

May 26, 2014

DELIVERED VIA EMAIL ONLY

The Secretary
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Me Anne-Marie Beaudoin
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Dear Sir/Madam:

Re: Implementation of Stage 3 of Point of Sale Disclosure for Mutual Funds – Point of Sale Delivery of Fund Facts

Proposed Amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (the “Proposed Amendments”)

We appreciate the opportunity to comment on the Proposed Amendments. The Fund Facts document is a valuable tool that has provided investors with much clearer and more concise information regarding mutual fund investments than was previously available. Our responses to the specific Issues for Comment outlined by the CSA are set out below.

Exceptions from Pre-Sale Delivery of the Fund Facts

1 (a) We agree that exceptions to the pre-trade delivery of Fund Facts are appropriate; however, we submit that the permissible exceptions as set out in the Proposed Amendments are unduly narrow. In particular, the requirement that post trade delivery can only be employed if it is "not reasonably practicable" for the Funds Facts to be delivered pre-trade is likely to frustrate some investors who would prefer not to have acceptance of their orders delayed pending delivery of the Fund Facts. Many investors are experienced and knowledgeable in mutual fund investing, and should not be forced to have their orders delayed while the advisor sends them the Fund Facts if they are content to receive it post-trade. This is likely to be particularly troublesome to investors who are adding to existing positions in funds that they have previously purchased and are already familiar with, required only because the

Fund Facts document has been updated since their last purchase. It should not be assumed that the every investor needs to be forced into the same mold; investors should have the right to elect *not* to receive the Fund Facts prior to acceptance of their order.

1(b) We agree that verbal disclosure regarding the existence and content of the Fund Facts is appropriate if it is to be delivered post-trade. However, we submit that the particulars of the verbal disclosure, as set out in paragraph 3.2.1.1(3)(e) of the Proposed Amendments, would require an excessive degree of detail to be conveyed before the investor could elect to proceed with their order.

The explanation in the proposed Companion Policy goes some distance in mitigating this; however, we suggest that the wording of the Proposed Amendments be modified to make it clear that disclosure of the existence of the Fund Facts and a high-level description of its content should be sufficient to allow the investor to make an informed choice. For example, if an investor is made aware that they are entitled to receive the Fund Facts prior to placing an order and that it contains details about:

- What it primarily invests in
- The investment risk level of the fund
- The type of investors it is suitable for
- The costs to purchase and hold the fund, including deferred sales charges, if applicable, and
- Any applicable trailing commissions

then, armed with this level of information, the investor should be in a position to decide whether to proceed with the purchase immediately or to delay their purchase until they have received the Fund Facts.

1(c) We believe that sub-section 3.2.1.1(5) the Proposed Amendments, with respect to purchases of mutual funds through a pre-authorized purchase ("PAC") plan, provides adequate disclosure mechanisms and ample opportunity for purchasers to obtain the Fund Facts on an ongoing basis, if desired. However, we recommend that the references to a "form" in paragraph 3.2.1.1(5)(b) be changed to require providing information on how the participant may obtain the Fund Facts. The reference to a "form" is unduly prescriptive and implies the creation of a process whereby participants would fill out a paper form and send it to a department within the dealer that would be responsible to processing such requests. Dealers should be permitted to develop appropriate processes to respond to client requests without a specific paper-based process being mandated.

The Proposed Amendment set out in section 7 of Annex D, under the heading *Transition for pre-authorized purchase plans*, would create a tremendously onerous requirement to distribute Fund Facts to tens of thousands of clients who already own the subject mutual funds and who have been receiving information about the funds since their initial purchase, in some cases for many years. It should be noted that PAC plans are often used by small investors who purchase mutual funds in increments as little as \$25 per purchase. The imposition of cumbersome requirements to continue to service such clients may make it uneconomical to do so and may result in less access to investment choices for those clients.

With respect to ongoing disclosure requirements, an annual notice outlining how to access or obtain the Fund Facts should be sufficient. We do not believe that it is necessary to send the Fund Facts to purchasers with a PAC plan each time it is amended, or on an annual basis, as suggested in the Issues for Comment.

Compliance

2. The guidance regarding acceptable means of electronic delivery of Fund Facts is unclear. We agree, as noted in the proposed Companion Policy, that simply referring an investor to a general website where the fund facts document can be found is not sufficient. However, providing a client with an email link directly to the Fund Fact document should be an effective form of electronic delivery. Sending Fund Facts in PDF or similar file formats via email may not be practical due to large files sizes and the potential that such emails would be blocked by some email systems.

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

3. We disagree with the assumption that the costs related to the pre-sale delivery of Fund Facts are merely "incremental" to those incurred in implementing the pre-trade cost disclosure requirements in National Instrument 31-103. The pre-trade delivery requirement for Fund Facts will require significantly different systems development and the costs are likely to be substantial, both for initial implementation and for ongoing compliance and record-keeping.

While there are clearly benefits to investors in receiving the Fund Facts document, we submit that the Proposed Amendments should be carefully scrutinized to eliminate any requirements that provide little marginal benefit to clients while imposing substantial implementation and compliance costs.

Transition Period

4. We believe that a minimum 12 month transition period for full implementation of the Proposed Amendments is appropriate. Adequate lead time is required to develop delivery, compliance and record retention mechanisms, either internally or through external vendors plus training, testing and implementation of all new processes.

In addition, it should be noted that dealers are in the process of implementing the requirements of "CRM 2". The cost and performance reporting requirements of CRM 2, in particular, are extremely complex and require substantial commitment of human and financial resources. Implementing the systems and controls required by the Proposed Amendments at the same time will be very challenging.

5. We agree that a single switch over date as opposed to a phased introduction of the pre-sale delivery requirements is preferable. The time frame from December to April should generally be avoided due to demands on resources at that time of year. Also, we recommend that the implementation not be scheduled at the same time or in close proximity to the implementation dates of CRM 2 due to the substantial efforts and resources required for compliance with those changes.

Yours truly,



D. J. Burwell
General Counsel