W. Sian Burgess
Senior Vice President
Head of Legal and Compliance, Canada

BY ELECTRONIC MAIL: jstevenson@osc.gov.on.ca,
consultation-en-cours@lautorite.qc.ca

September 27, 2011

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Nunavut

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55
Toronto, ON M5H 3S8

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22^{e} étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Dear Sirs / Madames:

RE: Proposed Amendments to National Instrument 31-103: Cost Disclosures and Performance Reporting

Thank you for the opportunity to provide comments to the Canadian Securities Administrators ("CSA") on Proposed Amendments (the "Proposed Amendments") to NI 31-103 *Registration Requirements and Exemptions* ("NI 31-103") and to Companion Policy 31-103 *Registration Requirements and Exemptions* ("Companion Policy 31-103CP") related to Cost Disclosure and Performance Reporting.

Fidelity Investments Canada ULC ("Fidelity") is the 6th largest fund management company in Canada and part of the Fidelity Investments organization in Boston ("Fidelity Investments"), one of the world's largest financial services providers. Fidelity Canada manages a total of $66 billion in mutual funds and institutional assets and offers approximately 190 mutual funds and pooled funds to Canadian investors.

Fidelity agrees that providing clear information to investors about the costs and performance of their investment is important. Investors should be aware of the performance of their securities, their funds and their account.

We do have comments relating to the Proposed Amendments which we hope are helpful.

A. Duplication of Disclosure

While this initiative is laudable, we hope that the CSA appreciates that the Proposed Amendments will result in considerable additional cost and complexity for dealers and financial advisers who sell mutual funds. The letter provided to you by the Investment Funds Institute of Canada addresses this issue in some depth. We agree with those submissions and do not propose to repeat those comments here. But it should be taken into account as this initiative is assessed through a thorough understanding of the true impact of this initiative on the dealer firm and the advisor.

There have been several projects which impact mutual funds and those who sell mutual funds over the past two to three years. They are sometimes overlapping and many are aimed at streamlining disclosure or providing investors with more meaningful disclosure. However, the result is a proliferation of the number of documents and the amount of information to be provided to the investor. The original aim of the reform of the disclosure regime for mutual funds was to streamline information received by investors to make the information they receive less confusing and to reduce or eliminate duplication. We think the ongoing layering of disclosure could be unhelpful and confusing to investors in the absence of an initiative to streamline all the information and eliminate some of the documents that they receive.

B. Cost Disclosure

We are particularly concerned about the duplication of information given to investors relating to costs of investing in a mutual fund. We believe that some investors will perceive that investing in mutual funds to be more expensive than it actually is. We fear that investors will believe that costs which are actually the same are additive. The number of places where costs are described is, in itself, confusing.

The terminology around fees and costs appears to be inconsistent between various disclosure documents. For example, the Proposed Amendment mentions "operating charges" yet the Fund Facts discusses "operating expenses". "Operating charges" includes "management fees", but in the Fund Facts "operating expenses" are in addition

to management fees. We would suggest that the CSA consider using consistent terminology across all documents when describing fees to mutual fund investors.

It would be ideal if costs could be described as much as possible in as few as two documents – for example, at account opening (or when investments change) and then annually. It would be much clearer to the investor what the costs are and the risk of duplication and confusion would be eliminated or reduced.

The trailing commissions disclosure on an account basis can be done by fund managers, though there will be significant one time costs to modify systems to allocate trailer fees by account and provide that information to dealers.

Dealers will have to have the systems to combine the reporting coming in from the various fund companies and then be able to report it out to the investor at the account level. We worry about the costs to the dealers of these types of system requirements and we continue to be concerned that initiatives like this work best for the large dealers and less well for small dealers.

C. Inappropriate Switch Transactions

We found it unusual that the Proposed Amendments called out inappropriate switch transactions, when the primary focus is really on disclosure of fees and performance. We view this issue as part of the oversight to be conducted by the Self-Regulatory Agencies in their notices or audits. However, having discussed it in the Proposed Amendments, we feel that the issue was misunderstood both in the Notice and in the Companion Policy.

There are a number of switch transactions which can and do occur which may or may not have a similar impact. In our view, if it is necessary to discuss this issue at all in the Proposed Amendments, the focus of the Notice and Companion Policy should be on harmful switches generally as opposed to calling out one or two of a longer list. In addition, it should be clear that there are sometimes good and strong investment reasons for making switches.

To be more specific, we see:

a. switches from DSC to ISC (same fund)

b. switches from DSC to ISC (different fund but within the same fund complex)

c. switches from DSC to ISC (different fund at a different fund complex with same investment objectives)

d. switches from DSC to ISC (different from at a different fund complex with different investment objectives)

e. switches from ISC to DSC (all the varieties outlined above)

f. switches from DSC to DSC

g. switches when the DSC schedule ends to front load of the same fund. That is actually a feature offered by Fidelity. At the end of the DSC schedule, the units roll to front load with an associated fee reduction. The Notice doesn't recognize this model and should. It is clearly in the best interests of investors to move to front load of the same fund for the associated drop in fees.

It is important to understand that going from front load to back load or from back load to front load or even from back load to back load can both result in additional commissions for a client's account. Arguably, going from front load to back load could be a greater concern if the advisor actually charged a commission originally when purchasing the front load. The reality is that often no commission is charged on a front load sale.

In terms of DSC to ISC, sometimes the aim is to re-commission, which may be unfair to the client. Sometimes, the aim is to introduce a new asset class with attendant new servicing requirements which may indeed be fair.

We think the key message should not be to call out the type of switch specifically in the Notice. Calling out same fund switches in the Notice may leave the impression that back to front switches to *different* funds either at the same fund complex or at a different fund complex are always acceptable.

The Proposed Amendments, if it needs to address this or even be as specific as it is at all, should simply call out switches which result in a new commission to the dealer and advisor and indicate that they must be appropriate for the client and there must be a justifiable investment reason for a new commission. This issue should be (and in most cases is) being policed by the compliance departments at the various dealer firms and by the Self-Regulatory Organizations ("SROs") that oversee those firms.

The last piece to understand is that the switches can occur with 10% free amounts. Again, this is very likely to be appropriate and justifiable since it is generally in the best interest of clients to redeem an amount free of a DSC charge and move it to the front load of the same fund or even a different fund.

D. Fixed Income Yields

The Proposed Amendments specifically require disclosure of the yield of fixed income securities. There is another issue relating to some fixed income or balanced mutual funds which may be worth addressing in the Proposed Amendments. There are mutual funds that promise or aim to deliver a fixed return. So for example, a bond fund might say that it is aiming to deliver a fixed payout of 5%. In many cases, the fixed income won't actually return 5%, and a part of the return will be return on capital. However, some fund companies market that as a "yield". In our view, this is quite misleading and

is sometimes misunderstood by both the financial advisor and the investor. We believe that you should cover this specifically in the Proposed Amendments.

E. Consultation Process

We at Fidelity were surprised when the Proposed Amendments were published. We also participate actively with the Investment Funds Institute of Canada ("IFIC"). IFIC was also unaware of this initiative. The Proposed Amendments indicate that there were consultations with industry. We would encourage a more open dialogue between the regulators and industry when notices and concepts like this are being formulated. Specifically, we would encourage the CSA to speak to IFIC about all regulatory initiatives being considered so that the industry is not surprised by papers such as this and so that a representative view of the industry can be provided in addition to private consultations with industry members.

F. Conflict with SRO Initiatives

We note that both the MFDA and IIROC have developed and published for comment rules that cover the same ground as the CSA's proposals. The CSA approved the MFDA's rules quite recently and the MFDA's new rules on cost disclosure will be come into effect on September 28, 2011 for new clients. The rules on performance disclosure came into effect in June, 2010. Similarly, IIROC published its proposed rules for a 3rd comment period in January of 2011.

There appears to be substantive differences between the CSA's proposal and the rules of the SROs. It would have been helpful to combine these initiatives and bring them out together. The registrants overseen by the SROs are asked to adapt to ongoing rule changes. To the extent that these could be minimized and coordinated it would be better for the industry and investors.

G. Regulation of Competing Products

The CSA continue to aim projects at the mutual fund product. Fidelity agrees that explaining an investment product in a way that is clear, concise and explaining costs is a good thing. But the CSA seem intent on taking mutual funds to a very high standard, while not addressing securities products that compete head on with mutual funds – such as separately managed accounts. In addition, investment products are offered in the form of insurance products. Those products are essentially identical to mutual funds, many without a guarantee, yet without the comparable level of transparency, disclosure and regulation that is applied to the mutual fund product by securities regulators.

The continued drive to regulate mutual funds to the highest standard without fully addressing competing products will mean that the complexity of offering mutual funds will drive advisors and investors to other competing products which are simpler to sell, to buy and do not have the operational and compliance complexity. We think that would be a disservice to mutual fund investors. The mutual fund product is a very appropriate vehicle for retail investors.

When we raise the issue of competing products with the CSA, we often hear that the mandate of the securities regulators relates to securities only. We believe that the mandate of the securities regulators is the protection of investors generally and therefore it is incumbent on the CSA to speak to their overseers to point out and insist on similar investor protections across all regimes.

We thank you for the opportunity to comment on the Proposed Amendments. As always, we are more than willing to meet with you to discuss any of our comments.

Yours truly,

W. Sian Burgess
Senior Vice President
Head of Legal and Compliance, Canada

c.c. Rob Strickland, President
Fidae Abbas, Director, Compliance

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