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December 23, 2008

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

Attention:

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903, 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 Sir/Madame:

**Re: CSA 81-318 Request for Comments on Framework 81-406 Point of Sale
Disclosure**

Scotia Securities Inc. (SSI), both as a mutual fund manager, and as a mutual fund dealer registered with the Mutual Fund Dealers Association of Canada (MFDA), welcomes the opportunity to provide the Canadian Securities Administrators (“CSA”) with our comments on issues relating to the implementation of Framework 81-406 *Point of sale disclosure for mutual funds and segregated funds* that was published by the Joint Forum of Financial Market Regulators on October 24, 2008 (the “Framework”) in advance of CSA’s publication of the proposed changes to securities laws (the “Proposed Securities Legislation”) entailed by the Framework.

Recommendation for a Phased-in Approach

SSI agrees with the Joint Forum that the plain-language, two-page Fund Facts disclosure document defined in the Framework “Fund Facts” offers much to investors in terms of key information and in a simpler, more accessible and comparable format.

However, it is our belief that the CSA rulemaking processes including consultation periods, time allocated for assessments of comments, and required legislative amendments in all provinces, will take at least two or more years before rules addressing the Framework could be fully implemented. In this regard an investor may not see a Fund Facts before 2011. As an alternative, SSI supports the phased-in implementation approach proposed by The Investment Funds Institute of Canada (IFIC) to fast track benefits to investors. We recommend that their proposal be considered, as follows:

- The CSA issue a draft rule as early as possible in 2009 that deals only with the content of the Fund Facts and requires, at a minimum, that such Fund Facts be made available by mutual fund companies through a website by the end of 2009. SSI agrees to provide its comments on such a draft rule on an accelerated basis so that a final rule on the Fund Facts content can be issued and if possible implemented during 2009.
- The industry would work with regulators on an accelerated process to implement the delivery of the Fund Facts in place of the prospectus delivery processes now in place.
- The industry would then work with the CSA through further comment periods in relation to the Framework's many proposed and more problematic delivery requirements in the final rule on POS disclosure, to ensure sufficient discussion with all relevant parties including the many different parts of the mutual fund industry, the SROs and CSA, to fully understand and agree upon all implementation issues.

SSI believes that the above is a very constructive approach, so that the industry and the regulators can work together to make the Fund Facts available as soon as possible. The more problematic delivery issues may then be addressed in a more fulsome manner.

Specific Comments on Current 81-406 Point of Sale Framework

Our comments are set out below.

A. Process of Framework Development and Implementation

SSI has a number of concerns regarding the implementation process around the Framework. From what we understand, Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA) (together, the "SROs") have not been fully engaged in the formulation of the Framework. SROs will be charged with overseeing, monitoring, drafting the rules for and bringing enforcement actions against the dealers who will be subject to the Framework. As a result, we believe it is prudent to co-ordinate activities with the SROs at the earliest possible opportunity regarding the formulation of the Framework. Consistency, effectiveness and efficiency should be primary concerns.

We also believe that assurances are required that the CSA and the Canadian Council of Insurance Regulators (CCIR) will be fully aligned in their implementation of the rules pertaining to mutual funds and segregated funds, respectively. We kindly request that the CSA make efforts to ensure that the process of implementation by the CSA and the CCIR are consistent

B. Exemptions and Waivers

SSI has concerns about the selective waivers and exemptions contemplated in the Framework. As drafted, the Framework would necessitate the development of different systems to address the various exemptions and waivers, including those for investor-initiated trades versus advisor-recommended trades, initial purchases versus subsequent purchases, money market funds waivers for point of sale delivery and execution-only accounts. These systems will be time-consuming and expensive to develop and implement, to the ultimate detriment of investors (for example, by potentially incurring increased management expense ratios).

In addition, this system of selective waivers and exemptions gives rise to difficulties around effective compliance monitoring and audit trails on the part of the industry and the SROs. Developing compliance and audit systems to accommodate the processes contemplated by the Framework will lead to unnecessarily increased costs, again to the detriment of investors. The difficulties around implementing the selective waivers and exemptions will in many cases render them meaningless as they will be simply ignored in favour of delivering the Fund Facts in every instance so as not to assume the technological costs and compliance burdens associated with relying on them. We request that the CSA work with industry and the

SROs to ensure that the aspects of the Proposed Securities Legislation relating to the Framework's system of exemptions and waivers are workable for the industry.

From our perspective, proposed solutions must be made easier to administer and more cost effective. This is particularly an issue in the circumstances where the investor has the option to receive or not receive the Fund Facts at or before time of sale, creating alternative processes for the dealer. This creates systemic issues that are not easily resolved. For example, an investor wishes to complete an on-line web-based transaction, which by default is customer initiated; SSI, as a dealer, believe it should only be an obligation to deliver the Fund Facts with the confirmation, similar to an order-execution account. Similarly, for money market fund purchases, Fund Facts should only have to be delivered with the confirmations, in all cases.

C. Method of Delivery

The Framework states the following regarding electronic delivery of the Fund Facts “Delivery could include, for example, sending an electronic copy of the document directly to the investor as an attachment or a link, *or directing the investor to the relevant Fund Facts on the fund manager’s or insurer’s website*. Simply making the document available on the website or generally stating that it is available on the website without specifically directing the investor to the relevant Fund Facts will not satisfy the delivery requirement.”

We would appreciate it if the CSA could provide some clarification as to what is meant by “directing the investor to the relevant Fund Facts on the ... website”. For example, would a verbal reference on a per transaction basis to a specific link that is embedded within the fund manager’s website suffice as “directing the investor to the relevant Fund Facts...”? A verbal reference on its own would not seemingly provide a sufficient audit or compliance trail, unless the conversation is taped.

D. Other Obligations Relating to Delivery

We note that the Framework states that the delivery obligation is met in the following circumstance: “Delivery could also include referring an investor to a particular Fund Facts *previously delivered*, as long as it is current and the investor can easily find and link the information to the particular purchase they are considering.”

We would appreciate clarification regarding the CSA’s intent around this process. For example, where a Fund Facts is required to be delivered to the investor due to the nature of the transaction, how would the dealer know that the investor had previously received the current Fund Facts? Is it the intent of this process, to not require delivery, if the client had recently completed other purchases of the same fund in other accounts with the same dealer or even in a recently closed account? Once again this adds considerable complexity and lack of audit trail. If the dealer or preferably the manager was mandated to deliver Fund Facts annually, then this approach would be more workable.

We submit that the Proposed Securities Legislation should also allow mutual fund managers to deliver the Fund Facts on behalf of dealers and also recommend that the managers be required to give investors the option to annually receive a Fund Facts for their holdings. This option would make it operationally easier to satisfy delivery obligations or options because mutual fund managers may already deliver to investors other documents such as management reports of fund performance and prospectuses. The Fund Facts can be included in the package provided to the investor, thereby streamlining the delivery process for both investors and dealers. It should also be possible to permit delivery by the dealer or fund manager for each investor and not just by account, if the investor has multiple holdings of the same fund in a number of accounts.

We also request further guidance from the CSA and the SROs on how dealers will be expected to demonstrate that delivery of the Funds Facts occurred and when it occurred. The Framework indicates that dealers will not be required to have investors acknowledge receipt of the Fund Facts , although they may impose their own requirements as part of their compliance policies and procedures for delivery obligations.

SSI would appreciate receiving some indication of the expectations of the CSA and the SROs in this regard so that SSI can better implement the Proposed Securities Legislation.

E. Cooling-off right

The Framework indicates investors in mutual funds will be able to cancel a purchase within two business days after receiving the trade confirmation by notifying their dealer. The investor will get back the lesser of the amount they invested and the value of the fund on the day they exercised the cooling-off right, plus any fees or charges associated with the purchase. Under these circumstances, we seek confirmation that repayment of any early redemption/short term trading fees levied by a mutual fund purchased would not be reimbursed by the dealer, but rather by the mutual fund manager.

F. Fund Facts Preparation by Fund

We request the CSA to reconsider their stance on not permitting preparation of one Fund Facts that may cover all series or classes of a fund, where possible. It may often be the case that only sales charges or compensation are different, or there may only be one other series available. The requirement to provide a Fund Facts for each class or series of a fund increases the risk that a dealer may not have all the Fund Facts at hand when meeting with a client or may have the incorrect Fund Facts, which would frustrate the sales transaction. The requirement to provide the Fund Facts for each class or series of a fund also results in increased costs to the dealer, and as well as to the fund manager for preparation which in turn are likely to be passed onto investors in the form of higher management expense ratios without the investor receiving a clear benefit from the added documentation.

Thank you for providing us with an opportunity to comment further on the Framework. If you have any questions regarding this submission, please contact me directly by phone at 416-866-5200 or by email at al_harbinson@scotiasecurities.com.

Yours truly,
Scotia Securities Inc.

By: Alan C. Harbinson,
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cc. Edna Chu,
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