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May 26, 2014

British Columbia Securities Commission  
Alberta Securities Commission  
Financial and Consumer Affairs Authority of Saskatchewan  
The Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
Financial and Consumer Services Commission of New Brunswick  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Superintendent of Securities, Newfoundland and Labrador  
Registrar of Securities, Northwest Territories  
Superintendent of Securities, Yukon Territory  
Registrar of Securities, Nunavut

The Secretary  
Ontario Securities Commission  
20 Queen Street West  
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Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
Tour de la Bourse  
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Montreal, Quebec  
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Dear Sirs/Mesdames:

**RE: CSA Notice and Request for Comment on Implementation of Stage 3 of Point of Sale Disclosure for Mutual Funds – Point of Sale Delivery of Fund Facts**

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This comment letter is being submitted on behalf of the following entities within RBC: RBC Dominion Securities Inc.; RBC Direct Investing Inc.; Royal Mutual Funds Inc.; and Phillips, Hager & North Investment Funds Ltd. We appreciate the opportunity to provide comments on the proposed amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* and Companion Policy 81-101CP to National Instrument NI 81-101 *Mutual Fund Prospectus Disclosure* (“Proposed Amendments”) aimed at implementing pre-sale delivery of the Fund Facts for mutual funds.

## General Comments

We continue to support the CSA's efforts to provide investors with the opportunity to make more informed investment decisions by giving them key information about a mutual fund, in language they can easily understand, at a time that is most relevant to their investment decision. We also appreciate the CSA's efforts to simplify the pre-sale delivery requirements for Fund Facts set out in an earlier version of the Proposed Amendments published June 19, 2009 as it would have been difficult to monitor all the different selective waivers and exemptions. However, we do have some comments with regards to specific elements of the proposed amendments, which we have outlined in our responses to the issues for comment set out in the Annex B of the Notice and Request for Comments.

## Issues for Comment

### **Exceptions from Pre-Sale Delivery of the Fund Facts**

1. a) *Do you agree that we should allow post-sale delivery of the Fund Facts in certain limited circumstances? In particular, are there circumstances where post-sale delivery of the Fund Facts should be permitted but are not captured in the Proposed Amendments?*

#### Order-Execution Only Brokerages

We appreciate that the CSA has acknowledged that there may be circumstances where a purchaser indicates that they want the purchase to be completed immediately or within a specified time frame. However, the Proposed Amendments fail to consider whether the pre-sale delivery requirements are appropriate for trades executed through an Order-Execution Only Brokerage. The CSA clearly articulated the reason behind the exemption for trades made through order execution-only accounts in the 2009 proposal:

*"The delivery requirements in the Framework recognize that investors have differing needs in receiving fund disclosure. A key element is the distinction between investors who rely on a dealer's recommendation and those who rely on their own research and judgement when making their purchase decision before contacting their dealer."*

We submit that the CSA's decision to proceed with a simpler, more consistent approach to pre-sale delivery of the Fund Facts is not sufficient justification to disregard this distinction. As such, we recommend that the CSA exempt trades executed through Order-Execution Only Brokerages from the pre-sale delivery requirements. It is sufficient that implementation of stage 2 of the point of sale disclosure framework will require delivery of the Fund Facts instead of the prospectus to satisfy the prospectus delivery requirements under securities legislation to deliver a prospectus within two days of buying a mutual fund.

b) *When pre-sale delivery is impracticable, one of the conditions for post-sale delivery of the Fund Facts is that the dealer provides verbal disclosure to the purchaser of certain elements contained in the Fund Facts. Please comment on whether the proposed disclosure elements are appropriate. If not, what additional disclosure should be included? Alternatively, are there any disclosure elements that should be excluded?*

#### Content of verbal disclosure

We agree with the proposal to verbally disclose the following information from the Fund Facts:

- "What does the fund invest in?"
- "How risky is it?"

- “Who is this fund for?”
- “How much does it cost?”

We are concerned with the proposal to require verbal disclosure of applicable withdrawal rights or rescission rights as set out under the heading “What if I change my mind?”. We note that the disclosures refer to different rights in different provinces/territories and the recommendation that an investor “see the securities law of your province or territory or ask a lawyer” for further information. We are concerned that verbal disclosure of this information is complex and may be misunderstood in a conversation.

With respect to Order-Execution Only Brokerages, it would be inappropriate for Investment Representatives to engage in discussions around product suitability and risk. Not only would it be difficult to monitor compliance with the suitability exemption, it may create client confusion and unreasonable expectations.

#### Considerations for telephone sales process

Pre-sale delivery of the Fund Facts has the potential to create a negative client experience during telephone sales process, such as within call centres. Our concern is that clients may not be aware that they have the option of requesting that the purchase be completed immediately and receiving the Fund Facts within two days of the purchase, when the client would be otherwise comfortable proceeding with the transaction without first receiving the Fund Facts. In these instances, we believe that dealers should be permitted to inform the clients that they can receive the Fund Facts within two days of the purchase (rather than the onus being in on the client to initiate the request). Verbal disclosure of key information from the Fund Facts would still be required.

*c) In the case of pre-authorized purchase plans, a Fund Facts would only be required to be sent or delivered to a participant in connection with the first purchase provided that certain notice requirements are met. Please comment on whether the Fund Facts should also be sent or delivered to a participant if the Fund Facts is subsequently amended and/or every year upon renewal of the Fund Facts. If so, what parameters should be put in place for such delivery? For example, should it be delivered in advance of the next purchase that is scheduled to take place after the Fund Facts has been amended or renewed? Or would post-sale delivery be more appropriate?*

We agree that a Fund Facts should only be required to be sent or delivered to a participant in connection with the first purchase in pre-authorized purchase plans entered into after the Proposed Amendments come into effect. We also have no concerns with the notice requirements. We do not believe that the Fund Facts should be sent to a participant if the Fund Facts is subsequently amended and/or every year upon renewal because the requirement would be inconsistent with existing exemptive relief that has been granted in respect of prospectus delivery for pre-authorized purchase plans.

The relief relating to pre-authorized purchase plans and the prospectus delivery requirement is currently being amended to provide for delivery of Fund Facts instead of the prospectus on the first trade under a pre-authorized purchase plan. As currently drafted, the amended relief has removed the requirement for a "request form" to be included with the notice to be sent to both existing and new pre-authorized purchase plan participants. This is a welcome change as mailing request forms to participants and tracking those request forms would be more costly than mailing the Fund Facts. In addition, technology has advanced such that request forms are no longer the most effective way to obtain instructions from investors. In light of the foregoing, we submit that the requirement for request forms should be removed from section 3.2.1.1 (5)(b) (ii) and (iii) of the Proposed Amendments.

### Grandfathering of existing pre-authorized purchase plans

As drafted, the Proposed Amendments would require that dealers to deliver the most recently filed Fund Facts for the first trade under a pre-authorized purchase plan after the proposals come into force, notwithstanding that a plan may have been in place for years. We note that participants would have received a prospectus or Fund Facts, as applicable, when the plan was initiated. Therefore, we recommend that the CSA grandfather all plans entered into before the date the Proposed Amendments from this requirement provided they send notice to participants advising that a Fund Facts is available.

### **Compliance**

*2. The CSA expect that dealers will follow current practices to maintain evidence sufficient to demonstrate effective delivery of the Fund Facts. Are there any aspects to the requirements in the Proposed Amendments that require further guidance or clarification? If so, please identify the areas where additional guidance would be useful.*

No comment.

### **Anticipated Costs and Benefits of Pre-Sale Delivery of the Fund Facts**

*3. We seek feedback on whether you agree or disagree with our perspective on the benefits and costs of implementing pre-sale delivery of the Fund Facts. Specifically, do you agree with our view that the costs will be incremental in nature and/or one-time cost? We request specific data from the mutual fund industry and service providers on any anticipated costs.*

We respectfully disagree with the CSA's perspective on the costs of implementing pre-sale delivery of Fund Facts. The CSA contends that industry stakeholders have already had to develop programs and systems to comply with recent pre-trade cost disclosure requirements in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and that costs to implement pre-sale delivery of the Fund Facts will be incremental in nature. This is an inaccurate characterization of the pre-sale delivery implementation costs for RBC dealer-entities. Pre-trade costs disclosures will be verbal or added to trade instruction documentation and the systems developed to date are for recordkeeping purposes. Thus the costs to implement pre-sale delivery are in addition to the costs to implement phase 2 of the Client Relationship Model (CRM 2) requirements. According to preliminary estimates, we expect that the one-time development costs will be between \$1.0M – \$1.5M for each RBC dealer.

### **Transition Period**

*4. We seek feedback from the mutual fund industry and service providers on the appropriate transition period for full implementation of the Proposed Amendments. For example, assuming that publication of final rules takes place in early 2015, please comment on the feasibility of implementing the Proposed Amendments within 3 months of publication. Would a longer transition period of 6 months or 1 year be more appropriate? If so, why? In responding please comment on the impact these different transition periods might have in terms of cost, systems implications, and potential changes to current sales practices.*

We do not believe it would be feasible for most dealers to implement the Proposed Amendments with only a one year transition period, let alone within three months of the publication of the final rules. We understand that the CSA is of the view that a one year transition period would be sufficient simply because there are service providers who have created the automated programs

and applications for pre-sale delivery of the Fund Facts. However, the CSA should also note the following considerations:

- There may be dealers for whom it would be more cost effective to develop in-house/proprietary applications for pre-sale delivery. A longer transition period would permit dealers to explore this option.
- Dealers intending to rely on service providers also require time to build the necessary interfaces with their existing systems.

We estimate that we would require 18 months for the development phase alone and an additional 6 months to complete staff training programs and finalize the necessary compliance procedures.

Therefore, we recommend that the CSA provide for a two-year transition period, particularly in light of the significant resources currently allocated to CRM 2 implementation.

*5. We are currently contemplating a single switch-over date for implementing pre-sale delivery of the Fund Facts. From a business planning and business cycle perspective, are there specific months or specific periods of the year that should be avoided in terms of selecting a specific switch-over date? Please explain.*

We agree with the Investment Fund Institute of Canada's recommendation that an early summer change-over period would avoid disruptions that might arise if the change-over period coincides with RRSP season or the financial reporting period for many funds.

#### Managed Accounts

We note that the Proposed Amendments do not address discretionary managed accounts. We agree with the Investment Industry Association of Canada's view that it would be confusing for a client to receive unsolicited Fund Facts in connection with trades the client has not initiated. As such, we recommend that the CSA clarify that the Proposed Amendments would not apply to discretionary managed accounts.

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Thank you for providing us with an opportunity to comment on the Proposed Amendments. Should you have any questions or desire to discuss these comments, please do not hesitate to contact the undersigned.

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