

Via e-mail

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Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

CSA NOTICE AND REQUEST FOR COMMENT

**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 AND**

**COMPANION POLICY 81-101CP
TO NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS
DISCLOSURE
(2ND PUBLICATION)**

http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20140326_81-101_rfc-stage3-pos.htm

The Investor Advisory Panel is pleased to comment on this consultation regarding pre-sale delivery of Fund Facts to investors. Fund Facts is a plain-language disclosure tool they can use to explore an investment before making an investment decision.

We applaud the Canadian Securities Administrators (CSA) in supporting the fundamental purpose of introducing this meaningful disclosure regime, which was designed to help investors before they decide to buy units in a mutual fund. Post-sale delivery of Fund Facts never met the regulatory intent of disclosure.

Pre-sale delivery of Fund Facts is congruent with CRM 2 disclosures in that the key CRM 2 requirements include pre-sale disclosure of fees, as well as trade confirmation and client statement disclosure requirements as well as annual account performance, account fees and charges reporting. The Panel supports pre-sale delivery of Fund Facts and recommends approval of amendments to NI 81-101.

We also recommend that the CSA prepare a companion Guide for investors on how to use Fund Facts to make investment decisions.

Concerning delivery

We agree with the CSA that the most recently filed Fund Facts should be delivered to a client before a dealer accepts the order. We concur that delivery would not be required if the investor has already received the most recently filed Fund Facts.

The Panel further agrees that pre-sale delivery requirements would also not apply to subsequent purchases of securities of a mutual fund pursuant to pre-authorized purchase plans so long as the dealer provided initial and subsequent annual notices to the purchaser that included information on how to access and request the Fund Facts except if the risk rating of the fund is downgraded, or qualitative risks are added to those disclosed. In this case, the Fund Facts document as updated should be delivered to the investor prior to any subsequent purchases.

The Fund Facts risk disclosure issue

While the Panel fully supports pre-sale delivery of Fund Facts, we do however have a serious problem with the disclosure of risk in Fund Facts. We believe the proposed risk disclosure based on standard deviation is misleading and inadequate. Our recent Comment letter explained the reasons for concern with the risk rating methodology in considerable detail and provided a viable alternative.

Methods of delivery

The methods of delivery could be physical transmission at an investor-registrant meeting. It could also include electronic delivery as a pdf attachment to an e-mail or a direct web link to the relevant Fund Facts before the final decision is made, subject to investor approval. The Panel is comfortable with the use of physical delivery containing the Fund Facts being recommended as well as delivery by mail or fax. Dealers must be able to confirm that delivery has in fact been made. There should be no charge to investors for paper copies of the Fund Facts and/or trade confirmation slips.

For DIY investors using an online discount broker, we do not believe that pre-sale Fund Facts delivery should be required. The very definition of a DIY investor is that they do their own research and analysis. We recommend instead that the CSA mandate a series of funds tailored to the DIY investor that can be purchased without trailing commissions.

The exception to pre-sale delivery

As to the exception, subject to certain conditions, where a client indicates a desire to complete the purchase of a recommended fund immediately or by a specified time, and it was impossible for the dealer to complete physical or electronic pre-sale delivery of Fund Facts we recommend (a) the registrant should document the request and (b) verbally cover the salient features of the recommended fund(s) so that the investor understands what he/she is buying and how it fits into his/her portfolio.

The future of Fund Facts

We agree with the regulatory objective that Fund Facts and all its applicable rules should move forward with other investment funds such as ETFs and, to the greatest extent practicable, be harmonized with similar products in the banking and insurance sectors.

Withdrawal and rescission rights

We note that the CSA states that it is not currently proposing amendments to withdrawal or rescission rights applicable to mutual fund transactions. Please note however the numerous advocacy submissions made over the years underscoring the need for additional clarity on their interpretation and application as well as rationalization and harmonization of these provisions across Canada.

Transition period

The CSA is proposing a one-year transition period following the effective date of the amendments. We recommend a target of 6 months and a maximum transition period of 12 months.

Summary and conclusion

The Panel strongly supports the CSA in requiring pre-sale delivery of Fund Facts. Pre-sale delivery of Fund Facts will increase investor protection, improve the investor-registrant relationship and yield better outcomes.

Do not hesitate to contact us if there are any questions regarding our Comment letter.

Permission is granted for public posting.

Sincerely,

Connie Craddock, Chair
Investor Advisory Panel

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