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Objet : CSA Consultation on Embedded Commissions/Compensation

The Secretary

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Overview:

There is an old saying that goes something like "walk a mile in my shoes before..."

Few truly successful Advisers leave our industry. All others have not walked in their shoes and the bulk of the negative conversation directed at embedded compensation models comes from those who do not know our industry.

Including the relatively few (by percentage) consumers that have had negative experiences in the financial world. There should be none, but that is perfection and not realistic.

For example, once again, the most recent outing of Bank practices by CBC News. Imagine, over 1,000 staff, lower management and securities sales people admitting to corrupt and reprehensible behaviour...*in one week!*

Tens of thousands of innocent Canadians affected. Yet the focus is to destroy an efficient and age-old compensation system *and drive even more of the most vulnerable Canadians directly into the Bank compensation model.*

If successful the CSA will be applauded by Bank executives and shareholders alike who have been trying for decades (1992) to capture the independent adviser "market share".

Facts of Vested and Non Vested (and embedded) Commissions and/or Trailer Fees:

1/ The CSA has surely done its homework so it knows that 75% of all new financial advisers fail in the business the first 4 years. Even fewer remain at the 10-year mark.

2/ Almost without exception the ones who remain are among the highest quality, ethical and moral individuals in the country. It's embarrassing to see them attacked without any significant public backing (optics) from stakeholders around the country including the CSA.

- Obviously, ethical and experienced advisers have an acceptable compensation model. One accepted by millions of happy Canadian investors over numerous decades. The health and robust positive results of successful advisers and their clients prove the point.

3/ Accountants, Doctor's and Lawyers currently have a fee for service model and yet are regularly in the news for unsavoury practices. Case in point, billionaire clients of KPMG enjoying a tax pass by the CRA on back taxes (CBC News) for tax-free offshore investments. We all know the result if it was regular Canadians involved.

The CSA's proposed *core* compensation model (fee for service) looks shady in this light and *does not solve* what the CSA has positioned as a problem with the embedded compensation model.

4/ It is "known" that accountants, lawyers and *financial advisers* are "underpaid" in the first half of their careers and "overpaid" in their second half. In the first half successful advisers have worked up to 60 -90 hours weekly for 10 -20 years while being underpaid and a sacrificed family life. Therefore:

Embedded commissions and/or trailer fees *are earned and owed* to advisers.

5/ In lieu of pension plans including **DBP**, and **DCP and Group RRSP** plans not being available to advisers. Therefore:

Embedded commissions and/or trailer fees *are earned and owed* to advisers.

6/ In lieu of "Employment Insurance" (not available to advisers) along with Health, Dental and Long Term Disability and even sick leave Benefits are 100% out of advisers pockets. Therefore:

Embedded commissions and/or trailer fees *are earned and owed* to advisers.

7/ In lieu of a retirement age. When advisers stop working the value of vested revenues shrinks due to market forces. Many advisers work into their 80's or later as a result. Would public appointee's, management and staff at CSA offices like to trade? Therefore:

Embedded commissions and/or trailer fees *are earned and owed* to advisers.

8/ Canada Pension Plan premiums are double the cost to advisers as they pay both their portion and what is called the matching Employer portion of CPP premiums. Therefore:

Embedded commissions and/or trailer fees ***are earned and owed*** to advisers.

9/ Statutory Holidays, overtime pay and minimum wage are all benefits that have not been available to advisers. Unlike business owners they do not build up physical equity within their business that can be sold later. Therefore:

Embedded commissions and/or trailer fees ***are earned and owed*** to advisers.

10/ Historically, advisers have been assured they will ***not*** be paid 100% of their compensation earned so that money could be set aside to encourage ***above average job performance*** by rewarding those advisers with special perks, including travel.

Above average job performance, in reality, means that the adviser treats the job as a business and shows up for work every day. It is commonly called ***motivation***.

- Perception or optics have nothing to do with it. Any individual or organization that twists the meaning of this type of compensation is wrong. Including the general public and the CSA.

The statements "these facts are mostly unproven" and "these facts are mostly true" along with "***there may be a perception***" is called political correctness and distorts the truth.

Note: Corporate Canada moved very quickly on this subject, not because it was right, but rather that it saves money by stealing promised compensation from advisers to enrich executive compensation and shareholder profit. ***Consumers saved nothing.***

11/ Financial advisers are not compensated by the hour, rather by the project. They construct financial projects that house the finances of grandparents, parents, children and grandchildren. Not unlike a multi-family housing project.

They also build or are part of intricate corporate structures that range from Key Person compensation to Corporate expansion, restructuring, and acquisitions. Obviously, with this type of work, Advisers may make more than Doctors, at least in the year the deal closes.

In both of these examples, only the embedded compensation model can pay for the intellectual property offered in consumer/adviser relationships at a reasonable cost. Especially given the amount of "un-billable" intellectual knowledge and time required to complete any financial project. Note: the business is 24/7 and has never been 9 - 5.

12/ Canadians ***have choice of all the compensation models right now***, upfront commissions, flat fees, hourly fees, fees based on a percentage of assets under administration or other arrangements. They need only search for the Adviser practice that offers it.

13/ Much of the CSA position on the matter of banning the embedded compensation model is sourced from the Australian and British compensation models.

We all know that both those countries compliance and regulatory regimes were weak, even non-existent ***compared to long standing Canadian standards.***

Their problems have not been Canada's problems. One wonders at the motive behind the insistence of using them as an example.

14/ How much sympathy would the general public, given unbiased information, let alone a judge in a court of law view the banning of vested and non-vested revenues given the facts noted in this submission?

Failure to address the points in this submission opens up the very real possibility of a *Class Action Lawsuit* by affected advisers.

Summary

Embedded compensation such as commissions and trailers is the cheapest compensation model available to consumers. For them to pay advisers for the generally accepted employee rights that they themselves enjoy it would cost them significantly more.

Those that have not successfully worked in the financial services industry cannot claim to have "an inside perspective". Those that do only succeed to pass on negative if well-meaning and misdirected information. **The knowledge gap and understanding of the business between failed and successful Advisers is too large to weight equally.**

If the CSA truly believes good advisors, who provide value to their clients in exchange for compensation, will be able to transition away from embedded commissions and negotiate directly with their clients based on the value they provide ***are selectively ignoring the key points noted in this submission.***

a *Class Action Lawsuit* would be advisers only recourse should a ban on commissions and trailers become an actuality.

Advisers deserve:

1/ Fair compensation for past years of service, pension and employment benefits that only the existing embedded compensation system provides.

2/ Recognition/compensation for hours worked and intellectual property that consumers and industry access that is **not** realistically billable.

3/ Stakeholder recognition that above average advisers should be paid more as they provide a higher level of intellectual knowledge enriching their clients and their country.

4/ The missing piece:

Compensation models are not part of the application process. They should be, ***including the embedded commission/trailer model.***

Reviewed annually with the client, similar to an accountants practice. Along with mandatory disclosure and transparency rules in simple English/French.

Let the consumer decide what model they would like. It must not be dictated by third parties.

5/ Transition costs from one compensation model to another be born by the agency or organization driving the change if the end result is the banning of the embedded compensation model despite the facts noted in this submission.

6/ In the spirit of disclosure CSA should provide the names, job descriptions, work contact points income, benefit packages, and bonuses, including perks (like government hotel rates) of the entire CSA staff, management and stakeholders so that we can prove to

Canadian consumers, that the agencies regulating our industry are acting fairly, transparently and in consumers best interests.

For further information or clarification please do not hesitate to contact the writer at the contact points noted below.

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