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September 22, 2011

Canadian Securities Administrators (see list below)

Care of:

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Dear Sirs / Mesdames,

Notice And Request For Comment On
Proposed Amendments To
National Instrument 31-103
Registration Requirements And Exemptions
And To
Companion Policy 31-103CP
Registration Requirements And Exemptions
Cost Disclosure And Performance Reporting

We are writing in response to the Canadian Securities Administrators' (CSA's) Request for Comment on Proposed Amendments to National Instrument 31-103 Registration Requirements And Exemptions and to Companion Policy 31-103CP Registration

Requirements and Exemptions - Cost Disclosure and Performance Reporting (the “Proposals”).

Advocis is the largest and oldest voluntary professional membership association of financial advisors in Canada. Our members are independent owners and operators of small businesses and sales representatives of medium- and large-size financial services companies, who provide comprehensive financial planning and investment advice, retirement and estate planning, and employee benefit plans. Our members offer clients a prudent long-term perspective on managing a wide array of financial risks and meeting long-term financial goals. Our members are typically dual-licensed to provide life and health insurance as well as mutual funds and securities.

Our comments:

Potential for client confusion
We agree with the intent of the amendments, that registrants should provide clients clear and complete disclosure of all charges associated with the products and services they receive, and should provide clients meaningful reporting on how their accounts perform.

We note that some financial products that compete with the products offered by registrants will not be subject to the CSA cost disclosure and performance reporting requirements. As a result, the cost disclosure that registrants will be required to provide, could confuse or mislead clients when they compare products offered by their registrant with some competing products. For example, the same clients that receive such disclosure regarding mutual funds would not receive the same disclosure regarding the GICs they hold. As well, the amendments are likely to result in inconsistencies in disclosure. For example, a mutual fund distributor would provide extensive disclosure on compensation paid to advisors, but a bank would not have to disclose that a bank employee’s compensation might be related to factors such as mutual fund sales.

We accordingly would recommend that registrants, when providing the compensation disclosure, should be at liberty to explain how some competing financial products are not subject to the same disclosure requirements, and that the costs associated with those products are not directly comparable to the costs associated with the products offered by the dealer.

Optional disclosure relating to other benchmarks
We submit that dealers and advisors should be permitted, in the context of cost disclosure and performance reporting, to provide clients with additional disclosure concerning how well the client’s investments have performed that year and over longer periods, in relation to the client’s financial goals and other benchmarks suggested by the advisor.

Performance reporting that focuses only on capital gain or loss may ignore other important indicators of the value the client receives from the advisor.

For example, the advisor may have helped the client to identify long-term financial goals other than capital appreciation, and the advisor's efforts may have helped the client to move toward those goals. Performance disclosure that focuses only on capital gains or losses in relation to market benchmarks may omit more important performance criteria.

We accordingly submit that it should be open to the dealer and the advisor to provide clients with additional disclosure concerning how well the client's investments have performed that year and over longer periods, in relation to the client's financial goals and other benchmarks suggested by the advisor.

Benchmarks for comparison should compare apples to apples

We submit that performance benchmarks should be appropriate to the distribution channel and the services available to the client.

To be suitable, benchmarks should be consistent with the type and level of services that are provided to the client, and the role of advice and active management in the dealer-client relationship.

The performance of an advised account that invests in actively-managed mutual funds, for example, should be compared to similarly-advised accounts that invest in actively-managed mutual funds. In contrast, the performance of an index fund in a discount brokerage account would not be appropriate as the sole performance benchmark. On the other hand, the median performance of comparable actively-managed mutual funds purchased through an advised account could be a suitable benchmark.

Where appropriate, provide alternative benchmarks for both advised and non-advised accounts and investments

We submit that dealers should be permitted to provide alternative benchmarks, based on advised and non-advised scenarios.

Performance disclosure based on short-term market benchmarks does not account for the long-term value of the advice that clients receive in an advised account. Clients who focus narrowly on the relative gain or loss in their account over the most recent reporting period relative to some short-term benchmark may fail to consider the value they receive from having a long-term advisory relationship. This is particularly likely if the benchmarks are based on no-advice passive investments.

Inappropriate benchmarks, such as benchmarks that compare index funds in a discount brokerage account to managed mutual funds in a full-service advised account, could lead retail investors to conclude that they are not receiving a good bargain, and could drive them away from advice that will serve them well over the long term.

Comparing the performance of an advised account that holds actively managed mutual funds inappropriately to a benchmark based on the performance of passively-invested funds held with a discount broker may result in some clients forgoing the benefits of an advisory relationship.

One of the benefits of advice is that it promotes regular saving and a disciplined approach to investing. Ultimately, retail clients will get what they pay for. Without the coaching and support of a financial advisor, many clients will lose out in the long run in comparison with advised clients.

While some retail investors may be able to achieve greater net returns by forgoing advice and using passive investment vehicles, in the aggregate, retail investors who forgo professional advice are less likely over time to save, invest and accumulate capital.

We accordingly submit that a dealer who offers advised accounts should be able to provide both a low-cost "no advice" performance benchmark and a benchmark that is tailored more closely to the dealer's cost structure and approach.

If you would like to discuss any of our comments further please contact Ed Skwarek, Vice President, Regulatory and Public Affairs, at (416) 342-9837 or eskwarek@advocis.ca, or the undersigned.

Sincerely,

Greg Pollock, M.Ed., LL.M., C.Dir., CFP	Robert McCullagh, CFP, CLU, CH.F.C., RHU
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c.c. 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
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador

Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Nunavut
Mutual Funds Dealers Association
Investment Industry Regulatory Organization of Canada