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The Forum for Hedge Funds, Managed Futures and Managed Currencies

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The Manitoba Securities Commission
Financial and Consumer Series Commission (New Brunswick)
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Dear Sirs/Mesdames:

Re: Canadian Securities Administrators ("CSA") Consultation Paper 33-404 Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives toward their Clients (the "Consultation Paper")

Please accept this letter as our submission of comments requested by the Consultation Paper. We, the Canadian section ("AIMA Canada") of the Alternative Investment Management Association ("AIMA") appreciate the opportunity to provide our comments to you on the Consultation Paper. This letter is written by members of the Legal & Finance Committee of AIMA Canada.

About AIMA

AIMA was established in 1990 as a direct result of the growing importance of alternative investments in global investment management. AIMA is a not-for-profit international educational and research body that represents practitioners in alternative investment fund, futures fund and currency fund management - whether managing money or providing a service such as prime brokerage, administration, legal or accounting.

AIMA's global membership comprises over 1,600 corporate members in more than 50 countries, including many leading investment managers, professional advisers and institutional investors. AIMA Canada, established in 2003, now has more than 130 corporate members.

The objectives of AIMA are to provide an interactive and professional forum for our membership and act as a catalyst for the industry's future development; to provide leadership to the industry and be its pre-eminent voice; and to develop sound practices, enhance industry transparency and education, and to liaise with the wider financial community, institutional investors, the media, regulators, governments and other policy makers.

The majority of AIMA Canada members are managers of alternative investment funds and fund of funds. Most are small businesses with fewer than 20 employees and $50 million or less in assets under management. The majority of assets under management are from high net worth investors and are typically invested in pooled funds managed by the member. Investments in these pooled funds are sold under exemptions from the prospectus requirements, mainly the accredited investor and minimum amount exemptions. Manager members also have multiple registrations with the securities regulatory authorities: as Portfolio Managers, Investment Fund Managers and in many cases as Exempt Market Dealers. AIMA Canada's membership also includes accountancy and law firms with practices focused on the alternative investments sector.

For more information about AIMA Canada and AIMA, please visit our web sites at canada.aima.org and www.aima.org.

Comments

Set out below are our comments on the Consultation Paper, broken down by the broad categories set out in the Consultation Paper. Where relevant, we have also responded to the specific questions posed by the Consultation Paper, which have been replicated in each section for ease of reference.

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1. General Comments

AIMA Canada fully supports the CSA's objective to improve the relationship between clients and their advisers, dealers and representatives. The majority of our members are specialist managers of privately offered alternative investment funds selling only their own products. As a consequence we believe that it is important to distinguish the regulatory requirements for such firms from those applicable to multi-product mutual fund managers. This could be achieved through the use of carve-outs where the proposed regulation would not be practically feasible for our members. We also have many members who are fund managers who seek to distribute their investment fund products through registered dealers. In this regard we have significant concerns that the immense know your product obligations for both individuals and Firms contained in the Consultation Paper will have a disastrous impact on all but the largest product manufacturers and result in greatly reduced investment choices for Canadians.

In addition to our comments provided below with respect to the specific questions in the Consultation Paper, we have four general areas of concern:

(a) **Underlying Philosophy for Regulation** - While AIMA Canada supports improving the relationship of registrants with their clients, the Consultation Paper does not clearly address the point at which the investor must take responsibility for their own decisions. Information asymmetry, referred to in the Consultation Paper, occurs in all aspects of an individual's life and consultation with experts is a necessity in our complex world. In our view it is not acceptable to attempt to place a registrant in the position of an omniscient "Big Brother" with respect to their relationship with a client. In conjunction with the regulatory mandate towards investor protection and in the overall best interests of investors, we believe it would be helpful for regulators to implement additional programs and tools to educate investors. This would, in turn, facilitate registrants meeting their regulatory obligations. We ask the CSA to include this important overarching consideration in their deliberations regarding the further development of these proposals.

(b) **Standardization of Regulation** - It is our view that to achieve the objective of improving the relationship between clients and their dealers, advisors and the investment fund managers of the funds in which they have invested, and to ensure a level playing field for both registrants and investors any amendments to NI 31-103 or legislation implementing the Consultation Paper must be implemented in each jurisdiction in the same form to the greatest possible extent. While we recognize that certain provisions of NI 31-103 have maintained some

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distinctions as among jurisdictions because of historical practices and different approaches to regulation and enforcement, as well as concerns about the implications for local markets, we submit that the adoption of any amendments to NI 31-103 contemplated by the Consultation Paper in a manner which differs between Canadian provinces and territories only creates confusion, increases regulatory compliance costs to registrants and results in inequities in the protections afforded to clients across Canada.

In particular, we note that the member entities of the CSA have differing views with respect to best approach to the regulation of the client/registrant relationship. We urge the CSA members to undertake the same approach to the adoption of any best interest standard. It is our view that the adoption of differing best interest standards in the CSA jurisdictions will materially fragment the provision of services to clients of registrants across Canada. We submit that there are no local concerns that should out-weigh the right of all Canadian investors to the same legislative protections. This is particularly important in light of the work underway for the implementation of the Cooperative Capital Regulatory Authority in 2018.

We continue to urge the CSA not to underestimate the benefit to all capital markets participants and registrants wishing to conduct business in Canada and their clients, wishing to invest in Canada, of a nationally harmonized, transparent, cohesive and comprehensive source of securities registration requirements.

(c) **Integration with other CSA Proposals** - In addition to a consistent set of any regulations that are ultimately adopted, we view it as extremely important that there is a consistency of approach with other CSA regulatory proposals. We believe that it will be very important to consider these proposals in conjunction with the both the proposed amendments to National Instrument 31-103 and related National Instruments relating to the offering of alternative funds published on September 22, 2016 as well as the Mutual Fund Fees paper to be released later this year. We urge the CSA to ensure that all of these important initiatives are fully integrated.

(d) **Integration with other Government Proposals** - It is also AIMA Canada's view that the proposals in the Consultation Paper must be fully integrated with the current initiative of the Ontario government with respect to the regulation of financial planning in Ontario, particularly as they relate to KYC and Suitability requirements. We would appreciate a clear outline from the CSA and/or the Ontario

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Securities Commission as to how this will be achieved.

2. *Conflicts of Interest*

CSA Questions

1) Is this general approach to regulating how registrants should respond to conflicts optimal? If not, what alternative approach would you recommend?

2) Is the requirement to respond to conflicts "in a manner that prioritizes the interest of the client ahead of the interests of the firm and/or representative" clear enough to provide a meaningful code of conduct? If not, how could the requirement be clarified?

3) Will this requirement present any particular challenges for specific registration categories or business models?

44) Is it appropriate that disclosure by firms be the primary tool to respond to a conflict of interest between such firms and their institutional clients?

45) Are there other specific situations that should be identified where disclosure could be used as the primary tool by firms in responding to certain conflicts of interests?

46) Is this definition of "institutional client" appropriate for its proposed use in the Companion Policy? For example: (i) where financial thresholds are referenced, is $100 million an appropriate threshold?; (ii) is the differential treatment of institutional clients articulated in the Companion Policy appropriate?; and (iii) does the introduction of the "institutional client" concept, and associated differential treatment, create excessive complexity in the application and enforcement of the conflicts provisions under securities legislation? If not, please explain and, if applicable, provide alternative formulations.

47) Could institutional clients be defined as, or be replaced by, the concept of non-individual permitted clients?

48) Are there other specific examples of sales practices that should be included in the list of sales practices above?

49) Are specific prohibitions and limitations on sales practices, such as those found in NI 81-105, appropriate for products outside of the mutual fund context? Is guidance in this area sufficient?

50) Are limitations on the use of sales practices more relevant to the

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distribution of certain types of products, such as pooled investment vehicles, or should they be considered more generally for all types of products?

51) Are there other requirements that should be imposed to limit sales practices currently used to incentivize representatives to sell certain products?

52) What type of disclosure should be required for sales practices involving the distribution of securities that are not those of a publicly offered mutual fund, which are already subject to specific disclosure requirements?

53) Should further guidance be provided regarding specific sales practices and how they should be evaluated in light of a registrant's general duties to his/her/its clients? If so, please provide detailed examples.

We will address several of the foregoing questions with the response in the following paragraphs.

As noted above, the majority of AIMA Canada members deal primarily in privately offered proprietary alternative investment fund products. As such, when meeting with a prospective client, it is clear to the client that only the firm's products are under discussion and the potential conflict is obvious. The client is making the investment decision, particularly with respect to what proportion of his/her total assets to invest. In these cases we believe that disclosure is the only reasonable course of action. We also note that our members, in their capacity as investment fund managers, already have a fiduciary obligation to their clients. As such, and to the extent an investor has been forthcoming when discussing an investment, its suitability in the context of the client's' overall portfolio and objectives will be assessed as part of the KYC process.

We note that conflict of interest disclosure is currently part of disclosure requirements under applicable securities laws and is normally incorporated into the offering document of a fund or is delivered by the adviser/exempt market dealer as part of the relationship disclosure information provided to clients. We ask the CSA to clarify the following and its expectations vs. the current required disclosures:

(a) Is the goal of the proposed reforms to address all conflicts, or primarily fee conflicts?

(b) What does the CSA specifically consider to be a reasonable basis for believing that clients fully understand the implications and consequences of a potential conflict?

We object to the introduction of the new term "institutional client". We feel

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that the term introduces additional and unnecessary complexity to the regulatory regime. The term "non-individual permitted client" would appear to be sufficient, especially as the definition in the Consultation Paper is a virtual duplicate of that for permitted client in National Instrument 31-103.

With respect to sales practices, the examples noted do not apply to the majority of our members as they only distribute their own proprietary products.

3. Know Your Client

CSA Questions

4) Do all registrants currently have the proficiency to understand their client's basic tax position? Would requiring collection of this information raise any issues or challenges for registrants or clients?

We agree that having an understanding of the clients' basic tax position would improve the registrant's ability to fully service their clients. However, obtaining the basic tax position of a client would require the registrant to obtain their full financial picture which, we suspect, many clients will not be willing to share. Further, individual representatives of registrants servicing high net worth individuals and other accredited investors would require a higher level of proficiency since typically as a client's income increases so does the complexity of their tax position. It is our view that the concept of a "basic tax position" needs to be clearly defined and an income threshold should be added and that higher income earners with more complex tax considerations be required to obtain their tax advice from professional tax advisors.

AIMA Canada supports the objective of ensuring that any KYC information collected from a client is sufficient to support the dealer's determination of the suitability of a particular investment. As the relevant information will vary by investment product, we do not support the creation of a standardized KYC form, but rather we suggest that additional guidance be provided in the Companion Policy as to expectations of what type or relevant information is to be collected. This could include additional guidance as to key aspects of determining a client's risk profile. A registrant's policies and procedures should dictate the level of review required.

We do not believe that it is feasible to require the collection of data about a client's tax position, nor to require its inclusion when assessing suitability. Many clients refuse to provide such personal information. If the regulations required the collection of such data and a client refused, then what does the CSA expect a registrant to do?

In addition, while our registrant members will generally be conversant with

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general tax and planning implications of an investment, they are not financial or tax planning professionals nor should these proposals require them to become experts in these areas. They have the knowledge necessary to meet their obligations as registrants. The discussion about taxes in the Consultation Paper highlights the necessity of coordination with the work of the Ontario government on the regulation of financial planning as noted previously.

5) Should the CSA also codify the specific form of the document, or new account application form, that is used to collect the prescribed KYC content?

6) Should the KYC form also be signed by the representative's supervisor?

54) To what extent should the KYC obligation require registrants to collect tax information about the client? For example, what role should basic tax strategies have in respect of the suitability analysis conducted by registrants in respect of their clients?

55) To what extent should a representative be allowed to open a new client account or move forward with a securities transaction if he or she is missing some or all of the client's KYC information? Should there be certain minimum elements of the KYC information that must be provided by the client without which a representative cannot open an account or process a securities transaction?

56) Should additional guidance be provided in respect of risk profiles?

57) Are there circumstances where it may be appropriate for a representative to collect less detailed KYC information? If so, should there be additional guidance about whether more or less detailed KYC information may need to be collected, depending on the context?

4. Know Your Product - Representatives

CSA Questions

7) Is this general approach to regulating how representatives should meet their KYP obligation optimal? If not, what alternative approach would you recommend?

AIMA Canada has significant and grave concerns for the approach to KYP obligations for both representatives and Firms as currently set out in the Consultation Paper. We feel that the implications of the KYP obligations on both individual representatives and Firms would have a disastrous impact on the ability of alternative investment fund managers who seek to distribute their

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products through other registered dealers (such as IIROC or bank-owned dealers).

In essence, the proposed KYP obligations would require each individual representative of a dealer to "understand the specific structure, features, product strategy, costs and risks of each product their firm trades or advises on". This obligation on a representative to understand a firm's entire universe of investment products is unprecedented and counter to investors' best interests. In the abstract, the proposal has appeal: shouldn't a representative have a strong working knowledge of every single fund on a dealer's shelf in order to pick the best option for his or her client? However, the reality is that dealers (especially larger IIROC dealers) have created comprehensive and expansive product shelves in order to serve a large and diverse investor base in many different communities across Canada. For example, a dealer might approve a similar strategy run by reputable investment managers in several different cities so that representatives across the country can establish strong relationship with local investment managers, including giving investors direct access to those investment managers. A large shelf also serves to mitigate risk for investors and the dealer through a diversification of managers on the basis that more choice is good for investors.

In the experience of AIMA Canada members, representatives use the initial due diligence conducted by the dealer during the shelf approval process as a starting point. They then supplement it with their own due diligence, thoroughly vetting the approved fund managers. The choices made as a result of this "double due diligence" process has served clients well. A double due diligence process would be practically impossible for an individual representative to conduct on an entire shelf of investment products.

Even if the due diligence process was less time consuming, it is not realistic to expect a representative to conduct an extensive review of an entire product shelf. Any representative attempting to do so would be forced to sacrifice investor service levels. And it isn't necessary for a representative to have an encyclopedic knowledge of every fund offering. He or she must be able select funds that suit investor needs and ensure that they have not overlooked a similar fund offering with a strong comparative advantage.

In response to the proposed new obligations, representatives will either reduce their own due diligence process or they will not engage in a "deep dive" on every fund on the shelf. The first response is bad for investors; the second is bad for dealers from a regulatory risk perspective. These practical realities are well understood by dealers. We strongly expect that the proposed new KYP obligations will cause large IIROC dealers to limit the number of investment choices on their shelves in order to reduce the potential for liability.

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Much of the volume of retail securities transactions is concentrated with a few large dealers. Any limitation by those dealers on investment choice will have an out-sized impact on investment fund managers. We submit that the requirement on dealers to offer a "reasonable universe of products" is a difficult standard to apply and enforce and consequently will not have an impact on an inevitable shelf culling.

In other words, the number of investment funds offered to Canadian investors will shrink dramatically. Limiting investment choice is an unintended consequence. It is directly contrary to the spirit of the proposed rules. It is also contrary to the objectives of the recently published proposed amendments to National Instrument 81-102 - *Mutual Funds* and related National Instruments which seek to expand the asset classes available to Canadian retail investors. Investors offered less choice are subject to: (i) higher fees; (ii) poorer performance; (iii) less variety and lack of manager diversification; and (iv) reduced innovation. The investment fund managers most likely to be disproportionately impacted by the proposals are those that offer a small number of funds. That is because the due diligence process is made much more efficient for the dealer if it can conduct a review of one manager that offers a 100 funds as opposed to 3 funds. However, funds offered by smaller investment managers are often the most innovative and arguably deliver the best value to investors.

Instead of subjecting investors to these risks, AIMA submits that the CSA should provide guidance to dealers on what constitutes reasonable due diligence of investment fund products and to recommend that dealers provide regular periodic lists and/or reports on approved products designed to assist their representatives in recommending such products to clients. We feel that such guidance would be consistent with the dealer's obligations under the proposals. The obligation on representatives is incremental to their current obligations and is consistent with a meaningful and effective KYP review, but avoids the unintended and unworkable consequence triggered by the new proposed KYP obligations.

5. Know Your Product - Firms

CSA Questions

8) The intended outcome of the requirement for mixed/non-proprietary firms to engage in a market investigation and product comparison is to ensure the range of products offered by firms that present themselves as offering more than proprietary products is representative of a broad range of products suitable for their client base. Do you agree or disagree with this intended outcome? Please provide an explanation.

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We respectfully submit that if the KYP requirement for Firms is adopted as contemplated in the Consultation Paper, the intended outcome will not be achieved. We feel that any mixed/non-proprietary firms will seek to convert to offering only proprietary products (and perhaps only plain vanilla products or product from only the largest non-proprietary product manufacturers) rather than to attempt to comply with the new unrealistic and daunting KYP requirements. As noted above, the likely outcome is a dramatic decrease in the number on non-proprietary investment product manufacturers and corresponding decrease in choice of investment opportunities for Canadian investors.

9) Do you think that requiring mixed/non-proprietary firms to select the products they offer in the manner described will contribute to this outcome? If not, why not?

We feel that requiring mixed/non-proprietary firms to comply with this requirement is grossly unrealistic. Faced with an ongoing regulatory obligation to scour the market for all available suitable products and to become intimately familiar with each such product is simply not achievable.

10) Are there other policy approaches that might better achieve this outcome?

We respectfully submit that the current free market system works in an acceptable fashion. Mixed/non-proprietary firms are incentivized to present their clients with the best products available for competitive reasons.

11) Will this requirement raise challenges for firms in general or for specific registration categories or business models? If so, please describe the challenges.

As noted above, we feel that the requirement will have a disastrous impact on alternative investment fund managers and smaller investment product manufacturers who seek to distribute their products through mixed/non-proprietary firms. The end result will be that Canadian investors can only choose from proprietary products or products from the largest manufacturers.

12) Will this requirement cause any unintended consequences? For example, could this requirement result in firms offering fewer products? Could it result in firms offering more products?

For the reasons set out in Section 4 and this Section 5, we feel that the likely outcome of the KYP requirement is that dealers will restrict the products they approve for distribution to either proprietary products and non-proprietary products from other large dealers.

If this were to come to fruition, it would result in the death of many non-proprietary investment product manufacturers and dramatically reduce available

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investment product choice for Canadian investors. We urge the CSA to rework these proposals in a reasonable manner that reflects the overall intent of the client relationship model, yet at the same time, encourages a broad array of investment product choices for Canadian investors.

13) Could these requirements create incentives for firms to stop offering non-proprietary products so that they can fit the definition of proprietary firm?

We feel (and fear) that most mixed/non-proprietary firms will seek to convert to being a proprietary firm as they will find it prohibitively costly to invest the time and resources necessary to comply with the KYP requirement as set forth in the Consultation Paper.

14) Should proprietary firms be required to engage in a market investigation and product comparison process or to offer non-proprietary products?

We do not believe that this should be required. The free and competitive market should determine which products are offered by mixed/non-proprietary firms.

15) Do you think that categorizing product lists as either proprietary and mixed/non-proprietary is an optimal distinction amongst firm types? Should there be other characteristics that differentiate firms that should be identified or taken into account in the requirements relating to product list development?

58) Should we explicitly allow firms that do not have a product list to create a product review procedure instead of a shelf or would it be preferable to require such firms to create a product list?

59) Would additional guidance with respect to conducting a "fair and unbiased market investigation" be helpful or appreciated? If so, please provide any substantive suggestions you have in this regard.

60) Would labels other than "proprietary product list" and "mixed/non-proprietary product list" be more effective? If so, please provide suggestions.

61) Is the expectation that firms complete a market investigation, product comparison or product list optimization in a manner that is "most likely to meet the investment needs and objectives of its clients based on its client profiles" reasonable? If not, please explain your concern.

We agree that clients should have the opportunity to interact with firm representatives that have a strong knowledge of their proprietary products and/or access to non-proprietary product reference material that can be used to provide clients with all pertinent information to make an informed investment decision. However, having firms engage in market investigation is highly

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impractical. Not only is this not their core competency, but alternative strategies can be quite difficult to compare given their varying investment strategies, structure, and other factors. Any attempt to require market investigations and comparisons is unfeasible and an interference with the registrant's right to determine their own business model.

6. Suitability

It is our view that the suggested expansion of the suitability analysis while applicable to full service firms with a broad range of products and investment expertise, should not be applicable to registrants offering a specialized product, such as our member firms. We urge the CSA to consider a less prescriptive based approach or provide carve outs of the applicability of the proposed expanded requirements to specialized registrants,

CSA Questions

16) Do you agree with the requirement to consider other basic financial strategies?

17) Will there be challenges in complying with the requirement to ensure that a purchase, sale, hold or exchange of a product is the "most likely" to achieve the client's investment needs and objectives?

We query how registrants will be expected to evaluate the phrase "most likely". Will an analysis of projected returns be expected? The phrase implies a comparison between products and also implies or suggests a guarantee regarding performance. This can be misleading, inappropriate and goes against one of the most fundamental obligations of registrants. We urge the CSA to provide greater detail or clarity.

18) Should there be more specific requirements around what makes an investment "suitable"?

19) Will the requirement to perform a suitability assessment when accepting an instruction to hold a security raise any challenges for registrants?

20) Will the requirement to perform a suitability analysis at least once every 12 months raise challenges for specific registrant categories or business models? For example, a client may only have a transactional relationship with a firm. In such cases, what would be a reasonable approach to determining whether a firm should perform ongoing suitability assessments?

21) Should clients receive a copy of the representative's analysis regarding the

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client's target rate of return and his or her investment needs and objectives?

We do not think this information should be provided. There is a fundamental assumption by both investors and regulators that registrants are experts in their field. Registrants often utilize sophisticated and complex tools, and industry specific financial analysis to assist in the assessment of investments. Our concern is that the registrant's internal analysis methodology and documentation is not customarily prepared for the purposes of being reviewed by clients and will likely be confusing to read and meaningless to investors.

22) Will the requirement to perform a suitability review for a recommendation not to purchase, sell, hold or exchange a security be problematic for registrants?

62) What, if any, unintended consequences could result from setting an expectation in the context of the suitability obligation that registrants must identify products both that are suitable and that are the most likely to achieve the investment needs and objectives of the client? If unintended consequences exist, do the benefits of this proposal outweigh such consequences?

63) Should we provide further guidance on the suitability requirement in connection with ongoing decisions to hold a position?

64) Should we provide further guidance on the frequency of the suitability analysis in connection with those registrant business models that may be based on one-time transactions? For example, when should a person or entity in such a relationship no longer be a client of the registrant for purposes of this ongoing obligation to conduct suitability reviews of the client's account?

7. Relationship Disclosure

We have no comments on this subject.

CSA Questions

23) Do you agree with the proposed disclosure required for firms registered in restricted categories of registration? Why or why not?

24) Do you agree with the proposed disclosure required for firms that offer only proprietary products? Why or why not?

25) Is the proposed disclosure for restricted registration categories workable for all categories identified?

26) Should there be similar disclosure for investment dealers or portfolio

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managers?

27) Would additional guidance about how to make disclosure about the relationship easier to understand for clients be helpful?

23) Do you agree with the proposed disclosure required for firms registered in restricted categories of registration? Why or why not?

24) Do you agree with the proposed disclosure required for firms that offer only proprietary products? Why or why not?

25) Is the proposed disclosure for restricted registration categories workable for all categories identified?

26) Should there be similar disclosure for investment dealers or portfolio managers?

27) Would additional guidance about how to make disclosure about the relationship easier to understand for clients be helpful?

8. Proficiency

In order to comment in meaningful way, we would need to understand what proficiency gap the CSA is targeting. In some respects, we agree there may be a significant proficiency gap. In other cases, we do not think it is necessary to require enhanced proficiency, such as in the case of tax knowledge as previously discussed.

CSA Questions

28) To what extent should the CSA explicitly heighten the proficiency requirements set out under Canadian securities legislation?

We query how proficiency requirements could be heightened other than adding additional course requirements We note that most professional designations require ongoing continuing education and/or professional development.

29) Should any heightening of the proficiency requirements for representatives be accompanied by a heightening of the proficiency requirements for CCOs and UDPs?

It is our view that the standard of proficiency for CCOs and UDPs does not need to be further heightened, since each require their own minimum designations which should indicate proficiency.

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9. Titles and Designations

CSA Questions

30) Will more strictly regulating titles raise any issues or challenges for registrants or clients?

31) Do you prefer any of the proposed alternatives or do you have another suggestion, other than the status quo, to address the concern with client confusion around representatives' roles and responsibilities?

Alternative 1 or 2 is not appropriate for our member firms' business models. In our view, where the manager is a manufacturer of their own proprietary product, asking them to call themselves a salesperson is misleading. The title of salesperson is more appropriate for a representative of a firm who has no accompanying association with the investment decisions.

We propose that the CSA consider implementing alternative titles that fit the retail vs. non-retail environments. The currently proposed titles are misleading in a non-retail environment.

32) Should there be additional guidance regarding the use of titles by representatives who are "dually licensed" (or equivalent)?

33) Should we regulate the use of specific designations or create a requirement for firms to review and validate the designations used by their representatives?

It is our submission that clients should be made aware of representatives that have achieved one of the industry's key national or international designations. These designations should have a description in language that is easy to understand, along with references to their respective websites.

10. Role of UDP and CCO

CSA Questions

34) Are these proposed clarifying reforms consistent with typical current UDP and CCO practices? If not, please explain.

In our view, the CCO should be responsible for the development of policies and procedures, monitoring of the firm's compliance program and escalating any issues to the UDP. The UDP should also be responsible to taking action on material issues and reporting such cases to senior management and board of directors.

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11. Statutory Standard of Conduct

CSA Questions

35) Is there any reason not to introduce a statutory fiduciary duty on these terms?

We do not see a compelling reason for the introduction of a statutory fiduciary duty. It is not clear to us if, in the context of a statutory fiduciary duty, whether "registrant" is intended to mean the firm or the individual. We query how applying a statutory duty to an individual who provides services to a client in his or her capacity as an employee and hence agent of the registrant firm would interface with the same duty applied to the firm itself.

We note that many of our member firms already have a fiduciary duty imposed on them as a consequence of their investment fund manager registration, and as a result recommend they be excluded from ant such further regulation on this point.

12. Regulatory Best Interest Standard

Until there is a harmonized approach across Canada, it is our view that a regulatory best interest standard not be implemented. In any event, a best interest standard does not work for our member firms who provide specialized advice and investment products. These firms cannot act in their clients' best interest without knowing clients' entire financial situation, which they would not have access to, and without having a complete breadth of products to offer them, which our member firms do not have.

CSA Questions

36) Please indicate whether a regulatory best interest standard would be required or beneficial, over and above the proposed targeted reforms, to address the identified regulatory concerns.

37) Please indicate whether you agree or disagree with any of the points raised in support of, or against, the introduction of a regulatory best interest standard and explain why.

38) Please indicate whether there are any other key arguments in support of, or against, the introduction of a regulatory best interest standard that have not been identified above.

65) Should the Standard of Care apply to unregistered firms (e.g., international advisers and international dealers) that are not required to be registered by

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reason of a statutory or discretionary exemption from registration, unless the Standard of Care is expressly waived by the regulator?

66) Do you believe that the Standard of Care is inconsistent with any current element of securities legislation? If so, please explain.

67) Do you agree that the Standard of Care should not apply to the underwriting activity and corporate finance advisory services described above? If not, please explain.

68) Do you think this expectation is appropriate when the level of sophistication of the firm and its clients is similar, such as when firms deal with institutional clients?

13. Impact on Investors, Registrants and Capital Markets

We believe that a "one size fits all" approach should not be applied to all registrant categories. In doing so, the proposals do not take into consideration differing business models, clients (institutional vs. retail) products (prospectus exempt vs. prospectus qualified) and existing standards of care/fiduciary duties. We cannot understate the expected impact that these reforms would have on our members' compliance costs. Beyond a significant overhaul to all existing legal documentation, processes, technology, resource allocation, and training, in order to attempt to comply with items not applicable to our business models we would be investing said cost with no positive impact on our investor base specifically or to the capital markets in general.

CSA Questions

39) What impact would the introduction of the proposed targeted reforms and/or a regulatory best interest standard have on compliance costs for registrants?

40) What impact would the introduction of the proposed targeted reforms and/or a regulatory best interest standard have on outcomes for investors?

41) What challenges and opportunities could registrants face in operationalizing:

(i) the proposed targeted reforms?

(ii) a regulatory best interest standard?

42) How might the proposals impact existing business models? If significant impact is predicted, will other (new or pre-existing) business models gain more

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prominence?

43) Do the proposals go far enough in enhancing the obligations of dealers, advisers and their representatives toward their clients?

Conclusion

In summary AIMA Canada supports the CSA's overall objective of improving the relationship between clients and their advisers, dealers and representatives. However, as noted above we do have significant and grave concerns with respect to various aspects of the proposals and specifically with respect to the KYP proposals for individual representatives and Firms. We appreciate the opportunity to provide the CSA with our views on the Consultation Paper. Please do not hesitate to contact the members of AIMA Canada set out below with any comments or questions that you might have.

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