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

CSA Notice and Request for Comment
Proposed Amendments to National Instrument 81-105 Mutual Fund Sales Practices and Related Consequential Amendments
http://www.osc.gov.on.ca/documents/en/Securities-Category8/csa_20180913_81-105_mutual-fund-sales.pdf

It is my pleasure to provide comments on this important Consultation. The two issues are clearly participating in the undue destruction of retail investor wealth accumulation. In fact, they are so obviously abusive, I do not understand why the CSA needs to consult. The evidence is clear and convincing.

The back-end load sales option

I have experienced the unexpected bite of the back-end DSC mutual fund first hand. A very unexpected , upsetting and costly experience.

The back-end load option (aka DSC) replaced the lofty 6% to 8% front-end loads of the 1980's smoothing out sales commission payments .However with FE=0% currently, the DSC is slowly dying a death of neglect and will either expire on their own or wait for the final coup de grace by regulators .This consultation hopefully will see the DSC finally banned over a short transition time.

The advisor-client relationship is weighted too much in the salesperson's favour. Experience and research has shown that most retail fund salespersons ' conduct is below any reasonably acceptable standard of care. They don't disclose risks, alternatives and expenses adequately, and they are, based on empirical research, subject to commission conflicts-of-interest. If it weren't so, the commission model would be seen to be more fair and effective by the public and the regulators - not by dealers/advisors only. There are **ZERO** consumer groups pleading for retention of the DSC option, the extreme version of an embedded commission.

Research by the OSC has shown that most prevailing risk profiling processes are unfit for use. The MFDA are continuously finding issues with the KYC process- blank signed forms, document adulteration and signature forgery, There are far too many cases where risk tolerance is improperly changed to match holdings rather than the client's risk capacity and needs. The lowly suitability standard is the basis on which salespersons make investment recommendations. A problem with DSCs is the lack of transparency. According to CSA research, a significant number of investors were not aware their funds had been purchased with a DSC and did not recall this being explained to them. Fund Facts discusses DSC but certain details on how the DSC works require a read of the not so plain language Simplified Prospectus. DSC Terms and Conditions are not uniform and vary between companies. A DSC fund being sold in such an environment is just looking for trouble.

The DSC sales option is designed to fail for investors in at least two ways:

a) Every year a fund salesperson makes sure to draw out the 10 per cent "free" funds from a particular fund. This is a potentially positive thing, in that it reduces the potential DSC fees for the client. If the salesperson moves those units of the fund to the same fund but a different class (for example, XYZ Canadian Equity fund DSC switched to ABC Canadian Equity front-end load with no commission), that is a good thing for the client. But if the fund salesperson regularly moves those 10% "free" funds into a new fund or fund company on a DSC basis, they are simply getting another 5%- the time the client is trapped in their investment is extended.

b) The salesperson watches the six-year or seven-year DSC schedule closely. The moment a fund is no longer on a DSC schedule, the mutual fund salesperson coincidentally decides it is time for a change in direction. They sell the fund and put the client into a new DSC fund, starting the redemption penalty clock all over again for the investor, and receiving a new 5 % upfront payment from the mutual fund company and possibly triggering an unwanted taxable capital gain.

Yes, there are commissioned advisors who do very well for their clients, but if they are the exception rather than the rule, which is why this investor abuse is being addressed by securities regulators.

One argument put forward by DSC huggers is that the DSC keeps investors invested when markets turn down. It is the role of the advisor to manage investor behaviour. Good counselling and a well constructed portfolio are the best defence against panic behaviour ,not imprisonment. Some funds and sales service levels are so bad that a switch of funds and dealers is the best thing a person can do.

It's time for the DSC sold fund to join the dinosaurs.

Discount brokers ripping off DY investors

Like the DSC issue ,I do not understand why the CSA finds it necessary to consult. Investor protection involves protecting investors from harm. Is there even a question that fund companies paying for advice that the discount broker cannot deliver and discount brokers selling a product that even the fund industry lobbyist says is improper needs to be firmly dealt with. Is it really necessary for Class Action lawyers and media to be proxy regulators?

I can only imagine the huge overpayments the brokers are receiving on billions of dollars of mutual funds paying them 1% every year for at least two decades. In any country but Canada , this would be front page news. In some, it might even be considered a breach of common and commercial law. DIY investors are not even provided a warning of the overcharging when they purchase an A series fund. In fact, they are deceived because they are provided a copy of Fund Facts that says advice and some special undefined services will be provided. - clear misrepresentation.

Of course I recommend that this financial assault should be stopped immediately (not transitioned over time) and the exploited investors be fully reimbursed for all those years of being ripped off.

I hope this grass roots feedback is useful to the CSA.

I agree to the public posting of this Comment letter.

Sincerely,

Art Ross