

September 14<sup>th</sup> 2012

BY ELECTRONIC MAIL: [comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca) [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

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

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

Me Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
800, square Victoria, 22<sup>e</sup> étage  
C.P. 246, tour de la Bourse  
Montréal (Québec) H4Z 1G3

Dear Sirs / Mesdames:

**RE: Notice and Request for Comment on Proposed Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and to Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* June 14, 2012 (2<sup>nd</sup> Publication) Cost Disclosure, Performance Reporting and Client Statements**

The Association of Canadian Compliance Professionals ("ACCP") is an organization representing over 100 compliance professionals through its chapters operating across the country.

The ACCP is writing to provide comments with respect to the above captioned Proposed Amendments ("Proposals").

The ACCP submitted a comment letter on September 23<sup>rd</sup> 2011 responding to the initial consultation on amendments proposed last summer. We have attached that letter to our e-mail submission for your reference. We greatly appreciate this opportunity to provide these additional comments.

## **General**

We agree with the CSA's comments that investors want information regarding the performance of their investments and the charges related to their investments. However, it is extremely important that all cost and performance disclosure is provided in a consistent and harmonized manner throughout our industry. This means that investors should receive the same performance and charges information regardless of who it was purchased from, the manner in which it was purchased, and where it was purchased in Canada. At the same time, the information needs to be presented to investors in a manner that is easily understood and not overwhelming.

## **Key issues and decisions since the 2011 Proposal**

### **i. Disclosure of Trailing Commissions**

Although the Proposal does not present an "Issue for Comment" at this heading, we feel compelled to respond to the CSA's comment that "We acknowledge the potential costs to industry, but believe that informing the investing public is worth this cost." We are concerned that the CSA has reached this belief without sufficiently researching the issue. At the very least, this statement does not appear to satisfy the Ontario Securities Commissions obligations under s.143.2(1)7 of the *Ontario Securities Act* which requires that the published notice of a proposed rule must include "A description of the anticipated costs and benefits of the proposed rule."

Accordingly, we ask the CSA to conduct a detailed and comprehensive quantitative analysis of the related costs and benefits, the results thereof to be published in due course.

### **ii. Disclosure of fixed-income commissions**

***Issue for comment:*** *In the interest of making fixed-income transactions more transparent, we invite comments on whether it is feasible and appropriate to mandate the disclosure of all of the compensation and/or income earned by registered firms from fixed-income transactions. This would include disclosure of commissions earned by dealing representatives as well as profits earned by dealers on the desk spread and through any other means.*

We are of the understanding that the only fixed income products sold by most mutual fund dealers are guaranteed investment certificates for which the dealers receive initial sales commission but no trailing fees. The commissions are a fraction of those earned on the sale of mutual funds and while it may be feasible for this information to be identified on a client account basis, we are strongly of the opinion that the resulting costs would far outweigh the benefits. In any case, we recommend that the CSA conduct a detailed and comprehensive quantitative analysis of the related costs and benefits, the results thereof to be published in due course.

We are not aware of any mutual fund dealers earning desk spread or any other income from the sale of fixed income products apart from initial sales commissions.

iii. **Expanded client statement**

***Issue for comment:*** *We understand that all securities transactions are carried out through an account, even when the securities are not held in that account. We have drafted the Rule on this understanding and invite comments on the practicality of this or other approaches to including the securities listed in s.14.145(5.1) in client statements and performance reports.*

We do not have any concerns regarding the proposed three principal sections of the client statement. However, we are concerned that the CSA's understanding that "all securities transactions are carried out through an account, even when the securities are not held in the account" may not be correct with respect to certain fixed income products. For example, the issuers of guaranteed investment certificates issued in client name may not be providing dealers with information regarding transactions subsequent to the initial purchase through the dealer such as RIF payments and partial/full redemptions made by investors prior to maturity. Again, we recommend that the CSA conduct a detailed and comprehensive quantitative analysis of the related costs and benefits of obtaining and reporting this transactional information, the results thereof to be published in due course.

***Exempt-market securities***

The Proposal states that "Investors in the exempt market that we surveyed are generally satisfied with the level of reporting they receive and understand how their investments are held. Our research also suggests that many of these investors do not expect the amount of information about exempt market securities in their client statements to be the same as it is for publicly traded securities if they do not have an ongoing relationship with the registrant that sold them the securities, as is sometimes the case with exempt market dealers."

We believe that investors expect accurate, relevant and comparable information for all their investments including those purchased through an exempt market dealer.

***Book Cost Information***

The Proposal states that "Under the 2012 Proposal, investors would see the book cost information for each security position included in the client statement, and would be able to assess how well individual securities are performing by comparing their book cost to their current market value. A definition of book cost is included in the Rule. This is a change from the 2011 Proposal, where we had proposed that original cost be provided as the comparator for market value. We made the change because original cost is not adjusted for reinvested earnings, returns of capital or corporate reorganizations. We have found that original cost is not a term that is familiar to most investors and it would be potentially confusing for registrants to have to explain the uses and limits of the original cost measurement to their clients. Book

cost is a more widely used measure, familiar already to some investors, that takes the adjustments noted above into consideration.”

We agree that book cost is more accurate and preferable to original cost. However, we are concerned that many investors will not readily understand what differentiates book cost from original cost. Regardless of which cost is reported, it will inevitably be the responsibility of registrant firms and advisors to explain the information provided on the statements – one of the many ongoing services to investors supported by trailing commissions.

iv. ***Common baseline requirements for registrants***

We fully support the concept of common baseline requirements for all registrants with respect to the reporting of charges and other compensation. We encourage the CSA, IIROC and the MFDA to continue to work together to develop harmonized standards. That is what investors want and deserve.

v. ***Percentage return calculation method***

***Issue for comment:*** *We invite comments on the benefits and constraints of the proposal to mandate the use of the dollar-weighted method, in particular as they relate to providing meaningful information to investors.*

We have no comments regarding the mandated use of the dollar-weighted method rather than the time-weighted method. However, in order to truly obtain the consistency and comparability in investor reporting that the CSA wishes to achieve, the same standards must also be mandated to performance reporting provided by fund companies as clients compare their dealer statements to those received from the fund companies and they will be confused if different returns are reported due to use of different methodologies.

vi. ***Market valuation methodology***

The Notice states that “The 2012 Proposal sets out a methodology for registrants to use to determine the market value of securities in client reports. This replaces the guidance that was proposed in the 2011 Proposals and would ensure that consistent and reliable standards will apply in client reports.”

We fully support a methodology for registrants to use to determine the market value of securities in client statements that incorporates consistent and reliable standards. However, in order to truly provide investors with consistent and accurate information, product providers also need to be mandated to use the same methodology.

vii. ***Issues related to reporting***

We do not have any comments regarding the changes included in the 2012 proposal.

## **2. Investor research and industry consultations**

### ***Industry Consultations***

We are disappointed that the CSA did not include the ACCP in this last round of consultations in light of the fact that we represent mutual fund dealers' interests solely and that we submitted a comment letter in 2011.

## **3. Transition**

We recommend that the transition periods be reviewed again upon completion of these additional consultations.

## **4. Impact on SRO Members**

As noted above we encourage the CSA to work with the SROs to ensure that all Rules and Policies are harmonized.

## **7. Anticipated costs and benefits**

As noted several times above, we urge the CSA needs to conduct additional detailed and comprehensive quantitative analysis of the anticipated costs and potential benefits as we do not believe that sufficient research has been completed in this regard.

We also recommend that the benefits of these proposed disclosures be reviewed in the context of the overall client disclosure obligations of registrants and not in isolation. It is our opinion that that too much disclosure can be as ineffective as too little disclosure resulting in confused investors rather than educated ones.

We appreciate the opportunity to provide comments and hope that the various commissions will consider our comments prior to finalizing these amendments.

Regards,

Association of Canadian Compliance Professionals

A handwritten signature in black ink, appearing to read 'S. Kegie', written in a cursive style.

Sandra Kegie,  
Executive Director