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To:

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: CSA Consultation Paper 33-404

The Consultation Paper covers a great deal of ground and I shall only comment on the best interest standard issue.

By way of background, I have been working with private clients about their investments for 40 years. During that time, I have had a variety of relationships with those clients, ranging from being essentially an order taker, to a sounding board, to an advisor making recommendations to a discretionary manager. I have always tried to work for the best interests of the client.

From the CSA website under Mission

To give Canada a securities regulatory system that protects investors from unfair, improper or fraudulent practices and fosters fair, efficient and vibrant capital markets, by developing a national system of harmonized securities regulation, policy and practice.

Right away, one does have to wonder how a proposal which is supported by only two jurisdictions has even been brought forward for general discussion.

That said, there are a number of concerns I have about the consequences if a best interests standard is codified. First, from a structural point of view, I find it difficult to understand how an organization acting as principal can act in the best interests of the other side of a transaction. This effectively eliminates private client participation from primary capital formation in Canada. I cannot believe this is a desired outcome of the CSA.

Second, underpinning much of the commentary appears a belief on the part of the regulators that all investors are ignorant and at the mercy of their registrant advisors. That has not been my experience and indeed there are those investors who have much more expertise than their advisors. Are they not capable of determining their own best interests without having a paternalistic standard imposed from outside?

Third, large financial service organizations are greatly concerned with both reputational risk plus efficient internal organization. This leads to the segmentation of clients according to a variety of

factors which are to the organization's advantage and not the investor. To what degree does the regulator want to impose its views on the internal structures of such organizations?

One point about regulatory burden: to what extent has the CSA thought about the burden they are placing on investors as required by the proposal to update KYC information possibly several times a year?

take reasonable steps to update their client's KYC information (and related form) at least once every 12 months, and more frequently in response to material changes in circumstances affecting the client or the client's portfolio

from part 7 CSA Consultation Paper 33-404

There is no question that one must know one's client but how necessary is it for them to sign forms annually or more frequently?

To conclude, I would contend that the majority view of the provincial commissions should prevail and the best interests standard not be implemented.

Yours truly,

Will Lockett, CFA