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Submitted via Email

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British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
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

Attention: The Secretary
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Toronto, ON, M5H 3S8
comments@osc.gov.on.ca

Me Philippe Lebel,
Corporate Secretary and Executive
Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
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consultation-en-cours@lautorite.qc.ca

Re: CSA Staff Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers

Dear Sirs and Mesdames:

The Investment Industry Association of Canada (the “IIAC”) appreciates the opportunity to provide feedback on the CSA Staff Notice and Request for Comment – *Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers* (“Proposed Amendments”).

The IIAC is the leading national association representing investment firms that provide products and services to Canadian retail and institutional investors. Our members manufacture and distribute a variety of securities such as mutual funds, exchange-traded funds, segregated fund contracts and other managed equity and fixed income funds, and provide a diverse array of portfolio management, advisory and non-advisory services. Our members trade in debt and equity on all marketplaces, provide carrying broker services and underwrite issuers in public and private markets. They operate in Canadian and global capital markets.

Summary: The IIAC supports the Canadian Securities Administrator’s (“CSA”) efforts to implement an access equals delivery model (“AED Model”).

Key Recommendations:

- The AED Model should be an option for prospectus delivery rather than a requirement to allow for other delivery options as permitted by securities legislation.
- The AED Model should be extended to medium term notes (“MTN”) programs and other continuous distributions under a shelf prospectus offering.
- The IIAC recommends a working group to identify practical alternatives to the issuance if press releases for the notice of filing obligation for structured notes are required.

THE PROPOSED AMENDMENTS

The IIAC strongly supports the efforts of the CSA to implement an access equals delivery model (“AED Model”) as the benefits realized from a modernized approach to the way documents are made available to investors are significant for both issuers and investors. We commend the CSA for considering this and other efficiency gains as part of the current regulatory burden reduction initiative and encourage further progress through future rulemaking to align changing investor and market preferences to a more environmentally conscious and technologically supported capital markets system.

While the Proposed Amendments achieve the stated goals of reducing costs associated with printing and mailing documents and introducing a more environmentally friendly manner of communicating with investors, we believe the Proposed Amendments for prospectus delivery should extend to MTN programs and other continuous distributions under a shelf prospectus offering. Changes to the access conditions of the AED Model should be considered to accommodate structured note offerings in particular, as these are ideally suited for this format of document distribution and would materially benefit issuers and investors.

If implemented, the Proposed Amendments requires that all relevant prospectuses be distributed to investors by way of the AED Model or another procedure “prescribed” by securities legislation. The IIAC recommends that the AED Model be an option for prospectus delivery rather than a requirement to allow for other delivery options that, while not “prescribed”, are either permitted (or not prohibited) under current securities legislation.

AED MODEL: AN OPTION NOT A REQUIREMENT

The New Prospectus Delivery Obligation of the Proposed Amendments only permits delivery of documents by means other than the AED Model if it is a procedure “prescribed” by securities legislation. The only other delivery procedure “prescribed” is prepaid mail. As other valid delivery methods (such as electronic delivery) are not “prescribed”, practically this means the only option for delivery is by way of the AED Model or prepaid mail.

While the AED Model will be the preferred method of prospectus delivery in most circumstances, providing issuers and investors with the option to deliver / receive a prospectus by email or other electronic means, as agreed by the parties and as permitted by regulation, is a necessary requirement and already appropriately addressed in securities legislation. These alternative electronic delivery options must be preserved.

MTN PROGRAMS

The Proposed Amendments suggest that the AED Model should not apply to MTN programs and other continuous distributions under a shelf prospectus without adequately explaining the policy rationale for this exclusion. Given the range of distributions that could constitute an “MTN program or other continuous distribution”, we assume that only prospectus-qualified distributions of “structured notes” issued by a financial institution were intended to be excluded from the AED Model.

We question the rationale for excluding structured notes. In our view, these types of structured notes would not pose any greater risk to investors when delivered under an AED Model instead of via prepaid mail. In fact, investors would benefit from having access to more timely and current information under the AED model.

Background:

Shelf prospectuses filed to facilitate the offering of structured notes describe the issuer and the consistent terms of notes offered under the issuer's program. While these terms are important to the operation of a structured note, they are not sensitive to pricing variables that change over the life of a shelf prospectus.

The security-specific terms of each structured note are typically provided to investors in a pricing supplement filed under the related shelf prospectus. Pricing supplements are produced and filed together with note-specific marketing material on SEDAR in accordance with applicable rules.

Currently, when a structured note is sold, it is common practice for the related pricing supplement, together with the shelf prospectus, to be printed and mailed to the investor. Mailings will generally involve several different groups working for an issuer, the dealers who distribute the issuer's structured notes, and their respective service providers.

Website Disclosure:

CSA Staff Notice 44-305 outlines CSA requirements for issuer website disclosures related to each structured note issued in Canada, both during the term of the note and for a reasonable period afterwards. As a result, structured note issuers in Canada publish and maintain a detailed website for each structured note they issue, and file related offering documents and marketing material on SEDAR.

Note-specific websites include note offering documents and marketing material. These websites are updated daily with current indicative values of the relevant note and the value of the related underlying interest. As a result, investors are better served by these websites as they contain accessible and current information, as opposed to static data that was only available at the time of printing mailed materials.

MTN Benefits:

Structured notes make up a large proportion of all new issue securities offered in Canada and each offering requires an expensive and inefficient paper prospectus mailing to investors. SEDAR filings indicate between 500-600 structured note pricing supplements are filed in Canada each month, each of which is purchased by multiple investors. A pricing supplement and prospectus package averaging 50-60 printed pages per package is mailed to each of these investors.

The process for prospectus mailings is cumbersome, expensive, and creates operational risks for both issuers and investors. Mailing regulatory documents is generally outsourced, first to the brokers distributing notes and then onwards to their service providers who print and mail the documents. Outsourcing prospectus mailing necessarily involves the confidential communication of investors' sensitive personal information to third parties. Any error in process or execution creates risks for issuers and investors involving lost or compromised personal information.

Eliminating the printing of documents by including structured note offerings in the AED Model would materially reduce costs and eliminate unnecessary risks. Utilizing SEDAR and issuer websites consolidates information for investors in an easy to access location and provides for better and timely access to relevant information.

News Release Requirement:

The Proposed Amendments require a news release to be issued and filed on SEDAR indicating that the relevant document is available electronically. The large volume of structured notes issued on a daily/weekly basis and the non-material nature of the disclosure suggest that the obligation to issue a press release is not practical nor appropriate. To our knowledge, there are no investor protection concerns associated with notification of the availability of pricing supplements. If the CSA determines that investor notification is required, we recommend that the IIAC convene a working group of CSA representatives and financial institutions that issue and distribute notes to identify practical alternatives to the notice of filing obligation that satisfies the regulatory objectives for structured notes. Given the significant benefits of the AED Model, the recommendations of the working group can be adopted following implementation of the Proposed Amendments, with changes adopted through subsequent rulemaking.

Thank you for considering the recommendations.

Yours sincerely,



Tim Currie
Investment Industry Association of Canada