September 28, 2016

BY ELECTRONIC MAIL: comments@osc.gov.on.ca & consultation-en-cours@lautorite.qc.ca

Josée Turcotte, Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8

Me Anne-Marie Beaudoin, Corporate Secretary
Autorité des marchés financiers
800, rue du Square-Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal, Québec H4Z 1G3

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
The Manitoba Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Nova Scotia Securities Commission
Ontario Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan

RE: Canadian Securities Administrators Consultation Paper 33-404 Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives toward Their Clients

---

Dear Sirs/Mesdames:

The Association of Canadian Compliance Professionals ("ACCP") is an organization representing over 80 compliance professionals through its chapters operating across the country.

The ACCP notes that the Autorité des marchés financiers, British Columbia Securities Commission, Alberta Securities Commission, Manitoba Securities Commission, and Nova Scotia Securities Commission have all expressed concerns with the proposed best interest standard including the following concerns:

- The standard may widen the expectation gap between clients and registrants;
- The standard will create new legal and enforcement issues due to its lack of clarity; and
- Investors may expect all registrants to have a duty to act in their best interest at all times despite some conflicts still being permitted.

The fact that many members of the CSA have these concerns is a clear and resounding indicator that the best interest standard as proposed will not provide a better and more meaningful code of conduct and indeed, a best interest standard may be unnecessary.

Nevertheless, the ACCP welcomes the opportunity to provide responses to the 68 questions put forward in consultation paper 33-404 as we believe this information may be helpful in developing a revised proposal.

Our responses and comments to the 68 questions are as follows:

PART 7 – PROPOSED FRAMEWORK FOR THE PROPOSED TARGETED REFORMS

Conflicts of Interest – General Obligation

1) Is this general approach to regulating how registrants should respond to conflicts optimal? If not, what alternative approach would you recommend?

We support the general approach but have concerns regarding the proposed requirement that firms and representatives must have a “reasonable basis for concluding that a client fully understands the implications and consequences of the conflict”.

We believe that the requirements should clearly indicate that a reasonable basis for believing that clients fully understand the implications and consequences of the conflict (between the firm or representative and the client), can be satisfied by obtaining the client’s written acknowledgment/consent on a disclosure document that he/she is provided with before a transaction is entered into or a course of action is undertaken. The disclosure should include:

- Plain and simple language;
- All outside business activities of the firm and applicable representatives identified by the firm as potential conflicts of interest with respect to the proposed transaction;
- Any additional fees that will be earned by the firm or representative for the proposed transaction, whether or not paid out of client funds;
- Any additional expenses to be paid by the client for the proposed transaction.

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com

2) Is the requirement to respond to conflicts "in a manner that prioritizes the interest of the client ahead of the interests of the firm and/or representative" clear enough to provide a meaningful code of conduct? If not, how could the requirement be clarified?

We do not believe that the requirement is clear enough and is far too broad and overreaching as stated. We also think it is unnecessary since we believe that the requirements as currently expressed in Section 13.4 Avoiding Conflicts of Interest of 31-104 Companion Policy, more accurately describe the manner in which conflicts should be handled by registrants. Specifically, "Registrants must avoid all conflicts of interest that are prohibited by law. If a conflict of interest is not prohibited by law, registrants should avoid the conflict if it is sufficiently contrary to the interests of a client that there can be no other reasonable response. For example, some conflicts of interest are so contrary to another person's or company's interest that a registrant cannot use controls or disclosure to respond to them. In these cases, the registrant should avoid the conflict, stop providing the service or stop dealing with the client."

As noted in our opening comments, the BCSC, AMF, ASC, MSC and NSSC have all expressed concerns with the proposed best interest standard including the following concerns:

- The standard may widen the expectation gap between clients and registrants;
- The standard will create new legal and enforcement issues due to its lack of clarity; and
- Investors may expect all registrants to have a duty to act in their best interest at all times despite some conflicts still being permitted.

The fact that many members of the CSA have these concerns is a clear and resounding indicator that the best interest standard as proposed will not provide a better and more meaningful code of conduct.

3) Will this requirement present any particular challenges for specific registration categories or business models?

If the requirements are more extensive than the ones we proposed in our response to question #1, we believe it will be very difficult for dealers and representatives to determine that there is a reasonable basis for believing that clients fully understand the implications and consequences of the conflict between the firm or representative and the client.

A potential unintended consequence of reasonable basis requirements greater than our proposal is that firms and representatives may not propose certain transactions that are appropriate and suitable for the client, due to the challenges of satisfying said requirements.

Know Your Client

4) Do all registrants currently have the proficiency to understand their client's basic tax position? Would requiring collection of this information raise any issues or challenges for registrants or clients?

We believe that registrants have to understand and disclose the basic tax implications of transactions that they propose to clients, but they do not need to know and understand the client's basic overall tax position.

We do not believe that all registrants have the proficiency to understand the client's overall basic tax position as there are many factors and events influencing the client's position that are unrelated to securities sold by the registrant. In addition to being knowledgeable about specific taxation matters such as marginable tax rates and allowable deductions, registrants would also need to know such things as the client's realized/unrealized capital gains on securities held outside of the firm, real estate investments and any other non securities investments.

We also believe that many clients would be resistant to providing such information and clients may be led to believe that firms are providing tax services beyond their scope of expertise.

In addition, dealers would incur significant costs to train registrants and to implement processes for the monitoring and documenting of a client's tax position. The cost of professional liability insurance could also increase dramatically for both individual registrants and firms.

5) Should the CSA also codify the specific form of the document, or new account application form, that is used to collect the prescribed KYC content?

We believe that providing guidance on prescribed KYC content is sufficient and a prescribed new account application form is not required. We believe that a prescribed form is unlikely to be suitable for all dealer registration categories or even all mutual fund dealers for that matter. A new prescribed form would require dealers to incur significant costs with respect to system changes, implementation, and training registrants to use the new prescribed forms.

We also do not believe that a prescribed form will provide any material benefit to clients.

6) Should the KYC form also be signed by the representative's supervisor?

MFDA rules and requirements already require mutual fund dealer KYC forms and KYC changes to be reviewed and approved by a supervisor within one day of being notified of a change in the client's information. We believe that this requirement should apply to all representatives.

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com

Know Your Product – Representative

7) Is this general approach to regulating how representatives should meet their KYP obligation optimal? If not, what alternative approach would you recommend?

The MFDA already has detailed requirements and processes for mutual fund dealers that require them to conduct due diligence on new products, and for representatives to understand the products they recommend to their clients. Accordingly, we believe that the MFDA is in the best position to develop rules and monitor compliance for mutual fund dealers and any inclusion of specific requirements for representatives in 31-103 should provide an exemption for MFDA members.

We believe that any new requirements beyond those already in place may result in mutual fund dealers reducing their approved product shelf, due to the cost and administrative effort required to meet such requirements.

In addition, we believe that some regulators have the misconception that the proposed requirement ("representatives understand and consider the structure, product strategy, features, costs and risks of each security on their firm's product list"), is already being met by registrants. It is our experience that this is not the case, primarily because it is simply not feasible. Mutual fund dealers typically have thousands of mutual funds on their product list and it is both unrealistic and unachievable to expect registrants to fully understand the structure, product strategy, features, costs and risks of each one.

The requirement should be limited to the specific products that the representative recommends to investors. This is a reasonable and practical requirement that we do believe is already in place and in accordance with MFDA requirements.

Know Your Product – Firm

8) The intended outcome of the requirement for mixed/non-proprietary firms to engage in a market investigation and product comparison is to ensure the range of products offered by firms that present themselves as offering more than proprietary products is representative of a broad range of products suitable for their client base. Do you agree or disagree with this intended outcome? Please provide an explanation.

We do not agree with the intended outcome as we do not see any benefit to investors resulting from a requirement for firms to be classified as proprietary or mixed/non-proprietary. We do believe that firms should be required to clearly disclose the types of products and services they provide to potential clients. Fulsome disclosure should make a firm's range, or lack there, of products apparent to investors.

Notwithstanding the above, we also believe that the intended outcome is already in place for mutual fund dealers as the competitive nature of the existing business environment requires dealers to currently offer a broad range of products suitable to their client base. Accordingly, we do not believe it is necessary to require mutual fund dealers to complete market investigations and product comparisons.

As stated in our response to Question 7, we believe that any new requirements beyond those already in place, may result in mutual fund dealers reducing their approved product shelf due to the addition expense and administration. Furthermore, we do not see any benefits to investors resulting from these proposed requirements.

9) Do you think that requiring mixed/non-proprietary firms to select the products they offer in the manner described will contribute to this outcome? If not, why not?

We do not agree that any new KYP requirements (beyond the MFDA requirements already in place) are needed for the reason described above. The proposed market investigation and product comparison would be another new expensive and resource-demanding obligation for mutual fund dealers, who are already experiencing significant costs due to the many regulatory changes recently completed or underway.

We believe that the most likely impact of imposing a market investigation and product comparison would be for dealers to actually reduce rather than expand their product shelves due to these additional expenses and demands on resources.

10) Are there other policy approaches that might better achieve this outcome?

As noted above, we believe the outcome has already been achieved for mutual fund dealers and therefore, we do not have any other policy recommendations.

11) Will this requirement raise challenges for firms in general or for specific registration categories or business models? If so, please describe the challenges.

As state above, the requirements would be another new expensive and resource-demanding obligation for mutual fund dealers who are already experiencing significant costs due to the many regulatory changes recently completed or underway.

12) Will this requirement cause any unintended consequences? For example, could this requirement result in firms offering fewer products? Could it result in firms offering more products?

As stated above, the most likely impact of imposing a market investigation and product comparison would be for dealers to actually reduce rather than expand their product shelves. This has the additional unintended consequence of reducing the investment choices available to investors.

13) Could these requirements create incentives for firms to stop offering non-proprietary products so that they can fit the definition of proprietary firm?

We believe that this is a distinct possibility. Additionally, proprietary firms may add products to fit the definition of mixed/non-proprietary firms but still continue to operate in a proprietary firm manner. Accordingly, we are not in favour of categorizing mutual fund dealers as being proprietary or mixed/non-proprietary firms.

14) Should proprietary firms be required to engage in a market investigation and product comparison process or to offer non-proprietary products?

As stated in our comments above, we do not believe that a market investigation and product comparison process is necessary and we are not in favour of categorizing mutual fund dealers as being proprietary or mixed/non-proprietary firms.

15) Do you think that categorizing product lists as either proprietary and mixed/non-proprietary is an optimal distinction amongst firm types? Should there be other characteristics that differentiate firms that should be identified or taken into account in the requirements relating to product list development?

As stated in our comments above, we are not in favour of categorizing mutual fund dealers as being proprietary or mixed/non-proprietary firms. We do not believe any requirements relating to product list development are necessary for mutual fund dealers apart from those already in place under MFDA rules and regulations.

Suitability

16) Do you agree with the requirement to consider other basic financial strategies?

We do not agree that the process for assessing the suitability of a transaction for a client requires the consideration of other basic financial strategies.

In many cases, other financial strategies (e.g. real estate and insurance), require specific proficiencies and registrations that the representative and/or their supervisors and firm may not have and should not be required to have. This may lead to the unintended consequence of

representatives, supervisors and firms inadvertently acting outside of their registration and proficiency.

We also anticipate that clients may not welcome such considerations and may not fully understand them.

17) Will there be challenges in complying with the requirement to ensure that a purchase, sale, hold or exchange of a product is the "most likely" to achieve the client's investment needs and objectives?

We believe that "most likely" presents numerous challenges.

Mutual fund dealers are subject to detailed and well thought out suitability policies developed by the MFDA. In addition to ensuring today's suitability standards are met (product recommendations are suitable in consideration of the client's risk tolerance, investment objectives and time horizon), a "most likely" standard would also require an assessment of the product's management expenses and past performance. This has two risks:

- Advisor may be required to make a "judgement call" as to which is the determining factor, and
- Constant reassessment of said factors would be required.

In addition, a "most likely" requirement would require dealers and representatives to consider products or strategies not offered by the firm. Meeting a "most likely" requirement will also expose firms to additional risks, expenses and possible client complaints.

As a result of the above, we believe that "most likely" may cause firms to reduce their product shelves in order to reduce Know Your Product "KYP" due diligence expenses and to reduce the risks of being challenged on decisions made.

All of the above could also result in an unintended consequence of firms needing to charge higher fees and becoming much more selective about taking on clients.

18) Should there be more specific requirements around what makes an investment "suitable"?

As stated above, mutual fund dealers are already subject to detailed and well thought out suitability policies developed by the MFDA. More specific requirements are not necessary.

19) Will the requirement to perform a suitability assessment when accepting an instruction to hold a security raise any challenges for registrants?

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com

The MFDA already provides clear requirements on when a suitability assessment is required by mutual fund dealers. Accordingly, we believe that the MFDA is in the best position to develop rules and monitor compliance for mutual fund dealers. Any inclusion of specific requirements for firms in N.I. 31-103 should provide an exemption for SRO members.

20) Will the requirement to perform a suitability analysis at least once every 12 months raise challenges for specific registrant categories or business models? For example, a client may only have a transactional relationship with a firm. In such cases, what would be a reasonable approach to determining whether a firm should perform ongoing suitability assessments?

The MFDA's suitability policies provide detailed and well thought out triggers as to when a suitability analysis is required. These are consistent with the trigger events proposed by the CSA, with the exception that the MFDA does not have a trigger for the "occurrence of a significant market event affecting capital markets to which the client is exposed". We believe this proposed trigger is unnecessary, too vague, and of no benefit to investors.

We also believe that the need to perform a suitability analysis every 12 months regardless of any trigger event, is excessive, of no foreseeable benefit to investors, and investors would not welcome them.

21) Should clients receive a copy of the representative's analysis regarding the client's target rate of return and his or her investment needs and objectives?

We support the requirement to provide clients with a copy of any representative analysis regarding the client's rate of return, investment needs, and objectives.

22) Will the requirement to perform a suitability review for a recommendation *not* to purchase, sell, hold or exchange a security be problematic for registrants?

We believe that the MFDA's suitability policies provide detailed and well thought out triggers as to when a suitability analysis is required. Accordingly, we believe that a suitability review should only be required:

- For each order accepted or recommendation made for any account of a client;
- When a client transfers in transfers securities into a new or existing account at the member;
- When a member or the registrant becomes aware of a material change in the client's KYC information; and
- When a client is reassigned from one registrant of the firm to another registrant of the firm.

Relationship Disclosure

23) Do you agree with the proposed disclosure required for firms registered in restricted categories of registration? Why or why not?

We believe that the current requirements for disclosing a firm's products and services to investors are sufficient. Accordingly, we do not agree with the proposed disclosures that are aimed at firms registered in restricted categories of registration. We believe that disclosures such as the following would be both confusing and unwanted by investors:

- Can "only offer… a limited range of products",
- Suitability analysis "…does not consider the full range of securities products…"
- "Whether such other types of products are better, worse or equal in meeting the clients investments needs and objectives."

24) Do you agree with the proposed disclosure required for firms that offer only proprietary products? Why or why not?

As we stated in our response to Question 13, we are not in favour of categorizing mutual fund dealers as being proprietary or mixed/non-proprietary firms. Accordingly, we are not in favour of the proposed disclosure for proprietary firms for the same reason as noted in our response to Question 23.

25) Is the proposed disclosure for restricted registration categories workable for all categories identified?

Please refer to our response to Question 23.

26) Should there be similar disclosure for investment dealers or portfolio managers?

We also do not believe these categories of registration should require a similar disclosure for the same reasons as noted above.

27) Would additional guidance about how to make disclosure about the relationship easier to understand for clients be helpful?

We believe that Section 14.2 of N.I. 31-103CP already provides detailed and sufficient requirements.

Proficiency

28) To what extent should the CSA explicitly heighten the proficiency requirements set out under Canadian securities legislation?

We support heightened proficiency standards for all registrants including CCOs and UDPs. We believe that the MFDA is in the best position to develop rules and monitor proficiency standards for mutual fund dealers. Accordingly, any inclusion of heightened requirements for representatives in 31–103 should provide an exemption for MFDA members.

29) Should any heightening of the proficiency requirements for representatives be accompanied by a heightening of the proficiency requirements for CCOs and UDPs?

Please refer to our response to Question 28.

Titles

30) Will more strictly regulating titles raise any issues or challenges for registrants or clients?

We support stricter regulation on the use of titles. However, we wish to point out that stricter limitations on titles will require many firms to incur potentially significant costs to change business cards, stationary, signage, internet and social media holding out by their registrants.

31) Do you prefer any of the proposed alternatives or do you have another suggestion, other than the status quo, to address the concern with client confusion around representatives' roles and responsibilities?

We are not supportive of any of the three proposed alternatives as we find all of them to be much too restrictive. We recommend that a broader list of titles be developed.

32) Should there be additional guidance regarding the use of titles by representatives who are "dually licensed" (or equivalent)?

We do not believe additional guidance is required.

Designations

33) Should we regulate the use of specific designations or create a requirement for firms to review and validate the designations used by their representatives?

We support a requirement for firms to review and validate the designations used by their representatives.

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227   manny@canfin.com

Role of UDP and CCO

34) Are these proposed clarifying reforms consistent with typical current UDP and CCO practices? If not, please explain.

We believe the proposed clarifying reforms are consistent with typical current UDP and CCO practices.

Statutory Fiduciary Duty when Client Grants Discretionary Authority

35) Is there any reason not to introduce a statutory fiduciary duty on these terms?

We support the introduction of a statutory fiduciary duty when a client grants discretionary authority.

PART 8 – PROPOSED FRAMEWORK FOR A REGULATORY BEST INTEREST STANDARD

36) Please indicate whether a regulatory best interest standard would be required or beneficial, over and above the proposed targeted reforms, to address the identified regulatory concerns.

We do not believe there is any need or benefit to introducing a regulatory best interest standard over and above the proposed targeted reforms. The current statutory duty to act "honestly, fairly and in good faith", SRO rules, and proposed targeted reforms provide a very high standard of investor protection.

We also believe that the imposition of a regulatory best interest standard could be both confusing and misleading to investors with respect to their understanding of their own responsibilities and accountabilities for their investments

37) Please indicate whether you agree or disagree with any of the points raised in support of, or against, the introduction of a regulatory best interest standard and explain why.

Please refer to our response to Question 36.

38) Please indicate whether there are any other key arguments in support of, or against, the introduction of a regulatory best interest standard that have not been identified above.

Please refer to our response to Question 36.

PART 9 – IMPACT ON INVESTORS, REGISTRANTS AND CAPITAL MARKETS

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com

39) What impact would the introduction of the proposed targeted reforms and/or a regulatory best interest standard have on compliance costs for registrants?

We believe that the proposed targeted reforms and/or regulatory best interest standard will significantly increase compliance costs for mutual fund dealers by requiring:

- Additional compliance staff and/or need to engage third party information/analysis providers;
- System enhancements;
- Deeper and more frequent inquiry/analysis;
- Additional training and implementation;
- Replacement of existing presentation, disclosure, and holding out materials;
- Addition investigation and legal costs with respect to best interest complaints and/or claims; and
- Increased premiums for professional liability insurance.

40) What impact would the introduction of the proposed targeted reforms and/or a regulatory best interest standard have on outcomes for investors?

We believe that the proposed targeted reforms and/or regulatory best interest standard will impact investors as follows:

- Firms may consolidate;
- Firms may reduce the number of their registrants resulting in less choice for investors;
- Firms may reduce their product shelves resulting in less choice for investors or unwanted investor fragmentation of their investments amongst multiple firms – fragmented holdings will likely cost more overall for clients than consolidated holdings;
- Firms may compensate for addition costs by:
    - Increasing fees for advise;
    - Increasing or adding new administrative and servicing fees;
    - Introducing minimum client investment requirements that will preclude many clients from obtaining their services;
    - Reducing or eliminating free research, consulting and investment education tools offered by firms;
- Investors may switch to self-directed investing to avoid fees even when it may be a poor choice given the client's knowledge and circumstances; and
- Investors seeking low cost advice may be more vulnerable to fraudulent schemes in their eagerness to reduce costs.

41) What challenges and opportunities could registrants face in operationalizing:
(i) the proposed targeted reforms?
(ii) a regulatory best interest standard?

In addition to the increased compliance costs identified in our response to Question 39 and the investor impacts identified in our response to Question 40, we see the following challenges:

- The ability to engage client cooperation with respect to lengthier and more frequent interaction;
- The ability to engage client cooperation in providing personal and confidential tax information;
- The ability to engage client cooperation in providing detailed information about investments held outside of the firm; and
- The ability to discourage clients from choosing to self-invest despite being ill equipped to do so

We did not identify any opportunities.

42) How might the proposals impact existing business models? If significant impact is predicted, will other (new or pre-existing) business models gain more prominence?

As noted in our previous comments, firms may:

- Firms may consolidate and/or reduce registrants resulting in less choice for investors;
- Firms may reduce their product shelves resulting in less choice for investors or unwanted investor fragmentation of their investments amongst multiple firms – fragmented holdings will likely cost more overall than consolidated holdings;
- Firms may compensate for addition costs by:
  - increasing fees for advise;
  - Increasing or adding new administrative and servicing fees;
  - Introducing minimum client investment requirements that will preclude many clients from obtaining their services;
  - Reducing or eliminating free research, consulting and investment education tools.

We believe that firms providing low cost, advice-free self-investing, will benefit significantly at the expense of firms that do provide advice. Such firms may be the only alternative for smaller investors despite that this may not ultimately be in the smaller investor’s best interest.

PART 10 – INTERNATIONAL DEVELOPMENTS

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com

43) Do the proposals go far enough in enhancing the obligations of dealers, advisers and their representatives toward their clients?

We believe that the proposed targeted reforms sufficiently enhance the obligations of dealers, advisors, and representatives and the proposed imposition of a best interest standard is an unnecessary step that will not provide any material additional investor protection.

APPENDIX A

44) Is it appropriate that disclosure by firms be the primary tool to respond to a conflict of interest between such firms and their institutional clients?

The ACCP has no comment.

45) Are there other specific situations that should be identified where disclosure could be used as the primary tool by firms in responding to certain conflicts of interests?

The ACCP has no comment.

46) Is this definition of "institutional client" appropriate for its proposed use in the Companion Policy? For example: (i) where financial thresholds are referenced, is $100 million an appropriate threshold?; (ii) is the differential treatment of institutional clients articulated in the Companion Policy appropriate?; and (iii) does the introduction of the "institutional client" concept, and associated differential treatment, create excessive complexity in the application and enforcement of the conflicts provisions under securities legislation? If not, please explain and, if applicable, provide alternative formulations.

The ACCP has no comment.

47) Could institutional clients be defined as, or be replaced by, the concept of non-individual permitted clients?

The ACCP has no comment.

48) Are there other specific examples of sales practices that should be included in the list of sales practices above?

The ACCP has no comment.

49) Are specific prohibitions and limitations on sales practices, such as those found in NI 81-105, appropriate for products outside of the mutual fund context? Is guidance in this area sufficient?

The ACCP has no comment.

50) Are limitations on the use of sales practices more relevant to the distribution of certain types of products, such as pooled investment vehicles, or should they be considered more generally for all types of products?

The ACCP has no comment.

51) Are there other requirements that should be imposed to limit sales practices currently used to incentivize representatives to sell certain products?

The ACCP has no comment.

52) What type of disclosure should be required for sales practices involving the distribution of securities that are not those of a publicly offered mutual fund, which are already subject to specific disclosure requirements?

The ACCP has no comment.

53) Should further guidance be provided regarding specific sales practices and how they should be evaluated in light of a registrant's general duties to his/her/its clients? If so, please provide detailed examples.

The ACCP has no comment.

APPENDIX B

54) To what extent should the KYC obligation require registrants to collect tax information about the client? For example, what role should basic tax strategies have in respect of the suitability analysis conducted by registrants in respect of their clients?

We do not believe that there should be a KYC obligation to collect tax information about the client other than when the transaction is being recommended specifically to satisfy a tax strategy proposed by the representative. Otherwise, clients typically only provide tax information to persons completing a financial plan or providing tax advice. Collection of tax information in any other circumstance is likely to be unwanted by and/or misleading to clients.

55) To what extent should a representative be allowed to open a new client account or move forward with a securities transaction if he or she is missing some or all of the client's KYC information? Should there be certain minimum elements of the KYC information that must be provided by the client without which a representative cannot open an account or process a securities transaction?

We believe that a firm should be permitted to open an account if some of the client's KYC information is missing but there should be guidance on minimum KYC elements that must be obtained prior to doing so. Accounts with missing KYC should restrict transactions to liquidating trades until fully completed KYC information is received.

56) Should additional guidance be provided in respect of risk profiles?

We do not support the introduction of a prescribed risk profile form as we do not believe that one can be developed that is suitable to all client type and firm business models. We do support additional guidance as to minimum key risk profile characteristics that firms must obtain in order to ascertain a client's risk tolerance.

57) Are there circumstances where it may be appropriate for a representative to collect less detailed KYC information? If so, should there be additional guidance about whether more or less detailed KYC information may need to be collected, depending on the context?

We do not believe that there are circumstances where it is appropriate for a representative to collect less detailed KYC information.

APPENDIX D

58) Should we explicitly allow firms that do not have a product list to create a product review procedure instead of a shelf or would it be preferable to require such firms to create a product list?

We believe all firms should have product review procedures and a product list.

59) Would additional guidance with respect to conducting a "fair and unbiased market investigation" be helpful or appreciated? If so, please provide any substantive suggestions you have in this regard.

As noted in our response to Question 8, we do not believe it is necessary to require firms to complete market investigations and product comparisons. Accordingly, we do not believe additional guidance is necessary.

60) Would labels other than “proprietary product list” and “mixed/non-proprietary product list” be more effective? If so, please provide suggestions.

As we noted in our response to question 13, we are not in favor of categorizing mutual fund dealers as being proprietary or mixed/non-proprietary firms. We do not believe that any product categorization labels are necessary or beneficial.

61) Is the expectation that firms complete a market investigation, product comparison or product list optimization in a manner that is “most likely to meet the investment needs and objectives of its clients based on its client profiles” reasonable? If not, please explain your concern.

As noted in our response to Question 8, we do not believe it is necessary to require firms to complete market investigations and product comparisons.

APPENDIX E

62) What, if any, unintended consequences could result from setting an expectation in the context of the suitability obligation that registrants must identify products both that are suitable and that are the most likely to achieve the investment needs and objectives of the client? If unintended consequences exist, do the benefits of this proposal outweigh such consequences?

As noted in our response to Question 17, we believe that this expectation will likely cause firms to reduce their product shelves. The additional risk and client complaint exposure for firms could also result in firms charging higher fees and being much more selective about taking on clients.

We believe that the potential negative unintended consequences decidedly outweigh any intended benefits of this proposal.

63) Should we provide further guidance on the suitability requirement in connection with ongoing decisions to hold a position?

As noted in our response to Question 20, we believe that the need to perform a suitability analysis every 12 months regardless of any trigger event, is excessive and of no foreseeable value. We also believe that clients would not welcome them. Accordingly, we do not believe any guidance is needed.

64) Should we provide further guidance on the frequency of the suitability analysis in connection with those registrant business models that may be based on one-time transactions? For example, when should a person or entity in such a relationship no

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com

longer be a client of the registrant for purposes of this ongoing obligation to conduct suitability reviews of the client's account?

As noted in our response to Question 20, we believe that the need to perform a suitability analysis every 12 months regardless of any trigger event, is excessive and of no foreseeable value. We also believe that clients would not welcome them. Accordingly, we believe that no further guidance on the frequency of suitability analysis apart from any further guidance on trigger events is necessary.

APPENDIX H

65) Should the Standard of Care apply to unregistered firms (e.g., international advisers and international dealers) that are not required to be registered by reason of a statutory or discretionary exemption from registration, unless the Standard of Care is expressly waived by the regulator?

The ACCP has no comment

66) Do you believe that the Standard of Care is inconsistent with any current element of securities legislation? If so, please explain.

It is a difficult to say whether the Standard of Care is inconsistent with current legislation without a precise definition of Standard of Care. We believe that such a standard will likely impose greater accountability and responsibility on firms and registrants than currently in place under existing securities regulation.

67) Do you agree that the Standard of Care should not apply to the underwriting activity and corporate finance advisory services described above? If not, please explain.

The ACCP has no comment.

68) Do you think this expectation is appropriate when the level of sophistication of the firm and its clients is similar, such as when firms deal with institutional clients?

The ACCP has no comment.

Thank you for the opportunity to provide our comments. Please contact me with any questions you may have.

Regards,

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com

Manny DaSilva,
Chair, Association of Canadian Compliance Professionals

Manny DaSilva, Chair
Tel: 905-829 0020 ext. 227 manny@canfin.com