



Fidelity Investments Canada ULC
483 Bay Street, Suite 200, Toronto, ON M5G 2N7

December 23, 2008

BY ELECTRONIC MAIL

Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Nova Scotia Securities Commission
Office of the Attorney General, Prince Edward Island
Financial Services Regulation Division, Consumer and Commercial Affairs Branch,
Department of Government Services, Newfoundland and Labrador
Registrar of Securities, Government of Yukon
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Registrar of Securities, Legal Registries Division, Department of Justice, Government of
Nunavut
(collectively the "Canadian Securities Administrators" or the "CSA")

Attention:

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55
Toronto, ON M5H 3S8
Email: jstevenson@osc.gov.on.ca

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
Email: consultation-encours@lautorite.qc.ca

Dear Sir/Madame:

**Re: CSA Notice 81-318 Request for Comments on Revised Framework 81-406 –
Point of Sale Disclosure for Mutual Funds and Segregated Funds**

We are writing in response to the above-referenced Request for Comments dated October 24, 2008 with respect to the revised Framework 81-406 (the "Revised Framework") which was recently released by the Joint Forum of Financial Market Regulators (the "Joint Forum") on October 24, 2008. We had commented on the previous version of 81-406 released in June, 2007, and we appreciate the opportunity to comment on the Revised Framework.

ABOUT FIDELITY INVESTMENTS

Fidelity Investments Canada ULC (“Fidelity”) is the 7th largest mutual fund management company in Canada managing in excess of \$40 Billion in assets through approximately 130 mutual funds and corporate pension plan assets. Fidelity is part of the Boston-based Fidelity Investments organization, one of the world’s largest providers of financial services.

GENERAL COMMENTS

Fidelity continues to support the Joint Forum initiative to provide clear and concise fund information to investors through the introduction of the Fund Facts document. We agree that this type of document can make it much easier for investors to understand the product that they are buying and can provide a more user-friendly alternative to the Simplified Prospectus. We agree with the Joint Forum’s conclusion that few investors actually read the Simplified Prospectus given the size and complexity of that document. We support a number of the changes set out in the Revised Framework and recognize they have addressed some of the concerns raised by commenters on the earlier version of the Framework.

That said, we do not believe that the Revised Framework has gone far enough. The Revised Framework still does not address the fundamental concerns that many in the industry have about the changes to the process for purchasing mutual funds that the Framework will bring about. The requirements to deliver a Fund Facts document at or before the “point of sale” , which under the Revised Framework will still apply to the majority of new mutual fund purchases, continues to be a matter of great concern. We believe that this requirement will prove to be highly disruptive to the sales process for mutual funds and will not be welcomed by the majority of investors. Investors today have the choice of receiving their fund information before or after the point of sale, and the Revised Framework proposes to take that choice away from investors. The result will be that mutual funds will become far more cumbersome for investors to purchase than most other kinds of securities and similar offerings. This will make them less attractive to investors, leaving mutual funds at a competitive disadvantage to other similarly regulated offerings that have less onerous purchase requirements.

IFIC PROPOSAL

We have read and are in agreement with the proposal put forward by The Investment Funds Institute of Canada (“IFIC”) on November 24, 2008. We support making available to clients and advisors as soon as is practically possible the plain language Fund Facts document. To make this happen in the timeframe suggested by IFIC, i.e. by the end of 2009, it will be necessary to have in place by mid-2009 a CSA Rule describing the content and format of the document and requiring that it be made available on fund company websites to advisors and clients. We urge the CSA to begin work on that Rule as soon as possible such that it can be released for public comment early in 2009. To assist in this we will be supporting IFIC in bringing to your attention industry comments on the proposed contents of Fund Facts before the end of the current comment period.

We are also proposing that all delivery requirement aspects of the Framework be the subject of a separate consultations process and a second Rule to be released at a later date. In our view, the two-stage implementation process proposed by IFIC is a constructive proposal. It provides for an acceleration of the production and availability of Fund Facts while ensuring that there will be sufficient time for discussion with all relevant parties of the issues related to the complex delivery requirements of the Framework prior to introducing them in a Rule. Any alternative implementation approach, in our view, will delay the availability to investors and advisors of the improved and more transparent disclosures represented by Fund Facts.

We believe that the approach recommended by IFIC is a positive one for all stakeholders and we recommend that you consider it seriously as you decide on next steps for this initiative.

Our more specific comments on the Revised Framework are highlighted below.

SPECIFIC COMMENTS

We have divided our comments into two main parts: (1) comments associated with the delivery of the Fund Facts and (2) comments associated with the production of the Fund Facts.

1. Comments Associated with Delivery of the Fund Facts

a. Exemptions from Delivery at or before the Point of Sale

We commend the Joint Forum for trying to address, in the Revised Framework, many of the concerns raised by Fidelity and other commenters regarding the delivery requirements for the Fund Facts as originally proposed in the previous version of the Framework. Specifically, these concerns centred on the requirement that Fund Facts be delivered at or before the point of sale for all mutual fund purchases, including for subsequent purchases of a fund an investor already holds.

We are pleased to see that the Revised Framework no longer requires delivery of a Fund Facts document at or before the point of sale for subsequent purchases of the same fund, or for any purchases of a money market fund. The latter change in particular will be a welcome relief to investors who may need to quickly find a safe haven for their investments in times of turbulent markets such as those we are currently experiencing.

We also agree with the decision to exempt trades made through “Order execution-only” accounts (such as accounts held with discount brokers) from the requirement to deliver Fund Facts at or before the point of sale.

b. Advisor Recommended vs. Investor-Initiated Trades

We are however, concerned with the concept introduced in the Revised Framework of a distinction between “advisor-recommended trades” and “investor-initiated trades” made through full service accounts. In the Revised Framework, trades that are deemed the former will require delivery of a Fund Facts at or before the point of sale, whereas trades that are deemed the latter will give the investor the choice of receiving a Fund Facts

document no later than with the trade confirmation. While we welcome the greater flexibility for investors by this change (as well as the other changes to the delivery requirements described above), we don't believe this goes far enough to address what we still see as the fundamental problems with the delivery requirements.

We question the mechanics of distinguishing an advisor-recommended trade from an investor-initiated trade for many types of transactions and are concerned about the challenges of monitoring this from a compliance standpoint. In explaining the distinction, the Joint Forum states its agreement with the principle that investors who initiate an initial purchase of a fund should have the choice of whether to receive the Fund Facts before or after the point of sale. While we agree with this sentiment, the Revised Framework offers little practical guidance as to how to make this distinction and effectively leaves it to individual firms to make that determination for themselves through their own compliance monitoring. Building a compliance system to monitor and create a bright-line test to differentiate advisor-recommended vs. investor-initiated trades will be extremely challenging for many firms. There could be numerous situations in which reasonable people would disagree as to whether or not a trade is truly "investor-initiated" or has no element of "advisor recommendation" involved. It is unlikely that there will a significant number of trades that are clearly investor-initiated regardless of the compliance system built to monitor this. Canadians overwhelmingly choose to engage in an ongoing, long-term relationship with their financial advisors with views and opinions potentially exchanged several times before a purchase decision is actually made. This means the question of which action or party initiated a trade will be unclear and most certainly less clear over the passage of time.

Undoubtedly in the event of a dispute, the burden will fall on the dealer/advisor to effectively prove that a trade was "investor-initiated" and consequences could be severe. We submit that for most firms, the risk of getting it wrong will prompt them to choose to err on the side of caution by either setting an impossibly high threshold for a trade to be considered investor-initiated or simply defaulting to the option of lowest risk and deeming all trades as advisor-recommended. This will, in effect, mean that most mutual fund purchases will require delivery of a Fund Facts at or before point of sale, unless one of the other limited, clearly prescribed exemptions applies.

We note the commentary on page 13 of the Revised Framework document in which the Joint Forum suggests that under the Framework, dealers will not be expected to obtain acknowledgement from the investor that they have received the Fund Facts document. These statements are confusing to us, given that in the same document, the Joint Forum clearly states that the requirements for delivery of a Fund Facts at or before the point of sale includes an obligation to ensure that the Fund Facts document is brought to attention of the investor. It is unclear how this latter requirement can be confirmed, in the event of a dispute, without obtaining some form of acknowledgment from the investor. As such, we would request that the Joint Forum provide some clarification as to intent behind this commentary.

c. Competitive Concerns

Uneven Playing Field

Fidelity continues to strongly believe that the additional delivery requirement in the sales process will create a significant competitive disadvantage for mutual funds and

segregated funds relative to other similarly regulated products. The proposal does not extend to other competitive investment vehicles, such as ETFs, hedge funds, equities, wrap programs, separately managed accounts, banking products (such as principal protected notes which are often linked to mutual funds) or other securities and similar products. We believe that this could create an incentive for financial advisors and their clients who may want to transact more quickly, to turn to other types of securities or products which are not similarly restricted in terms of how they may be purchased. We believe this will result in an uneven playing field for mutual funds and segregated funds.

Some CSA members of the Joint Forum have indicated previously that they intend to address this concern by implementing a similar “point of sale” regime for other types of securities at some point in the future. We are troubled that there does not appear to be, however, any kind of timetable or firm commitment by the CSA or the Joint Form to move forward on this larger project, which will undoubtedly take a number of years to implement, thus leaving mutual funds at a considerable disadvantage for the next several years. We would urge the Canadian Securities Administrators to provide a firm commitment to address these competitive concerns in the near term. We fail to see how creating and maintaining such a large regulatory gap between mutual funds and segregated funds versus other similar investment vehicles and securities, is in the best interests of investors.

Limited Shelf Space

We also believe that the delivery requirements will cause dealers to narrow their product shelf in order to ensure that they have sufficient copies of Fund Facts on hand for delivery. Instead of offering the funds of 10 or more fund companies for example, the choice would be narrowed to no more than 3 or 4 fund companies and fewer funds in order to be able to effect transactions on a timely basis for their clients. This could especially be the case for smaller dealers, or firms with a large face to face client base. We do not believe that this reduction of choice will be in the best interests of investors.

d. Cooling Off Period/Failure to Deliver Fund Facts

We agree with the Joint Forum’s decision to have the 48 hour “cooling off” period commence upon receipt of the trade confirmation rather than from the moment of the trade instruction, thereby remaining consistent with similar rules in Ontario and other jurisdictions. We also agree with the decision to harmonize the withdrawal/rescission rules for mutual fund purchase across the country and to deem that purchases that are cancelled pursuant to this “cooling off” right will be treated as redemptions and the investor will be entitled to the lesser of the original purchase price or the price at the time of cancellation. This is, in our opinion, fair and reasonable and reduces the likelihood of this “cooling off” right being used as a type of put option in volatile markets. We would recommend that the Canadian Securities Administrators, in implementing 81-406 be clear in any applicable rule that this cooling off period in 81-406 supersedes any other withdrawal rights in securities legislation in respect of the purchase of mutual funds in order to remove any ambiguity about the application of this right in different Canadian jurisdictions.

We also agree with the change to amend the current right of action for failure to deliver a Simplified Prospectus and have it apply only to delivery of a Fund Facts document.

Given that delivery of the Fund Facts is intended to replace delivering of a Simplified Prospectus, this is a reasonable change.

e. Delivery Requirements, Generally

In short, we continue to believe, based on independent research combined with industry data that the majority of investors are not likely to choose to receive the Fund Facts until after the sale has taken place. They will not want the sales process to stop while they wait to receive the Fund Facts and then take the time to confirm back to their financial advisor that they have read it. Many investors will want the right to waive this requirement, particularly where they have a relationship with a financial advisor. There are likely a variety of other reasons that investors will not appreciate this requirement. For example, an investor may wish to take action in light of changes to market conditions or an investor may simply want to conclude a trade and not agree that additional information is helpful or necessary. Also, the proposal does not take into account the investor who is out of the country and who may not have access to fax machines or computers. Since the delivery requirement cannot be met orally, those investors will be severely constrained in how they can trade or manage their mutual fund or segregated fund investment portfolios at potentially important times. Although the Revised Framework partially addresses this by providing exceptions for money market fund purchases and subsequent purchases of the same fund, we still believe that mandating delivery at or before the point of sale for most transactions will be highly disruptive to investors making mutual fund purchases, without necessarily providing an offsetting benefit to investors.

In the United States for example, the Securities and Exchange Commission (the “SEC”) has opted for an approach to Point of Sale disclosure that resolves the delivery issue and maintains an even playing field for different types of securities. The SEC’s approach has achieved a balance of continuing to evolve the information provided to investors - especially the various potential delivery options – while keeping the requirements for timing of delivery separate and most importantly, workable.

Our research also shows that a majority of investors prefer having the choice of when to receive Fund Facts. Research conducted by Environics Research Group¹ in late 2007 showed that approximately 2/3 of Canadian mutual fund investors surveyed preferred to maintain the option to receive and acknowledge any fund information before or after every new mutual fund purchase and for every change to existing fund investments that were agreed upon with their investor. We continue to oppose any changes in the regime for purchasing and selling mutual funds that takes away this choice that investors now enjoy and have clearly indicated through independent research that they wish to maintain.

Ultimately, the Revised Framework, if implemented in its current form will dramatically reduce the freedom and choice that investors now have in purchasing securities by making mutual funds and segregated funds far more cumbersome to purchase relative to other types of securities, and thus far less attractive as an investment option.

We believe that the regulators will be forced by disgruntled investors to amend 81-406 to take into account their right not to receive this document at or before the point of sale

¹ “Mutual Fund Point of Sale Poll”, Environics Research Group, 2007

depending on their own circumstances at the time they are placing the trade. We still do not believe that this initiative, even with the changes from the previous version, fully takes into account the real needs of investors by giving them the choice that they, as adults, should have.

2. Comments Associated with the Production of the Fund Facts

a. One Fund Fact Per Series

We have noted that the Revised Framework still requires production of a separate Fund Facts document for each series of a Fund. However, in a change from the previous version, these Fund Facts only need to be produced once a year (unless there are material changes) on the same cycle as the Simplified Prospectus renewal. While we welcome the change in frequency and timing of production, we are disappointed that the Joint Forum continues to require a separate Fund Facts document for each series of a Fund.

Difficult for Investors to Properly Compare Options

If the various series of a fund are offered in different Fund Facts documents, we do not believe that investors will be easily able to compare their options. For example, Fidelity funds (as is the case with funds offered by most fund companies), are sold in multiple series with different features: front load and back load, with negotiable trailer fees or other features unique to a particular series. By keeping these features in separate Fund Facts, investors may not necessarily be aware of the other alternatives, including series with lower fees or fund expenses. Since for many of these series, fees and expenses are often the key distinguishing feature, investors may not have the full information they need to make a particular fund purchase. Although the revised Fund Fact document does contemplate disclosure about other sales charge options, we do not believe this goes far enough, since it will still require an advisor to ensure that each Fund Facts document for each series is readily available, in order to execute a trade on a timely basis for their client.

Cost and Logistical Challenges

As we outlined in our previous comment letter, this requirement can have serious cost and logistical consequences for mutual fund companies, dealers/advisors and their clients.

In the case of Fidelity, even with the revised production requirement, we estimate that we will be creating in excess of 1300 separate Fund Facts annually. While under the Revised Framework, we will no longer be required to deliver the Simplified Prospectus to investors, we will nevertheless have to continue creating the Simplified Prospectus (as well as the Annual Information Form) and filing them with the Canadian Securities Administrators in the normal course. As noted in our previous comment letter, this, in addition to the financial statements and the Management Report of Fund Performance for each fund ("MRFP"), will create a staggering amount of work and cost for the mutual fund management company and the funds in many different areas of the company. We anticipate that the Fund Facts will have workload repercussions for the information

systems department, the legal department, the marketing and sales departments, the transfer agent, client services, the finance department and the fund treasury department.

The mutual fund industry has made significant strides in reducing paper and increasing use of electronic means. We believe that this will be a significant step backwards and will result in more, not less paper being produced in an era when investors want less paper and more electronic access at their convenience.

Adding further to the cost/logistical challenges is the issue of how to produce Fund Facts for the financial advisors and their firms and how to deliver them to those advisors so that they can be used effectively and in compliance with 81-406. We anticipate having to print and deliver hard copies to many financial advisors who still do a primarily paper-based business. In our experience, financial advisors typically sell approximately 20 mutual funds from a variety of mutual fund companies. The financial advisor will have the responsibility to keep a current inventory of the Fund Facts for every mutual fund that he or she sells, which for some funds can result in needing sufficient inventory of 10 or more separate Fund Facts for a single fund, representing each series it offers.

We believe that this will create significant logistical challenges for the individual financial advisor. There could be delays in trade execution for a client if their advisor does not have the correct, current Fund Facts document for a particular fund on hand (or is out of stock) to present to their client.

Reduced Product Choice for Investors

The various logistical challenges for dealer and advisors described could result in their severely curtailing the number of different fund companies they support in order to better manage a reduced administrative burden of a more limited shelf space. It can also result in financial advisors and their clients favouring other similarly-regulated products that are less cumbersome to purchase. All of this will reduce choice for investors, and put mutual funds and segregated funds at a competitive disadvantage relative to these other products.

b. Accommodating Multiple Series Information on a Single Fund Facts

We believe that a table can be constructed (as is now done in many Simplified Prospectuses) outlining the series and other purchase options and costs without overly complicating or lengthening the Fund Facts. For investors it would provide an easy way to compare the different options available on a single fund and make a more informed decision about which series of a particular fund to purchase. It can also make comparisons to similar fund offerings by different fund companies easier to make for the investor.

With respect to the concerns raised by the Joint Forum that performance and other similar information is impacted by the different fee structures in different series (thereby necessitating separate Fund Facts for each series), we believe that can be addressed by providing “representative” information about performance, such as performance of the series with the highest MER, for example, and direct investors to review the MRFP for that fund to see detailed performance information by series if they choose. Alternatively, the Fund Facts can be expanded to 3 pages (or the layout changed) to

accommodate this extra information, which is something the Joint Forum has already indicated in the Revised Framework it would be amenable to in certain circumstances.

Ultimately, we believe that producing only one Fund Facts document per fund instead of per series is in the best interests of investors in properly understanding the key features of the fund(s) they are purchasing. We also believe that the Joint Forum should not sacrifice producing a better and more informative document for investors for the sake of adhering to a rigid “2 pages only” formula. The purpose behind the Framework is to provide investors with the information they need to make an informed decision about a fund – a “one Fund Facts per fund” document, with consolidated fees and expenses information for each series of a fund will go much farther in achieving this than an incomplete “one per series” model.

CONCLUSION

We continue to be supportive of the approach being put forward by the Joint Forum to adopt a simple document in the form of the Fund Facts. We believe that investors will be better served with this type of information and are more likely to read and understand the fund information in this format. We also commend the Joint Forum’s efforts in revising 81-406 to address a number of concerns raised by commenters in the previous version.

However, we still believe that the requirement to deliver the Fund Facts at or before the point of sale for the majority of transactions is not in the best interests of investors. We believe that most investors will not want this since they will no longer have the ability to trade when they want or need to trade. We believe that investors want to continue to make their own decisions without restrictions imposed by regulators, or at least have the ability to waive those restrictions where it suits their own particular needs or where circumstances are such that they wish to act immediately. Industry studies have confirmed this.

We believe that the objective of the Fund Facts can be accomplished with delivery after the point of sale within a limited amount of time. The Revised Framework includes a 48 hour cooling-off period, commencing at the time of receipt of the trade confirmation, which we believe addresses any concerns regarding “buyer’s remorse” by investors. We believe that this will serve investors well without disrupting the trading process. It is not clear to us what regulatory deficiency will be resolved by these fund-specific delivery requirements or how this will enhance investor protection in an industry in which most fund purchases are made with the assistance of a registered financial advisor.

Additionally, we strongly believe the Joint Forum should re-consider its rigid adherence to a “one Fund Facts per series” model of production. Investors who only read a Fund Facts for a particular series of a fund will not have access to critical information about different fees and expense options, information which can often be the deciding factor in finalizing a mutual fund purchase. The goal of the Framework is to provide investors with the information they need to make an informed decision about a fund purchase and in our opinion, a Fund Facts document with consolidated information about each series offered for that fund, is a much more informative document. The costs of producing one Fund Facts per series will be staggering, from the standpoint of fund company resources, and from the environment given the staggering amount of paper this will

produce. Given all of this, we implore the Joint Forum to re-think its position on this point.

As noted earlier in this letter, other jurisdictions have managed to implement regimes that address the concerns of easier to understand content while maintaining sufficient flexibility in the delivery requirements such that mutual funds are on an even playing field, relative to other types of securities.

We urge the Joint Forum and the CSA to strongly consider the concerns raised in this comment letter and in the IFIC Proposal and make the recommended changes to the Framework which we believe to be in the best interests of investors and of the industry generally.

Thank you again for the opportunity to provide comments on this revised Joint Forum initiative. We would be pleased to discuss our comments with you further.

Yours sincerely,

(signed) "W. Sian Burgess"

W. Sian Burgess
Senior Vice-President & Deputy General Counsel

c.c. Robert Strickland, President