

Consultation on the Regulatory Framework Applicable to the Mutual Fund Sector

Question 1

Are there any disparities in the structures and operations of Québec-based markets, particularly with respect to the distribution methods for mutual fund securities, that could account for a distinction in regulatory requirements when compared with requirements in other jurisdictions?

Response

No, we do not believe this to be the case.

Question 2

A transition period must be determined (for) the transition of mutual fund firms and representatives under SA (the Securities Act). What would be an appropriate transition period under the circumstances?

Response

It is submitted that one (1) year would be appropriate, which is the length of the transition period that was applied when the Distribution Act came into force in 1999.

Question 3

Would mutual fund firms be able to comply with this new requirement (of being subject to MFDA capital requirements)? If not, explain why and indicate an appropriate transition period under the circumstances.

Response

It is possible that not all small firms would be able to meet the MFDA minimum regulatory capital requirements. However, this new requirement would serve to protect clients of firms, since the MFDA requires submission of a Statement of Early Warning Excess and Statement of Early Warning Test, which would indicate to the regulator that a firm is in financial difficulty and impose restrictions and sanctions to reduce further financial deterioration. In addition, pursuant to MFDA rules, the firms must file their *MFDA Financial Questionnaire and Report* every month as opposed to bimonthly under the *Regulation respecting the trust accounts and financial resources of securities firms* in Québec. One (1) year would be an appropriate transition period in keeping with the transition period for the legislation.

Question 4

(The AMF recommends that mutual fund dealers in Québec be required, as they are across Canada, to subscribe for financial institution insurance for coverage against dishonest conduct or fraud by representatives as well as against loss of securities and forgery). Do you agree with this proposal? If you disagree, please explain.

Response

Yes, we agree with this proposal since it provides additional recovery protection to clients of the firm in the above-noted instances. While the Fonds d'indemnisation of the AMF provides for recovery by clients who have been victims of fraud, fraudulent tactics or embezzlement, the amount that may be claimed is limited to \$200,000 and the claim must be brought within one (1) year from the date on which the client became aware of the fraudulent act. Although additional insurance premiums may be incurred by the firms in order to subscribe for financial institution insurance, it would not present any additional financial obligations for the representatives.

Question 5

(The AMF is considering the repeal of the second paragraph, section 149 of the Securities Act, which restricts a representative of a dealer with an unrestricted practice from concurrently carrying on business as such and being employed by a financial institution, unless the representative is specialized in group savings or scholarship plans). Do you agree with such a proposal? If you disagree, please explain.

Response

Yes, we agree since this restriction does not exist in the rest of Canada and removing it would facilitate harmonization of securities legislation across the country and implementation of the passport registration system.

Question 6

If the second paragraph, section 149 of the Securities Act were to be repealed, how would this impact your distribution activities and structures?

Response

It would not affect our distribution activities and structures.

Question 7

(Option 1 recognizes the MFDA as an industry SRO in Québec with exclusive jurisdiction over mutual fund firms and representatives. Under this option, the CSF would have no jurisdiction over mutual fund representatives). Do you agree with this proposal?

If you disagree (excluding the matter of MFDA membership fees and annual fees), please explain.

Response

We do not purport to express a view as to whether Option 1, 2 or 3 would be preferable. However, we do agree with the harmonization and consistent application of mutual fund rules for dealers across Canada and would accommodate whichever option(s) could achieve this objective.

Question 8

Other than those discussed in paragraphs 1 to 4 (of the Consultation paper), should the recognition decision contain terms and conditions?

Response

Regardless of which option is chosen and whom the SRO is, we believe that it is important for that SRO to establish an office in Québec, which is staffed by agents who are bilingual in French and English and have knowledge of Québec securities legislation.

Question 9

What would be an appropriate transition period under the circumstances?

Response

It is submitted that one (1) year would be an appropriate transition period.

Question 10

(Option 2 recognizes the MFDA in Québec with CSF outsourcing). Do you agree with this proposal? If you disagree (excluding the matter of MFDA membership fees and annual fees), please explain.

Response

Please refer to the above response to Question 7.

Question 11

Other than those discussed in paragraphs 1 to 5 (of the Consultation paper), should the recognition decision contain terms and conditions?

Response

Please refer to the above response to Question 8.

Question 12

What would be an appropriate transition period under the circumstances?

Response

Please refer to the above response to Question 9.

Question 13

What are the benefits and inconveniences of recognizing the CSF as an industry SRO for the mutual fund sector, taking into account the fact that membership fees and annual fees would be the same as those prescribed by the MFDA?

Response

Please refer to the above responses to Questions 7 and 8.

Question 14

What would be an appropriate transition period under the circumstances?

Response

Please refer to the above response to Question 9.