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September 6, 2012

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

Attention: John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55
Toronto, ON M5H 3S8
Email: jstevenson@osc.gov.on.ca

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Email: consultation-en-cours@lautorite.qc.ca

Dear Sir/Madam:

RE: CSA NOTICE and REQUEST FOR COMMENT: IMPLEMENTATION of STAGE 2 of POINT-OF-SALE DISCLOSURE FOR MUTUAL FUNDS PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-101 ("NI 81-101"), Form 81-101F3 ("Fund Facts" document) and COMPANION POLICY 81-101CP (THE "Proposed Amendments")

We are writing in response to the request for comment issued by the Canadian Securities Administrators (CSA) on June 21, 2012 regarding the Proposed Amendments.

Investment Planning Counsel Inc. (IPC) is a diversified financial services company, with over $16 billion in assets under administration on behalf of approximately 200,000 investors. Its subsidiaries include IPC Investment Corporation (IPCIC), an MFDA regulated dealer with approximately 800 independent financial advisors and over $14 billion under administration, IPC Securities Corporation (IPC Securities), an IIROC member firm with $1.5 billion under administration, and Counsel Portfolios Services Inc., (Counsel), a mutual fund Manager with $2.9 billion under management. Because its subsidiaries operate as an MFDA regulated dealer, an IIROC regulated dealer, and a mutual fund manager, IPC is well suited to provide feedback from a variety of perspectives, and we welcome the opportunity to provide comment on the Proposed Amendments.

Summary

We believe that any changes to the Fund Facts at this stage are premature. The document is not yet being widely delivered in lieu of a simplified prospectus, and investors have not had sufficient experience to formulate any meaningful assessment of the Fund Facts' usefulness. The CSA should take steps to have the Fund Facts sent to clients with the trade confirmation so that investors begin to have experience with it. Once there is a real basis to determine how useful investment fund purchasers find Fund Facts, a more meaningful assessment can be made as to what content changes are warranted.

Furthermore, we view several of the proposed changes to be contrary to the CSA's objective to promote clear and plain language information for consumers. In some cases, the proposed changes increase the potential to mislead investors. In other cases, the proposed changes reach beyond the purview of investment managers, and into the realm of investment dealers, yet fail to achieve the same level of effective disclosure. We support the CSA's desire to achieve clear and plain language disclosure for investors. But our view is that the proposed changes add complexity, and potentially create an unlevel playing field, which could lead to activities of regulatory arbitrage, as alternative products with simpler disclosure may be recommended to a client instead of a mutual fund. In our view, mutual funds are already one of the best long term savings vehicles for Canadians, by virtue of their diversification, liquidity, professional management, and already strong transparency and disclosure requirements.

We support and are fully aligned with the comments made by the Investment Funds Institute of Canada (IFIC) regarding the Proposed Amendments. In addition to IFIC's comments, we see several elements of the Proposed Amendments that will jeopardize the strength of the current disclosure standards that benefit mutual fund investors today. These include:

Trailing Commissions - Costs of Buying, Owning and Selling the Fund

We strongly believe that the proposed conflict of interest wording is out of place in the Fund Facts. At best, the proposed language is incomplete, given that each advisor's circumstances are different. For example, the language is not accurate when used in circumstances where a trailer paid to an advisor is less than that paid for other funds/products. In addition, this disclosure is not required for competing investment products such as segregated funds, which may leave investors with the impression that trailer fees are only associated with mutual funds, when they are not. This is misleading to investors and unfair to managers.

More importantly, investment funds have no involvement in the remuneration arrangements between dealers and their advisors. Issues relating to potential or perceived conflicts of interest in respect of advisor compensation are extensively disclosed through existing MFDA and IIROC processes and rules which govern the opening and supervision of accounts as required by National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. Because more complete and accurate fee information can be obtained from the advisor about all products and services, not just mutual funds, a statement advising investors to speak to their representatives about trailing commissions is a more acceptable approach. Any disclosure concerning perceived conflict of interest should be excluded from Fund Facts.

Document Length / Complexity

Because of the number of changes in the Proposed Amendments, it is evident that Fund Facts will, in most instances, become four pages in length (two pages double-sided). We believe this is extremely ill-advised. Under the Proposed Amendments, French translations could require five or more pages. Central to the whole concept of the Fund Facts Joint Forum discussion was that it would be a concise document. It would include key facts that would enable investors to make an informed investment decision in a manner that would facilitate comprehension and comparison with other funds. In most cases today, English versions of Fund Facts are no more than two pages (one page double-sided). Lengthening the document severely compromises its core purpose. The CSA should retain the current framework in the existing rule that contemplates a Fund Facts that is no more than two pages in length.

Counsel is now in the midst of its third cycle of the Fund Facts preparation process. For this year's filing Counsel will prepare 132 separate Fund Facts for the various series of Counsel mutual funds and each one is two pages in length. However, because Counsel is a portfolio services company, a significant portion of its clients invest in a balanced portfolio of several Counsel mutual funds at a time, often 7 or more. We are concerned that if the Fund Facts expands to four pages, clients could be receiving packages of 28 or more pages at a time. For clients of IPCIC and IPC Securities, and Advisors who use other managers in addition to Counsel when building client portfolios, the disclosure

package could be even larger and more overwhelming to investors. This is not the intended result of the Fund Facts initiative.

Transition Period

We believe that a six month transition period is too short for making the required system changes to incorporate the content changes to the documents. Counsel is one of many manufacturers which obtained interim relief issued by the CSA to deliver Fund Facts to unitholders in lieu of a simplified prospectus, prior to Stage 2 implementation. While Counsel sees merit with relying on this relief, to date it has not done so largely because of the complexity of implementation by dealers.

Counsel's funds are distributed by 95 dealers, including IPCIC and IPC Securities. But IPC's 200,000 clients have investments in over 12,000 different mutual funds. Because those funds each issue several different series, the volume generated by the number of unique disclosure documents is high, and managing that volume is a complex process, which requires significant investment in information technology resources by the dealers. The proposed changes would require additional investment in resources above and beyond the investment that already must be made to implement Stage 2, and to prepare for Stage 3. Our experience is that systems require 12 to 24 months to implement changes such as this and if a shorter period is mandated, reliance must be made on manual processes, which are more costly, time consuming and greatly increase the likelihood of errors. Furthermore, there is no systematic way to 'black-line' content changes for SEDAR filing purposes prior to completion of most system upgrades.

Therefore, we urge the CSA to mandate a six month transition period for delivery only of the current Fund Facts, and a longer transition period of 18 months for content changes. Further, once the Proposed Amendments are finalized, the CSA should follow the same approach as with the introduction of Fund Facts under stage 1 by requiring immediate compliance (after the effective date) for new Fund Facts, but allow existing Fund Facts to be updated upon their next amendment or renewal, rather than mandating that all Fund Facts be re-filed upon the effective date. In this matter all Fund Facts will be updated within one year after the changes become effective. Otherwise, funds will be required to re-file their Fund Facts up to three times within a 12 month period (i.e. for renewals before the effective date; on the effective date; and thereafter at the next renewal).

Risk Disclosure

We believe that proposed changes to the Risk section run the risk of increasing investor confusion. Firstly, it is our strong view that risk should always be discussed in the context of performance, and vice versa. This is why moving the Past Performance section to a different page of the Fund Facts is ill advised. We would suggest that the disclosure concerning Risk should be better integrated with the Past Performance. With respect to the risk disclosure specifically, we strongly urge the CSA to adopt the

objective volatility rating methodology used by IFIC for purposes of the risk level classification chart. The IFIC methodology provides a standardized rating system for the industry, and would eliminate concerns that different managers might adopt divergent risk assessment methodologies, which negates comparability, a key objective of the Fund Facts. To further facilitate investor comprehension, the rating scale could be accompanied by a simple explanation (similar to that already found in the prospectuses of many funds), such as the following:

> *"This means that a fund with a medium risk and having an expected average annual return of 5% may expect its returns to vary between -11% and +21% each year under normal circumstances."*

We submit that this will be easily understood by investors and provides a useful measure of risk that is objective, comparable between funds and relates to the performance disclosure.

The use of the phrase 'chance of losses' in the new explanatory language under "Investment risk" and in the risk level classification chart provides no context as to whether this means risk of losses over the short-term or the long-term. Similarly, use of wording such as 'typical' returns/risk could be misleading to investors as it is unclear whether this is specific to the particular fund or not. We suggest that the language be simplified to reference the variability of annual returns which is, in essence, the nature of the risk the CSA is attempting to describe.

The new requirement under 'Other specific risks' to select 'up to' four main risks is arbitrary and potentially misleading to investors. Of paramount concern is that summarizing a risk in a brief reference raises the real potential that it will inadequately capture the concern. This may increase the potential civil liability risk to funds. Secondly, determining which are the main risks is necessarily a subjective exercise, which may result in similar funds disclosing different risks in different ways. This may be confusing to investors and make the documents less useful for making comparisons, particularly between products from two different managers. If a fund excludes a particular risk which later proves to be material, it could be exposed to civil liability as a result. Accordingly, the CSA should instead require that Fund Facts indicate that there are risks and that investors should look to the prospectus for the main risk factors.

GIC Benchmark and Worst 3 Month Return

In our view, a specific benchmark should not be included in the Fund Facts. To the extent that a benchmark is useful to investors, it is in the context of their entire account, as opposed to a specific fund. This issue is addressed in the Client Relationship Model proposal.

With respect to the proposed requirement to disclose a fund's 'worst' three month performance, in our view this is totally inappropriate:

- it focuses on short-term performance, which is fundamentally at odds with the long-term nature of most mutual funds (other than money market funds);
- it will cause confusion because the worst three month performance does not match the risk level classification disclosure under Item 4;
- most importantly, it is inherently misleading because, by definition, such performance is an aberration. Given the stated purpose of the Fund Facts is to provide only the most critical decision making information to investors, it is wrong to highlight a fund's once-in-a-lifetime worst performance as being a key indicator of expected performance upon which to base a purchase decision.

We note that reference to a fund's worst or best three month performance in a sales communication would be prohibited under NI 81-102 *Mutual Funds*, unless accompanied by other standard performance data (which is absent in the Fund Facts and which we do not propose be added). Fund Facts already provide historical annual returns on a calendar year basis, which provides investors with clear disclosure as to the volatility of performance (both positive and negative) over the long term. Adding additional disclosure of the worst three month performance detracts from this balanced presentation and focuses instead on the worst short term performance of the fund, which is both unbalanced and out of context. This is inconsistent with the long term perspective that mutual funds are intended to promote and can only have a negative influence on investment behavior.

We also note that the use of a benchmark such as a one-year GIC would run contrary to other disclosure documents, such as Management Report of Fund Performance (MRFP), in which investment funds are required to provide a comparison of performance relative to a widely accepted and investible broad based index. For all but money market funds, a comparison to one-year GICs would be an "apples to oranges" comparison. Without clarifying the differences in associated risks between the mutual fund and a GIC, and considering factors such as inflation, volatility of returns, liquidity, and risk adjusted returns, an investor may draw incorrect conclusions about an investment fund's potential attractiveness or shortcomings. Furthermore, because MRFPs and Fund Facts typically use different reporting dates, the differences in returns associated with the different reporting dates would add further confusion, and make comparison between funds even more difficult for investors. For all of these reasons, we feel adding a benchmark to Fund Facts should be avoided, as it will add to investor confusion and complexity.

Delivery of Fund Facts and Use of Data

We support the CSA's desire to require delivery of the Fund Facts in lieu of the simplified prospectus as soon as possible, as well as using data that is within 45 days

(rather than 30 days) of the date of the Fund Facts (although for the reasons set forth below we believe that 60 days would be a more appropriate time frame since it would better coincide with the prospectus renewal process). The changes allowing data to within 45 days (instead of the current 30 days) for Items 2, 3 and 4 of Part I are positive as this will facilitate data gathering and validation processes, and will permit funds more flexibility to file their final prospectus renewals up to 10 days after the lapse date. Currently, as it is more practical to gather data as at a month-end, and as the final prospectus cannot be filed more than 3 business days after the date of its execution, most funds must date their final prospectuses as at a month-end and request that their final Receipts be withheld until commercial copies become available. We suggest increasing the period to 60 days so as to provide greater flexibility.

Fund Expenses

In our view the proposed requirement to disclose any fixed administration fees payable by a Fund is out of context and may confuse investors. We believe that the intention here is to draw investors' attention to any administration fees payable by a new fund and this would more appropriately be addressed by an amendment to item 1.3(4), as follows:

> "The ~~fund's~~ series' expenses are made up of the management fee, administration fee and/or operating expenses and trading costs. The ~~fund's~~ series' annual management fee and annual administration fee (if any) are [see instruction 7]% of the ~~fund's~~ series' value, respectively. Because this ~~fund~~ series is new, total operating expenses and trading costs are not yet available."

References to Name of the Manager

The name of the manager is required to be disclosed at the Top of page 1 (Item 1(b) – Part I), and, under the Proposed Amendment, again in the table under 'Quick Facts' (proposed change to Item 2 –Part I). In several instances the wording changes require that the name of the manager be inserted (i.e. Items 4(2) and 4(5) in Part I; Item 1.3(7) in Part II; Item 3(1) in Part II; etc.). Repetition of the name of the manager in these (and other) areas is redundant, does not add clarity, and makes the use of a generic template more complicated.

The "Quick Facts' reference to 'Portfolio Manager"; item 2, instruction 4 indicates that the field must "Specify the name of the company or companies providing portfolio management services to the mutual fund." Counsel's experience with this section is cumbersome; the current template makes it difficult to accurately inform the investor about the use of subadvisors and underlying fund of fund investments, which can be important elements used by investors when making an informed decision about their investment.

Conclusion

As we noted previously, we firmly believe that Fund Facts should remain no more than two pages in length. The objective of creating a concise document that investors would find useful will be severely compromised if the document was to become any longer. The Proposed Amendments would immediately increase the document to four pages in length. This is not in the best interest of investors.

Our comments are made in the context of wishing to preserve the central objective that Fund Facts remain an investor friendly, concise document, which will better facilitate comparisons to other funds, and improve disclosure for all investors.

We welcome having this opportunity to provide you with our comments on the Proposed Amendments and would be pleased to discuss with you in more detail any of the above suggestions, or any other questions you may have about this submission.

Sincerely,

INVESTMENT PLANNING COUNSEL INC.

Chris Reynolds,
President and CEO

2680 Skymark Avenue, Suite 700, Mississauga, ON L4W 5L7 Tel: 905-212-9799 Toll Free: 1 877 212-9799 Fax: 905-212-9675
Website: www.ipcc.ca