

Via email

April 28th 2022

CSA NOTICE AND REQUEST FOR COMMENT PROPOSED AMENDMENTS AND PROPOSED CHANGES TO IMPLEMENT AN ACCESS EQUALS DELIVERY (AED) MODEL FOR NON-INVESTMENT FUND REPORTING ISSUER

[CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers \(osc.ca\)](#)

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

I greatly appreciate the opportunity to provide comments on Access EQUALS Delivery. First off, I don't understand the nomenclature. Imagine you order a pizza from a restaurant that offers free delivery. When nothing arrives, you find out that you must go to the restaurant website, check if your order is ready, then drive over and pick it up yourself and then take it back home to enjoy. In a nutshell, that's what the CSA is putting forward as the *modern* way to "deliver" important regulation-required disclosure documents to investors. There is a clear difference between "Available for pickup" and "Delivery" and attempting to fuse the two does not constitute a modernization of the disclosure process. This is a fake statement.

Worse, the CSA proposal says that if a news release has been made and posted on some website called SEDAR the CSA claim this means that delivery has actually

been achieved - that is not true except in the mind of a CSA lawyer. The dictionary defines *delivery* as **the action of delivering letters, packages, or ordered goods**. Will investors lose some legal rights if this false narrative is allowed to prevail? Having access to a news release in the cloud somewhere does not constitute notice. I doubt very much if the CSA has any investor research that agrees with these claims. Shouldn't regulations be based on evidence, facts, investor testing, behavioural finance and common sense?

I researched the word SEDAR and found it was a CSA managed site for disclosure information. How many retail /DIY investors know this? My Google search also revealed it is an antiquated site that is not very investor friendly. There is apparently an IT project (SEDAR Plus) to modernize it but I was unable to locate much information as to its features or when it will be open for business. Shouldn't this new site be operational before introducing a new scheme to notify and deliver financial statements?

Under the so-called modern approach to disclosure, investors will have to be on the lookout for news releases and then try to navigate the investor-unfriendly website.

Under the new scheme, shareholders of issuers adopt this *modern* form of "delivery" for Financial Statements will no longer annually receive request forms with which he/she can request copies of financial statements and related MD&A. To continue receiving copies of financial statements and related MD&A, those shareholders will need to provide standing instructions to their dealer (including discount brokers) or salesperson or request the documents on a one-off basis. *Modernization* means shareholders will not be prompted annually to request the disclosure documents and may not see news releases issued by the issuers that announce that financial statements and related MD&A are available! And this is good news, how? Why can't the CSA deploy technology to make the life of the retail investor easier, rather than harder? Has the OSC been unduly influenced by outside forces as recently reported by the Ontario Auditor General?

While the CSA scheme could reduce investor engagement, why not consider the 2020 comment letters where two distinguished consumer groups (OSC advisory panel and FAIR Canada) recommended electronic delivery? They recommended that this model should be the default mechanism for **communicating** information **to** investors. They were of this view because electronic delivery improves the timely availability of information for investors and reduces the economic cost associated with delivery of paper documents. What happened to this sensible idea?

I am not sure how foreign investors will become informed of Canadian news releases.

The CSA should also factor in the browsing work cost that would be required for retail investors to find news releases. It seems we have a burden transfer issue with investors getting the short end of the stick. If the issuer's demands prevail and this scheme is made legal, the CSA education department should run educational sessions on it. A one year transition time should be permitted so people can acclimatize themselves to the changes. I also recommend that all issuers permitted to use this scheme be required to maintain a website that would direct investors to

a well-defined section of their website where all the required documents can be found and downloaded or printed.

The CSA should have a plan to ensure that those investors who do not have a computer or internet access (or just prefer paper documents) are aware of their rights and how to use those rights. Inclusion is very important for a modern socially responsible securities regulator.

The good part of the consultation appears to be that the CSA is not going to tamper with mutual fund disclosure (except to enhance) or any disclosure where shareholders get to vote (use their ownership rights) , such as proxies, exec comp plans , change of auditor or Board Directors . I am also delighted to see that the proposed CSA disclosure scheme does not remove an investor's ability to request documents in paper or electronic form or prevent an issuer from delivering financial statements and related MD&A based on an investor's standing instructions. I assume all such requests will have to be honoured by issuers including TSXV issuers.

I am troubled that disclosure reform efforts currently under way during this period of economic uncertainty are concentrated on reducing disclosure obligations instead of improving the disclosures that need attention (e.g. Fund Facts), thereby enhancing transparency and, ultimately, trust for investors.

Hope this is helpful.

I would appreciate prompt posting of this comment letter on all CSA member websites.

Peter Whitehouse

PS. This document is being submitted to OSC in both the requested WORD format and the .pdf format as the chosen typefont may reproduce differently depending upon the fonts in the recipients computer.