

Investment funds: Delivery of Fund Facts for subsequent purchases under an asset allocation service

1. Introduction

The *Autorité des marchés financiers* (the “Authority” or “we”) has been informed of questions from industry participants relating to the requirement for dealers to deliver the most recently filed Fund Facts (the “Fund Facts delivery requirement”)¹ to purchasers at the time of certain transactions of the mutual funds held in a model portfolio offered by certain investment fund managers under an asset allocation service² (a “model portfolio”), specifically, the following transactions:

- rebalancing trades;
- weighting changes.

The Authority would therefore like to inform industry participants that it is prepared to consider granting discretionary exemptions setting out similar conditions to those under the statutory pre-authorized purchase plan exemption provided for in section 3.2.03 of Regulation 81-101 (the “PPP exemption”).

2. Background

Since May 30, 2016,³ under the PPP exemption, dealers have not been required to deliver the most recent Fund Facts to a purchaser for subsequent purchases of mutual fund securities under a pre-authorized purchase plan and the stipulated conditions are satisfied.

“Pre-authorized purchase plan” is used within the meaning defined in Regulation 81-101, that is, “a contract or other arrangement for the purchase of securities of a mutual fund, by payments of a specified amount, on a regularly scheduled basis, and which can be terminated at any time.”

Industry participants have inquired whether the PPP exemption could apply to rebalancing trades or weighting changes in a model portfolio.

3. Comments

There are several types of asset allocation services, not all of which can be addressed in this notice. We acknowledge that each model portfolio has its own specific features, which are set out in a contract or other arrangement between the purchaser and the investment fund manager. As such, our comments concern only the above-mentioned two types of transactions that can trigger the Fund Facts delivery requirement.

Rebalancing trades — If the weighting of the mutual funds in a model portfolio varies in relation to the initial asset allocation, rebalancing trades can be carried out on pre-

¹ Section 29 of the *Securities Act*, CQLR, c. V-1.1, and section 3.2.01 of Regulation 81-101 respecting Mutual Fund Prospectus Disclosure, CQLR, c. V-1.1, r. 38 (“Regulation 81-101”).

² Within the meaning of Regulation 81-102 respecting Investment Funds, CQLR, c.V-1.1, r. 39.

³ Before May 30, 2016, dealers were able to benefit from the blanket order related to Fund Facts delivery under a pre-authorized purchase plan (Decision No. 2014-PDG-0052, dated May 13, 2014 – in French only).

determined dates. These trades do not necessarily result in payments “of a specified amount, on a regularly scheduled basis.” Given that fluctuations in the value of mutual funds are not constant, regularly scheduled purchases of a specified amount would not systematically be made for each fund.

In such cases, we could not conclude that dealers would be able to rely on the PPP exemption when rebalancing the funds held in a model portfolio, because one of the criteria of the pre-authorized purchase plan definition would not be satisfied. The most recently filed Fund Facts would therefore have to be delivered prior to the rebalancing trade.

Weighting changes — The contract or other arrangement relating to the model portfolio may include a clause that allows the investment fund manager to change the weighting originally established for the funds held in the model portfolio, once advance notice has been sent to holders.

In such cases, delivery of the most recent Fund Facts is required, as this transaction would not, generally speaking, satisfy the PPP exemption criteria.

Fund Facts highlights key information about a mutual fund, so that purchasers can make informed decisions. They decide to purchase the securities of the mutual funds held in a model portfolio upon signing an agreement relating to this service. Before the first purchase is made, the dealer must provide the purchaser with the Fund Facts for the funds held in the model portfolio, so that the purchaser can examine its contents.

Through a recent exemption,⁴ the Authority acknowledged the arguments put forward by some filers contending that purchasers are not required to make any new investment decisions when rebalancing trades or weighting changes are made. Consequently, in these circumstances, an exemption from the Fund Facts delivery requirement would not be detrimental to the protection of investors.

The Authority therefore wishes to inform industry participants that it would be prepared to consider granting discretionary exemptions with conditions similar to those under the statutory PPP exemption so that participants would not be required to deliver the Fund Facts in connection with rebalancing trades and weighting changes when certain criteria of the pre-authorized purchase plan definition are not satisfied. Furthermore, in the Notice published by the Canadian Securities Administrators (the “CSA”) on December 11, 2014 regarding the implementation of pre-sale delivery of the Fund Facts, the CSA indicated that it was prepared to consider requests for exemptive relief in the appropriate circumstances. Requests should contain sufficient information about the plan’s features and be supported by appropriate reasons to enable the Authority to consider them.

Questions

For any questions, please contact:

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⁴ For example, Decision No. 2016-SMV-0035, dated September 8, 2016.

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