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To:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
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
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M^e Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
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Submitted via Email.

Dear Sirs and Mesdames:

Subject: Implementation of Point of Sale Disclosure for Mutual Funds

Independent Financial Brokers of Canada (IFB) is pleased to comment on the proposed implementation of point of sale (POS) disclosure for mutual funds. IFB has been an active participant throughout this consultative process as this new framework, especially the delivery requirements, will impact how our members interact with clients who are considering the purchase of a segregated or mutual fund.

IFB is a national association representing approximately 4,000 licensed financial professionals, who are owner-operators of their own businesses, situated in communities across Canada. Many of our members are life-licensed and securities registrants, thus enabling them to provide advice and products related to both mutual funds and segregated funds. This places them in a somewhat unique situation, as their perspective on the potential impacts of the POS framework to them and their clients is not limited to only one of these products.

Mutual fund and insurance regulators must address gaps in harmonization.

At the outset, we are disappointed that the CSA proposal differs in some significant ways from the collaborative efforts of the Joint Forum and the proposal we received from the CCIR.

It has always been our concern that because approval of the POS framework involves each jurisdiction, as well as each securities and insurance regulator in each jurisdiction, that this greatly increases the probability that POS requirements may well be enacted differently in jurisdictions across Canada and between the insurance and securities industries. If so, this greatly increases the complexity of compliance for companies, dealers and advisors (especially those who are dual-licensed) and the confusion felt by investors.

Unfortunately, differences in implementation strategies have now become apparent.

These differences are of great concern to us as they will lead to different regulatory and compliance requirements for our members and frustrate investors. We see this as undermining the stated regulatory goal to increase investor protection and will diminish the success of this initiative. In our view, this risk could be substantially reduced by adopting a more principles-based approach which sets out regulatory guidelines rather than rules to be incorporated into various provincial statutes. It will also be a less burdensome structure for regulators as they will be better equipped to respond to the changes which will inevitably occur over time.

Recommendation:

We believe it is imperative that issues of harmonization be resolved at the regulatory level before industry stakeholders can appropriately respond to the proposals before us.

While this remains a primary concern, IFB has prepared comments on other aspects of this consultation. In a number of cases, the questions posed by the CSA will be better addressed by mutual fund manufacturers and dealer representatives. In this regard, we note that IFIC has

prepared a lengthy and detailed response, addressing many of the practical issues related to the POS implementation for mutual funds.

IFB supports the general objective of improved disclosure for investors.

Throughout the development of the POS framework, IFB and its members have supported the goal to provide simpler and more easily understood information for investors of both mutual funds and segregated funds. Much of the material contained in a simplified prospectus or policy information folder is too detailed and complex for the average investor. As such, it tends to be ignored and does not meet its objective to disclose relevant information to investors. Of course, simply providing investors with new, less complex materials is not a replacement for professional advice. Our members pride themselves on their personalized approach to customer service which often includes meeting clients in their own homes to discuss their financial needs and ways to meet their financial objectives. However, as we have pointed out previously, it is the delivery of the Fund Facts which will have the greatest effect on our members and potentially diminish their ability to purchase suitable mutual fund or segregated fund in a timely manner for their clients.

Delivery of the Fund Facts document

The Joint Forum proposed some fundamental changes to its final framework based on responses to previous consultations. These changes increased the flexibility of the delivery requirements and recognized the different level of advice that investors may want when considering such purchases. For example, the delivery obligations vary depending on:

- The type of account held by the investor (self-directed, advice)
- How the purchase was initiated (investor only or advice)
- Whether the investor already has investments in the same mutual fund or IVIC

These were positive changes and we welcomed them. In addition, adding an option for electronic delivery of the Fund Facts documents eases some of the delivery issues related to investors who are less physically accessible to the advisor or who wish to make a purchase quickly.

However, the CSA now says it is considering re-opening whether the Fund Facts should be delivered for subsequent purchases, either where the investor does not have the most current version of the document or in all instances with the trade confirmation. This deviates from the Joint Forum's final framework and from the CCIR Consultation Document issued in June 2008, which sought comment on implementing the POS framework for segregated funds.

We do not support re-considering the delivery of the fund facts for subsequent purchases, as it detracts from the general principle of harmonization for investors of mutual funds and segregated funds, will add to the delivery burden for mutual fund advisors and unnecessarily increase the number of documents mutual funds investors will receive. Investors who wish to access more frequent copies of the Fund Facts have other options available to them, such as through company websites or on request from their advisor or dealer.

Recommendation:

Therefore, we recommend that the Fund Facts should not be required to be delivered for subsequent purchases of the same fund, consistent with the Joint Forum framework and CCIR proposed POS implementation for segregated funds.

Staged implementation of the Instrument

The CSA has asked for comment on whether some parts of the Instrument should proceed to be finalized, while it continues to consult on other parts. Specifically, it suggests that the Fund Facts could be finalized and posted to websites. Consultations would continue to address some of the delivery aspects.

While this two step approach to implementation has some merit, in that it makes the Fund Facts accessible to investors at an earlier stage, it concerns us that this approach differs from the implementation schedule contemplated by the Joint Forum or the CCIR. It makes little sense to proceed with full implementation for segregated funds and a staged implementation for mutual funds. This will create confusion for investors and advisors – many of whom deal with both products. We would support either a two step implementation or a full delay in implementation until all outstanding issues can be resolved, provided the delay applies equally to both products.

Recommendation:

Therefore, we recommend the implementation approach be harmonized for mutual funds and segregated funds and further consultation be undertaken with stakeholders.

Requirement to bring the Fund Facts to the attention of the purchaser.

The CSA proposes that two conditions must be met to satisfy the delivery of the Fund Facts before the purchase of a mutual fund can proceed. The dealer must deliver the most recent Fund Facts to the investor and, once delivered, bring it to the attention of the investor. Dealers would be required to maintain evidence that the Fund Facts was brought to the attention of the investor. The CSA has asked for comment on whether sufficient guidance has been provided for dealers to meet this latter obligation.

We believe that the requirement to bring the Fund Facts to the attention of the purchaser, after it has been delivered and maintain proof of such disclosure, is unwieldy and will create an unnecessary compliance burden for dealers and advisors. Delivery of the Fund Facts should be sufficient. In practical terms, many investors will receive the Fund Facts in person from their advisor. Those who receive it by electronic means will do so after expressing interest and, therefore, be expecting it.

We are unclear what advantage is served by adding a regulatory obligation to follow up and maintain a record as evidence. Particularly, since it is clear from 81-101 CP, section 7.2(7) that the CSA holds dealers (and advisors) to their existing duties, including know-your-client, suitability and a duty to deal fairly, honestly and in good faith.

Recommendation:

Therefore, we recommend that delivery of the Fund Facts to the investor be considered to be sufficient.

Concluding remarks

In closing, the delivery of insurance and mutual fund products, and the personalized advice individual brokers and agents bring to their clients, is of great value to thousands of Canadians. It concerns us deeply, then, that initiatives which propose increasing the regulatory burden on all market participants may well have a greater, prejudicial effect on smaller, independent players – like our members. The unfortunate result for consumers will be a reduction in choice for those who wish to access sound financial advice from their local broker. Ultimately, this will have a negative impact on the very consumer protection that regulators seek to increase.

We see very real consequences in the POS delivery requirements for advisors, like our members, and especially for those who provide services to clients who reside outside of urban centres. Access to a particular Fund Fact or Key Fact may well be more difficult to obtain in short order in such situations. Obviously, regulatory policy should not constrain the consumer's ability to receive access to the most suitable financial product. We continue to be concerned that where timing is a constraint, consumers may choose to invest in a fund that the advisor has the Fund Facts on hand, rather than delay the trade. In addition, consumers may choose to make such purchases through a large dealer, with the capability to store a full array of Fund Facts, to avoid such delays, thereby disadvantaging smaller dealers and their advisors.

IFB looks forward to continuing to work with the CSA, CCIR and other stakeholders as subsequent drafts are received. We would be pleased to discuss or provide further clarification on any of the afore-mentioned points at your convenience.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Whaley', written over a horizontal line.

John Whaley
Executive Director
Email: jaw@ifbc.ca