Scotiabank Group
40 King Street West, 33rd Floor
Toronto, Ontario
Canada M5H 1H1

Scotiabank Group™

Via e-mail to: jstevenson@osc.gov.on.ca, consultation-en-cours@lautorite.qc.ca

September 23, 2011

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

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55
Toronto, Ontario M5H 3S8

Me Anne-Marie Beaudoin, Directrice du secrétariat
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montreal, Québec H4Z 1G3

Dear Sirs and Madams:

Canadian Securities Administrators' Notice and Request for Comment on Proposed Amendments to NI 31-103 regarding Cost Disclosure and Performance Reporting

We appreciate the opportunity to provide our comments in response to the Notice and Request for Comment dated June 22, 2011 issued by the Canadian Securities Administrators (**CSA**) on the proposals to implement cost disclosure and performance reporting requirements in NI 31-103 (the **Proposals).**

Within the Scotiabank Group, we have numerous wealth management businesses that will be impacted by the Proposals. In addition, we have an institutional business which is conducted through a division of Scotia Capital Inc. Some of the businesses are subject to the rules of their self regulatory organization (**SRO**) in addition to being subject to the rules of the CSA, while others are only subject to the rules of the CSA. For example,

- Scotia Capital Inc., CPA Securities Inc., and DWM Securities Inc. are each registered as an investment dealer. As a result, each is subject to the rules of its SRO, the Investment Industry Regulatory Association of Canada (**IIROC**), and the CSA, and

- Scotia Securities Inc., Integra Capital Corporation and Dundee Private Investors Inc. are each registered as a mutual fund dealer. As a result, each is subject to the rules of its SRO, the Mutual Fund Dealers Association of Canada (**MFDA**), and the CSA.

By contrast,

- Scotia Asset Management LP, WaterStreet Family Capital Counsel Inc. and Goodman & Company Investment Counsel Ltd. are each registered as a portfolio manager and/or an exempt market dealer. As a result, each is only subject to the rules of the CSA.

We are experienced in the wealth management business and have been involved for numerous years in the rule-making process in respect of the Client Relationship Model or CRM. We have read and are generally in agreement with the letter commenting on the Proposals prepared by each of The Investment Funds Institute of Canada (**IFIC**), the Investment Industry Association of Canada (**IIAC**), the Portfolio Management Association of Canada (**PMAC**) and the Canadian Bar Association (**CBA**).

We fully support the objective of providing clients with meaningful information regarding the performance of, and costs associated with, their accounts. The industry comment letters that we participated in preparing address our views on the specific aspects of the Proposals. The comments that follow highlight the overarching issues that are of particular concern to us.

Transition period

Many registered firms in the Scotiabank Group will have to undertake significant systems and information technology changes to implement the Proposals as currently drafted. We are concerned that aggressive implementation deadlines may result in delays and unsatisfactory compliance, and recommend a transition period of at least three years for the implementation of the final rules. We also ask the CSA to consider allowing a phased-in implementation of the final rules, with milestones which could be agreed upon through further consultation with the industry. We believe that this approach would ensure that firms were undertaking the necessary work on a timely basis to ensure that the disclosure rules would be met at the end of the transition period.

Harmonization of implementation timelines
We note that performance reporting requirements were recently introduced by the MFDA for compliance by June 3, 2012. We also note that a proposal was issued for comment by IIROC on January 7, 2011 regarding the core principles of the Client Relationship Model, including rules and amendments relating to cost disclosure and performance reporting. We are concerned about the inefficiencies and possible client confusion and concern that would result from these overlapping regulatory initiatives, and recommend that the CSA work with the SROs to agree on a timeline in order to ensure that required changes are implemented simultaneously - at least in respect of the CSA and SRO rules that would apply to a type of registrant.

Regulatory coordination
Initially, the CSA delegated the development of rules regarding performance reporting and cost disclosure in respect of investment dealers and mutual fund dealers to IIROC and the MFDA, respectively. As a result, both IIROC and the MFDA have developed performance reporting and cost disclosure rules for their members which have undergone a robust and lengthy comment process. We are concerned that the CSA's proposals create the appearance of a disregard for the consultative process. Although rule development for performance reporting and cost disclosure was first delegated to IIROC and the MFDA, it is now being readdressed in the current CSA Proposals – a practice which ultimately draws into question the integrity of the consultative process.

In our view, the CSA and IIROC or the MFDA, as the case may be, need to be seen to be working together to develop clear and consistent rules for performance reporting and cost disclosure through accepted practices of public consultation. We ask that the CSA allow each SRO to develop rules for the regulation of performance reporting and cost disclosure of their members, and exempt SRO members from compliance with the Proposals.

Exemption from cost disclosure for institutional accounts
The Proposals do not recognize that different clients may have different needs. As noted above, we fully support the objective of providing clients with meaningful information regarding the performance of, and costs associated with, their accounts. However, what is meaningful for a retail client is different from what is meaningful for an institutional client. Consequently, we recommend that the CSA confirm that the Proposals do not apply to institutional clients.

In addition, we note that institutional accounts are generally cash on delivery (**COD**) accounts. As such, we do not have custody of, or cost information for, the securities in such accounts. Since cost information is crucial to the cost disclosure and performance reporting, we ask the CSA to consider exempting institutional/COD accounts from the Proposals.

Exemption from performance reporting for execution only accounts
We believe that performance reporting is meaningful when it allows clients to evaluate the investment advice or investment management services received from registrants. Clients of order execution only accounts do not receive investment advice or investment management services. We therefore question the rationale for requiring performance reporting for order execution only accounts, and ask the CSA to consider exempting order execution only accounts from the performance requirements of the Proposals.

Level playing field

We have noted above that there has been a lengthy and robust consultative process in respect of the SRO proposals on cost disclosure and performance reporting. The reverse is true for industry participants, such as portfolio managers, that are not subject to oversight by an SRO who are considering the cost disclosure and performance reporting rules for the first time. In our view, all industry participants should be given sufficient time to consider the implications of the Proposals on their businesses.

We note that it does not appear that the Proposals apply to international dealers or advisors. We understand that the regulatory purpose behind the Proposals is to ensure that investors have the information they need to understand the cost of their investments and the performance of their accounts. While the Proposals do not appear to distinguish between retail and institutional investors, they do distinguish between investors who have accounts with dealers or advisors who are registered or exempt from registration. In our view, it would be more appropriate for the Proposals to only apply to the retail market but to apply to the disclosure received by both those retail investors who have accounts with dealers or advisors who are registered in Canada and those who are exempt from registration in Canada.

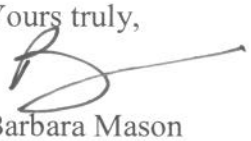
In addition, we note that entities and products that are not subject to securities regulation (i.e. regulation by the MFDA, IIROC or the CSA) will not be required to provide the same level of cost and compensation reporting as those that are subject to securities regulation. As a result, we are concerned that the securities regulators' focus on cost disclosure will lead investors to mistakenly conclude that the products that are subject to securities regulation are more expensive than those that are not (for example, segregated funds) which could mislead investors into making unsuitable investments.

Conclusion

In conclusion, we would like to reiterate that we fully support the objective of providing investors with meaningful information regarding the performance of, and costs associated with, their investments. However, we believe that it is necessary to differentiate between the needs of different investor groups and to balance the desire to enhance disclosure currently provided to investors with the cost, operational impact and the client experience resulting from making the proposed changes. To this end, we encourage you to implement the Proposals in a way that recognizes the differences between different investor groups and allows firms sufficient time to make the necessary changes to their systems – recognizing that both technology and operations will need to be changed – and to manage the client education and communication that will be required upon implementation.

Thank you for considering our comments.

Yours truly,



Barbara Mason
Executive Vice-President, Wealth Management
The Bank of Nova Scotia