

December 20, 2021

VIA EMAIL

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**Re: OSC Notice 11-794 – Request for Comments Regarding Statement of
Priorities for Financial Year to end March 31, 2023 (the “SoP”)**

The Canadian Advocacy Council of CFA Societies Canada¹ (the “CAC”) appreciates the opportunity to provide the following general comments on the SoP. We are supportive of many of the priorities set out in the SoP, as well as the general process for engaging stakeholders in a timely manner.

Under the OSC’s first goal, promoting confidence in Ontario’s capital markets, we are strongly supportive of the implementation of the ban on the use of DSCs, and of trailing commissions where no suitability determination is made. We believe these practices created irresolvable conflicts of interest between registrants and their clients.

We also wish to reiterate prior comments made in past consultation responses that we strongly support the strengthening of OBSI’s decision making authority. We believe OBSI’s role as an independent dispute resolution service for the securities industry should be supported in order to further foster investor protection and confidence in the Canadian capital markets. We believe it important that the limits on OBSI’s compensation recommendations be raised from the current \$350,000 as soon as possible to encourage further use. Under priority 1.5, it is specifically noted that the OSC will provide an analysis of a framework for binding decisions of a dispute resolution

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 19,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors’ interests come first, markets function at their best, and economies grow. There are more than 178,000 CFA Charterholders worldwide in over 160 markets. CFA Institute has nine offices worldwide and there are 160 local member societies. For more information, visit www.cfainstitute.org.

service, such as OBSI, in Ontario within increased claim limits. We would appreciate if such analysis would be made public.

We believe that while progress has been made on adding protections for vulnerable clients, that more proactive and forward-looking policy research should be undertaken in this area for a better understanding and adaptation of the client-registrant relationship and regulation to the unique challenges of aging and vulnerable clients. While this might demand rulemaking, we're of the view that focused outreach and a dedicated research effort similar to that undertaken from the general perspective of investor behaviour would also be a worthwhile addition to act in an expert advisory capacity to other branches within the OSC. Given the particular concentration of wealth at this juncture in an aging segment of the Canadian population, demands for expertise here will only increase in coming years. We believe this calls for research and policy leadership.

One specific priority we would like to see addressed under the banner of promoting confidence in Ontario's capital markets would be a holistic review of proficiency requirements for registrants. While we understand that this would necessarily be a CSA project, we note that our capital markets are consistently becoming more complex, and it would be helpful to prioritize ensuring that all gatekeepers to the capital markets are adequately prepared for this complexity and innovation.

The OSC's second goal is to modernize the regulatory environment, and priority 2.1 indicates the OSC will implement an enhanced framework for modernizing regulation. While we are strong supporters of modernization, we are unclear as to the exact actions and timelines that will be undertaken under this priority to which staff will be held accountable. It would be helpful to provide additional information with respect to how these actions will impact the experience of stakeholders.

We think market participants would also benefit from additional specificity with respect to the OSC's third goal of facilitating financial innovation. In particular, the objective of financial innovation is unclear in the SoP – is it for the purposes of additional capital formation? Any specific actions and timelines for engaging and supporting novel businesses that contain information about actions to be taken, in addition to references to the new OSC TestLab, would be helpful. For example, if there are certain provisions of securities legislation from which staff is open to providing exemptive relief or if there are tailored internal guidelines for review of novel applications, that information should be disseminated as it would be useful for business planning purposes in the marketplace. Additionally, if the OSC is hiring or training staff to assist with capital formation through innovative businesses, such information would be useful to share with the market.

In addition, we note that one of the priorities under the third goal is to support and enable the use of technology and open data in our capital markets. While we agree that these are important priorities, it is important to recognize the ever-increasing cost of data and the barriers to entry that certain organizations that collect relevant data may already

have over its use. We understand that innovative businesses that try to improve the user experience rely on data that is increasingly difficult to obtain. Any regulatory response that involves open data must take into consideration bringing down the cost of data such that it is more accessible to retail investors. Given the vast amounts of data already collected by the OSC and other regulators, it may be possible for those organizations to house the data formatted in standardized formats and help provide it to the market (perhaps with certain data elements available via APIs) as an engine for innovation, rather than have the data aggregated and reproduced for wider consumption exclusively by external for-profit businesses.

The OSC's fourth stated goal is to strengthen its organizational foundation. The CAC is deeply supportive of the priority to foster inclusion and diversity in the OSC community. We believe a broad, holistic discussion must be held throughout securities regulatory authorities at the highest levels with respect to diversity, including diversity of decision makers and capital allocators. As the tone for organizations starts at the top, each securities regulatory authority and the CSA could consider organizational statements so that common principles on diversity, equity and inclusion filter down uniformly throughout the regulators.

Commitment to implement the BlackNorth Initiative (BNI) CEO pledge is laudable. However, Indigenous reconciliation is surprisingly not mentioned alongside this commitment in the SoP. Data from reporting issuers indicates significant Indigenous under-representation within senior management and boards, and anecdotal evidence suggests significant under-representation within registrants and at securities regulators in Canada. We call on the OSC to educate staff by implementing Truth and Reconciliation Call to Action 57 (Professional Development and Training for Public Servants). We also call on the OSC to embrace Call to Action 92 (Business and Reconciliation) and work to ensure representation of Indigenous peoples within the regulator and in the capital markets more broadly. We would suggest that these initiatives might be best implemented through and across the CSA, and that these might form the basis for a wider CSA initiative on Indigenous reconciliation.

We believe that through additional data collection on diversity in the capital markets (beginning with information that could be gathered from registrants through the existing NRD system, and potentially expanding to other market participants), additional progress can be made on this front for both research purposes and policy insight. On a related note, CFA Institute is currently in the process of developing a draft diversity, equity and inclusion code to promote progress across the investment industry.² Gathering as much data as possible from market participants helps to inform the conversation about current-state and helps to set the bar for future advancements.

We continue to support the SEDAR+ project, and welcome any acceleration that could be initiated for this undertaking. It is important for end investors and analysts to be able

² Online: <www.cfainstitute.org/en/ethics-standards/codes/diversity-equity-inclusion>.

to more readily access important documents on a consistent and programmatic basis. The reality of emerging technologies is such that investors expect information to be much more accessible, and if information is too difficult to locate it could discourage those needing the documents from seeking them out. We strongly believe that revised timelines, milestones, and information on forthcoming feature enhancements for these and other information technology projects should be published as part of a wider improvement in transparency relating to technology projects within the OSC and across the CSA on the OSC website or by the CSA. The current lack of transparency and public accountability could lead to a loss in market confidence that technology projects are being progressed efficiently and effectively by the CSA.

Concluding Remarks

We support efforts to continually include stakeholders in consultations with respect to the important process of setting annual goals and priorities. We look forward to continuing to work with all relevant stakeholders as these priorities and many of the recommendations from the Capital Markets Modernization Taskforce are implemented.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

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