complete, timely and accurate “Know Your Client” information.

More recently, the MFDA issued a revised notice outlining the role of compliance and supervision at mutual fund dealer firms. The notice spells out the MFDA's expectations of the compliance function and seeks to clarify the distinction between supervisory and compliance roles. The notice also emphasizes the importance of personal integrity and the need to deal with clients fairly, honestly, and in good faith at all times. From our perspective the best way to enhance consumer protection is through strong and effective supervision within financial services firms.

National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and the MFDA Client Relationship Model (“CRM”) do not impose a “best interest duty”, however they do codify and in some cases add to the obligations investment professionals owe to their clients. The CRM enhances the adviser-client relationship by clearly outlining the

role and responsibilities of the investment professional and building on the standard of care required.

No evidence of shortcomings in the current standards has been provided in the Consultation Paper.

Possible Implications of a Best Interest Standard

As noted above, it is difficult to assess the impact of a best interest standard absent clear expectations from regulators. We believe it would be extremely complicated for dealers and advisers to apply an undefined best interest standard because there are various competing factors when assessing the best investment choice for a client. For example, it is unclear how an adviser would be expected to weigh fees (which have a higher degree of certainty) against factors such as experience of a portfolio manager and a manager's style (which have less certainty).

Absent guidance on expectations from regulators, dealers and advisers may be left more exposed to legal challenges, many of which could be frivolous. We believe that dealers and advisers will be ill-equipped to defend such potential legal claims or actions. Costs to dealers and advisers would increase, and they would likely determine that certain accounts, particularly smaller value accounts, would no longer be economically viable to service. We have already seen this trend in industry. An undefined best interest standard would accelerate this trend.

As a result of this outcome, we believe those with smaller amounts to invest would actually be harmed – there would be less choice for them in the market. Our company has not followed the trend of many others to service only higher net worth clients. We are structured to reach the middle-income consumer. Our representatives offer basic investment products and teach our clients the long-term benefits of saving through a diversified investment vehicle, such as a mutual fund. Our model operates in such a way as to be able to accept a small minimum monthly investment, which allows those with modest means to start a retirement or other savings plans to meet their expected financial requirements and foster a savings culture. It is from this experience that we are concerned that a best interest duty will severely limit the ability of firms such as ours to provide our services to middle-income Canadians, and deprive them of a very important option to use in saving for their future.

Impact of Fewer Advisers

As noted, the increasing time and costs in this type of an environment would likely impact the ability of advisers and dealers to service the middle income market, which often have small accounts. Profit margins at the dealer level are already slim. As a result, there is the potential for an abandonment of clients with small accounts if servicing such clients is overly onerous. This would not only harm dealers such as ourselves that service the middle market but also cause a substantial harm to the public. When public policy makers are searching for more ways to offer retirement savings coverage to the public, a best interest standard as a one size fits all approach, and would be taking us in the opposite direction.

With a reduction in the number of advisers providing education and savings options to smaller investors, fewer will be prepared for their retirement years. Studies continue to show that many

Canadians are not saving enough. Research has also proven that when Canadians are exposed to the basic concepts of saving for retirement and investment options they save more and are better prepared for retirement. In the IFIC 2012 study titled "New Evidence on the Value of Financial Advice" individuals who work with an adviser are better prepared.

> "*The data show that an Advised household that has worked with a financial advisor for four to six years accumulates 58% (1.58 times) more assets than a Passive Non-Advised household that is identical in all other respects. Similarly, a household with a financial advisor for seven to 14 years accumulates 99% (1.99 times) more assets than an otherwise identical Passive Non-Advised household. After 15 years or more with a financial advisor, the Advised household accumulates 173% (2.73 times) more assets than an otherwise identical Passive Non-Advised household.*"

A consequence of fewer advisers in the market will be a less educated population when it comes to financial issues. The IFIC 2011 "Value of Advice Report" shows that when investors are exposed to the basic concepts of retirement investing the majority respond by changing their behavior and saving more for their future.

> "*One of the enduring values of the investor-advisor relationship is that it raises the financial literacy of the client through a continuing sequence of what the federal Task Force on Financial Literacy has termed "teachable moments". In the words of the Task Force: "Those 'teachable moments' include decision points such as joining a pension plan or workplace retirement savings scheme, seeking financial advice or considering the purchase of a financial product, or determining one's eligibility for benefits from a government program. Learners retain only some of what they are taught, particularly when the subject matter is outside their everyday experience. Thus, financial education needs to be reinforced through life.*"

Compensating Advisers

We believe investors are best served when there are a range of options available to them. Options allow dealers and advisers to design their business models to serve different segments of the market. Extensive and clear compensation disclosure is already in place in Canada and is being improved regularly. It is our view that this information will help clients make decisions that are appropriate for their circumstances.

A commission based account provides the basis for an efficient business model, allowing dealers and advisers to serve smaller account sizes, particularly important for those starting savings plans and entering the market. For those that are long term investors with minimal trading, a commission based account is quite appropriate. We also note that hundreds of thousands of investors across Canada hold investments assets in commission-based accounts and these advisers are consistently providing good services to their customers. We reiterate that it is important that Canadians have options available to them and that regulations do not favour one compensation model over another.

Acting as a Guarantor

The Consultation Paper seems to imply that an adviser would become the guarantor of an investment recommendation. Under the narrow definition an adviser would be bound to recommend the "best priced" product among suitable alternatives, and then continue to ensure the product remains the "best priced" as long as the client maintains the investment. However price is only one factor in making a recommendation to a client.

The adviser and the client can only know after the fact whether a product's price is high or low relative to its properties and those of competing products. Even a more broadly-defined standard linked to outcomes would be unworkable, since outcomes are only known in retrospect and are largely measured against a client's stated objectives at the outset of the investment. Such an obligation would inevitably reduce the ability of dealers and advisers to defend against litigated claims, making the business of providing investment advice unfeasible.

Costs Benefit Study

Before any steps are taken by the CSA, there needs to be empirical data or economic analysis of a best interest duty on advisers. The jurisdictions mentioned in the Consultation Paper, Australia, the U.S., England and the EU have at one point or another conducted a cost benefit analysis. We would recommend that such a study be done before any action is taken. The CSA needs to carefully measure the potential impact of new rules on the market. A comprehensive study should include the consideration of the transition from commissions based compensation to fee based accounts, the effects of pricing low balanced accounts out of the market, and the resulting effects on middle-income investors. We believe that such a study would allow the CSA to better understand these issues as they relate to investors and to construct alternative rules that would achieve the goal of consumer protection. It would be useful to review the experience in other jurisdictions.

Conclusion

We believe the interests of investors are well protected by the existing legal and regulatory environment. There is no evidence to indicate that this is not the case. The industry is currently working on further initiatives with the regulators, such as the implementation of the Client Relationship Model, with the objective of further improving clarity around adviser offerings and client expectations. The introduction of an unclear best interest standard would add uncertainty and additional cost, making it uneconomic to service the middle income market.

PFSL appreciates the opportunity to comment on this important issue and we look forward to any further public discussion on this topic. Should you have any questions or wish to discuss these comments, please feel free to contact us.

Sincerely,
Original signed by

John A. Adams, CA
Chief Executive Officer