July 25, 2022

Submitted Via Email

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Office of the Superintendent of Securities, Newfoundland and Labrador
Ontario Securities Commission
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Attention:	Me Philippe Lebel, Corporate Secretary and Executive Director, Legal Affairs Autorité des marchés financiers Place de la Cité, tour Cominar 2640, boulevard Laurier, bureau 400 Québec (Québec) G1V 5C1 consultation-en-cours@lautorite.qc.ca	The Secretary Ontario Securities Commission 20 Queen Street West, Toronto, Ontario M5H 3S8 comments@osc.gov.on.ca

Dear Sirs and Mesdames:

Re: CSA and CCIR Joint Notice and Request for Comment – Proposed Amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and to Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations and Proposed CCIR Individual Variable Insurance Contract Ongoing Disclosure Guidance Total Cost Reporting for Investment Funds and Segregated Funds
(**Total Cost Reporting Proposal** or **Proposal**)

We are pleased to provide comments in response to the Canadian Securities Administrators (**CSA**) and the Canadian Council of Insurance Regulators (**CCIR**) joint request for comment on the Total Cost Reporting Proposal. This letter will focus specifically on the CSA proposals for the securities sector and is being submitted on behalf of TD Waterhouse Canada Inc., TD Waterhouse Private Investment Counsel Inc., TD Asset Management Inc., and TD Investment Services Inc. (collectively **TD** or **we**).

While TD supports the principles of transparency and meaningful cost disclosure to investors, we wish to highlight for the CSA's consideration that certain elements of the Total Cost Reporting Proposal create the following material risks:

- **Risk of failure to provide meaningful cost disclosure:** without additional context, the fund expense ratio will be confusing to investors. Comparable cost disclosure is not achieved by providing the aggregate amount of fund expenses.
- **Risk of implementation failure:** total cost reporting cannot be reliably and effectively implemented by dealers without mechanisms for data ingestion, consistent data standards and quality assurance over third party data.
- **Risk of serious unintended consequences:** the Proposal risks compromising other significant CSA public policy objectives.

TD generally supports the comment letters submitted by the Investment Funds Institute of Canada and the Investment Industry Association of Canada on these issues. Our comments elaborate on the risks noted above and set out our concerns with the implementation timeline proposed.

Risk of failure to provide meaningful cost disclosure

While we support the regulatory goal of providing investors with meaningful cost information, the current proposal to add the Fund Expense Ratio (stated as a percentage for each investment fund held by the investor on the account statements) will not achieve that goal. The provision of the FER (Management Expense Ratio (**MER**) and Trading Expense Ratio (**TER**)), without context (for example, distinguishing passive from active funds or domestic from international funds) is not sufficient to properly inform investors so they can assess the appropriateness of costs and may lead to investor confusion. In addition, the Proposal does not distinguish the various series with different fee structures (such as A series and F series) used in different account types. Investors who hold more than one account type may be confused when they compare the FER across their accounts.

Comparable cost disclosure cannot be achieved simply by providing the aggregate amount of fund expenses, in dollars, for all investment funds held during the year in the annual report on charges and other compensation. For example, an investor holding only index products will have a lower aggregate fund expense amount compared to an investor with active international exposure. There is no context to help investors determine if the fund expense amount is appropriate. An investor in a fee-based account holding F-series funds with no trailers would have a lower aggregate fund expense amount compared to an A-Series fund held in a transaction account. When all fees and charges are considered, the cost of ownership may be similar, but presented differently. In both these examples, at best the aggregate amount of fund expenses will not be truly meaningful to an investor without additional context and, at worst, may inadvertently misinform decision-making.

Risk of implementation failure

Dealers cannot verify IFM data. Accordingly, total cost reporting cannot be reliably and effectively implemented by dealers without a mechanism for consistent data standards and quality assurance over third party data.

Today, dealers have access to and control over information required to provide their clients with accurate and timely disclosures both on statements and annual fees and compensation reports. All of this information is internal to the dealer.

In contrast, the Proposal requires dealers to rely on information provided by investment fund managers (**IFMs**) with respect to both timing and accuracy. The Proposal puts the onus on dealers to compile and present very detailed information (in reliance on an unverifiable third-party source of information) that will involve significant system and technology builds and an enormous amount of data from many service providers. Dealers are being asked to ingest, calculate, and publish detailed, unverified information for costs they do not collect nor control.

The Proposal requires dealers to figure out how to ingest and ensure the consistency and accuracy of IFM data, in many cases from numerous sources:

> *How to ingest IFM data?* While Fundserv comes immediately to mind, it should be noted that Fundserv is not used for ETFs or Labour Sponsored Funds, thus additional development would be required.
>
> *How to ensure consistency and accuracy of IFM data?* Once ingested, dealers would then spend a substantial amount of time and resources making sure all the data provided is accurate, without any practical way of testing the accuracy. From an IFM perspective, significant work would have to be done to ensure consistency in: (i) calculation methodology and (ii) reporting format. In addition, IFMs must be required to ensure processes are in place to ensure the accuracy of the information provided to dealers, as there will be no practical means for dealers to correct statements where the inaccuracy is due to information provided by a third party.
>
> *How to deliver timely cost information?* Notwithstanding these data challenges, the Proposal further requires dealers to deliver the information within strict timelines, or risk delaying the release of statements altogether. Dealer reporting is not segmented based on products held by the investor. Therefore, any delay due to IFM performance in delivering the cost information would impact delivery of all client reporting, including for clients who did not invest in mutual funds. In turn, failure to provide timely, accurate statements carries significant reputational impact for the dealer who, again, has no control over the accuracy and timeliness of information.

Finally, TD believes that requiring the dealers to seek out cost information that is not publicly available is excessive and unwarranted. Where the IFM cannot provide cost information (ex. foreign funds), there is a need for clear disclosure requirements that will not create investor confusion or result in inconsistent reporting. Regulation should adequately reflect the dependency of dealers on IFMs and create clear and achievable rules for delivery of required cost information.

Risk of serious unintended consequences

While greater transparency in fees and costs to investors is an important regulatory objective, the Proposal risks compromising other significant CSA public policy objectives, such as burden reduction and reducing barriers to entry, without demonstrably improving disclosures to investors. TD strongly supports a public consultation on the trade-offs involved in these competing policy initiatives.

TD believes that notwithstanding the CSA's intention to strengthen investor protection, total cost reporting, as currently proposed, will likely result in several negative unintended investor consequences. We anticipate the additional regulatory cost and complexity introduced by the Proposal may lead to further dealer consolidation, limiting investor product choice and discouraging new/independent fund development. For example, to build out the reporting in an Order Execution Only (**OEO**) channel will take considerable time and resources for an asset class that many OEOs no longer receive revenue from (i.e., no trailers). Thus, there is risk that OEOs may stop offering investment funds, or may discontinue certain investment funds, due to the cost and operational risk they would incur or have to pass onto investors. Notably, newer and less established fund companies introduce greater data risk to dealers, including the potential for less accurate, reliable and timely delivery of information. Dealers may determine, on a cost-benefit analysis, to exclude these funds from product shelves.

In addition, dealers are not afforded any protection from investor complaints if the IFM's information proves to be inaccurate or prevents dealers from getting the client statements out in a timely manner.

An unrealistic timeline

The proposed 18-month transition period is unrealistic, without first addressing the issues identified above. Without a mechanism for consistent data standards and quality assurance, dealers cannot begin system development. Thus, until the IFMs have a clearly mandated industry methodology and reporting format, the dealers cannot begin meaningful development.

Furthermore, the abbreviated timeline to implement cost reporting is insufficient due to the operational complexity of implementation and unaddressed interdependency between dealers and IFMs for collecting, storing, delivering, and coding the proposed cost information.

TD’s previous efforts to include more wholistic fees and charges information on client statements has informed our comments and we would be prepared to share our learnings from that experience with members of the CSA.

We urge regulators to further consider the risks and transition period noted above. If the CSA chooses not to address the risks identified, we anticipate regulators to be inundated with requests for further guidance and exemptive relief from various registrants.

We appreciate the opportunity to provide our comments and welcome the opportunity to discuss these important issues with you in further detail. Should you require any further information please do not hesitate to contact us.

Sincerely,

[redacted]

Raymond Chun
Group Head, Wealth Management
and TD Insurance

[redacted]

Paul Whitehead
Head of Branch Banking
Ultimate Designated Person,
TD Investment Services Inc.