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Chair Summary **Canadian Advocacy Council**



Cristina Lopez, CFA
Chair, Canadian
Advocacy Council

Summer is quickly drawing to a close and I'm hoping all our members have enjoyed it to the best of their abilities. Work at the CAC continues although the summer letter drafting has predictably slowed during July and August, but a full plate lays in front of us heading into September and October.

During August, the CAC submitted a letter addressing IROC's Proposed Guidance on Know-your-client and Suitability Determination. The letter was featured in [Investment Executive](#) highlighting the CAC's position that proposed guidelines would benefit from additional specificity regarding KYC information and how it relates to suitability determination and ensuring this data collection isn't simply a compliance exercise.

As highlighted in last month's newsletter, the CAC is drafting a letter regarding CSA's proposed amendments to NI 51-102 on Continuous Disclosure Obligations. The Council continues to look at the potential benefits of combining certain continuous disclosure documents. Look for a full summary in next month's highlights.

On behalf of the CAC, we wish all our members the best as they head into the fall and navigate the continued macro uncertainties that surround a potential return to work or school.

Published Comment Letters **Canadian Advocacy Council**

IROC Proposed Guidance on Know-your-client and Suitability Determination (Filed August 20, 2021)

About the notice

The Proposed Guidance would replace the existing KYC and suitability guidance in its entirety and is intended to conform IROC's guidance in all material respects to the CSA's CFRs. The new guidance explains IROC's expectations on the collection of KYC information, its interpretation of certain terms, its expectations on how dealers can in fact "put the client's interest first" and confirms that KYC requirements are not one-size fits all but depends on a member's business model, service offerings and clients. Similar to the MFDA's guidance, IROC states that dealers should apply the guidance and the suitability determination requirements to all investment products offered, and not just securities. With respect to specific dealer models, the guidance notes that while the KYC obligation is generally the same for all accounts, some exceptions exist for accounts such as OEO or DEA accounts. The suitability determination obligation not only applies before taking or recommending an investment action for a retail client, but the order type, trading strategy, fee structure and method of financing must also be suitable (and put the client's interests first). In the guidance, IROC clarifies that it will not review suitability determinations in hindsight, but rather on the basis of what a reasonable dealer or registered individual would have done in the same circumstances.

Overview of the Council's Comments

The CAC recommended that several additional items be added to the proposed know-your-client and suitability processes.

We strongly support efforts to allow dealers to tailor their own policies for the CFR requirements in light of their business models and the type of services provided to their clients. We believe that the Proposed Guidance would benefit from additional specificity regarding the KYC information to be collected as it relates to the suitability determination, as it currently may have the unintended result of encouraging the gathering of client information simply as a compliance exercise.

In particular, the CAC believes that there should be additional guidance around account-type suitability and the requirement to consider a "reasonable range" of alternatives. Additionally, as part of the KYC information that dealers must collect, the Proposed Guidance outlines details that should be obtained about a client's personal circumstances. While an individual client's date of birth and family situation are mentioned as examples, the Proposed Guidance does not specifically contain a reference to the number of dependents (other than with respect to a determination of risk capacity) and potential vulnerabilities (other than with respect to ensuring extra care is taken to explain the KYC process). We believe these items should be considered "essential facts" to be obtained for each client.

Response Drafting in Progress **Canadian Advocacy Council**

BCSC Proposed Instrument 51-519 Promotional Activity Disclosure Requirements (Due July 26, 2021)

About the notice

The proposed instrument sets out a framework for required disclosure relating to promotional activities. The proposals are in part a response to issues earlier identified by the CSA of misleading promotional activities, including campaigns that provided unbalanced material claims about reporting issuers. The proposals would require issuers to include specific information about their promotional activities when they are undertaken, including a description of the compensation paid to third parties, any interest in any security or derivative that is the subject of the promotional activity, and each platform or medium through which the activity is being conducted. Certain of such information must also be provided in response to an inquiry relating to promotional activities when a third party is retained or compensated to conduct promotions. Venture issuers would have additional obligations, such as a requirement to include specific information about promotional expenses in their MD&A if total expenditures on promotional activities exceed 10% of the issuer's total operating expenses in any annual or interim period. Venture issuers would also have to issue and file a news release that includes specified information if they retain or compensate a person to engage in promotional activity. Certain activities would be excluded from the application of the instrument, including promotional activity conducted by directors, officers, or employees (who identify themselves as such), registrants when conducting registrable activities, and activities of investment funds or persons engaged in promotional activity in respect of such funds.

CSA Proposed Amendments to NI 51-102 Continuous Disclosure Obligations and Other Amendments and Changes Relating to Annual and Interim Filings of Non-Investment Fund Reporting Issuers and Seeking Feedback on a Proposed Framework for Semi-Annual Reporting – Venture Issuers on a Voluntary Basis (Due September 17, 2021)

About the notice

The CSA is proposing amendments to NI 51-102 in order to streamline and clarify continuous disclosure requirements for reporting issuers other than investment funds. The proposed amendments would include consolidating the MD&A form with the AIF form and financial statements into new annual and interim disclosure statements. It is noted that the SEC Form 10-K similarly presents that information in one document. The proposed amendments will eliminate some disclosure requirements that have been deemed duplicative or redundant, such as the current MD&A requirement to disclose summary information for the last 8 quarters as the information can be located in previous filings. A few new requirements will be added to address reporting gaps in disclosure, such as a requirement for issuers to describe their businesses in their MD&A. The final amendments are expected to be effective December 15, 2023 and various transition provisions have been proposed. The CSA expects the amendments will streamline reporting and increase reporting efficiency for reporting issuers while increasing the quality of the disclosure for investors. Consequential amendments to other instruments and rules will be required.

The CSA has also requested comments on a framework for venture issuers that would allow them to report semi-annually on a voluntary basis if they are not SEC issuers, and provide alternative disclosure for interim (quarterly) periods where financial statements and MD&A are not being filed.

FCAA Saskatchewan - The Financial Planners and Financial Advisors Act – Notice of Proposed Regulations and Request for Comment (Due October 1, 2021)

About the notice

The Financial and Consumer Affairs Authority of Saskatchewan released draft regulations for its local rules relating to title protection, which are based on Ontario's framework of requiring approval for credentialing bodies ("CBs") and their financial planner / financial advisor credentials but which recognizes provincial distinctions. The draft regulation establishes approval criteria for CBs as well as for credentials in order for a person to be permitted to use the title of financial planner or financial advisor. Examples of baseline competency profiles are set out in the consultation, including expected client outcomes when dealing with retail clients. The regulations include a "best interest" standard of care, including that an FP or FA must put the client's interest first when making suitability determinations. The FCAA is seeking comments on a number of specific questions, including examples of titles that could reasonably be confusing with the title of financial planner or financial advisor. The transition period for persons utilizing the title of financial planner or financial advisor without a recognized credential is proposed to be four years for the financial planner title and two years for the financial advisor title (from the date the regulation comes into force, and only if the title was already in use as of July 3, 2020).

CSA Position Paper 25-404 – New Self-Regulatory Organization Framework (Due October 4, 2021)

About the notice

The position paper sets out the CSA's vision for creating a new SRO to replace IROC and the MFDA, and a new, separate investor protection fund to replace both the CIPF and the IPC. In forming its proposal, the CSA outlined a number of concerns expressed by industry and concluded that the proposed new SRO offered solutions to those issues, including enhanced governance, consistent regulatory requirements, investor education, robust enforcement mechanisms, appropriate oversight, and a reduction in regulatory redundancies. The first phase of the project will focus on the design of the new SRO and IPF and integration of the existing entities into the new framework, including a new governance structure and harmonization of rules, compliance, enforcement processes and fee models. The second phase of the proposal would consider adding in registration categories in addition to investment dealers and mutual fund dealers that could be subject to the new SRO's oversight in future. As part of the project the CSA is also forming or meeting with existing working groups to consider other issues, such as those that are Quebec specific, the ability to have directed commissions / incorporated salespersons, and whether OBSI should have binding decision making authority.

Department of Finance Consultation on Strengthening Canada's External Complaint Handling System in Banking (Due October 14, 2021)

About the notice

The consultation document follows a review of the complaint handling process in banking and Canada's external complaint handling bodies ("ECBs") completed by the Financial Consumer Agency of Canada. It seeks views on the guiding principles and structural considerations for the system going forward. The report identified some concerns regarding the current system, including that the multiple model (with more than one complaint handling body) may undermine consumer trust, add complexity, impact impartiality and complicate regulatory supervision. All banks in Canada must belong to an ECB, which must be approved by the Minister of Finance on the recommendation of the FCAC Commissioner. There are two approved ECBs, the ADR Chambers Banking Ombuds Office (whose parent firm operates on a for-profit basis) and the Ombudsman for Banking Services and Investments. The consultation paper suggests that a strong complaint handling system would empower consumers by ensuring they have the ability to clearly set out their complaint with evidence and help them understand the reasons for the final decision of the ECB. Questions in the consultation relate to the structural considerations of allowing banks to choose their ECB, and also solicits views on the attributes of an effective system, such as an ECB's profit structure, funding model, functions, complainant assistance, governance structure, and whether recommendations should be binding.

FCNB Notice of Public Consultation - Regulation of Financial Planner and Financial Advisor Titles (Due October 25, 2021)

About the notice

The Financial and Consumer Services Commission of New Brunswick ("FCNB") released a consultation paper on a framework for the financial planner and financial advisor titles used by financial professionals. The existing proposals in Ontario and Saskatchewan are noted, as well as the fact that Saskatchewan will have different penalties and enforcement provisions for people who use protected titles without authorization. Saskatchewan will also have a process for approving credentialing bodies that have already been approved in another province. The FCNB is seeking feedback on a number of questions, including whether New Brunswick should follow the framework in Ontario and Saskatchewan. It also asks if it should adopt enforcement powers similar to those available in the Saskatchewan legislation, and a simplified method for approving credentialing bodies already credentialled elsewhere in Canada. The FCNB is also considering setting out a list of prohibited titles as is currently the case in Québec, including titles such as "financial consultant" and "private wealth advisor" which are considered to be confusing to the "financial planner" title. In contrast, Ontario's FSRA has set out a list of examples of potentially confusing titles.

CSA Notice & Request for Comment – Proposed Amendments to NI 45-106 Prospectus Exemptions to Introduce the Listed Issuer Financing Exemption (Due October 26, 2021)

About the notice

The CSA's proposed new prospectus exemption would be limited to sales of specified securities of reporting issuers that are already listed on a Canadian stock exchange, and that have been reporting issuers for at least 12 months. It is premised on the issuer having up to date public disclosure. It would require the issuer to prepare a short update offering document with prescribed information, including any new developments in the issuer's business and confirmation that it will have sufficient funds for at least 12 months. Before soliciting purchasers, issuers would have to file a news release about the distribution and the offering document. There is a proposed offering limit of the greater of \$5 million or 10% market cap to a maximum of \$10 million. In addition, the offering can not result in more than 100% dilution for existing shareholders. The exemption could not be used by issuers whose principal assets are cash or its exchange listing, nor by an issuer that intends to use the proceeds for a significant transaction such as an acquisition that would require shareholder approval. Purchasers would have rights under the secondary market civil liability regime, and a contractual right of rescission against the issuer for a period of 180 days in the event of a misrepresentation. The issuer would be required to report sales by filing an exempt trade form but would not be required to complete the schedule that contains the names of the purchasers. The exemption is intended to facilitate offerings for issuers instead of using a short-form prospectus. The securities issued pursuant to the exemption would not be subject to any hold period.

****If you would like to participate or provide comments to ongoing initiatives, please contact cac@cfacanada.org****

Volunteer Spotlight **Canadian Investment Performance Council**



Paul Boaden, CFA, CIPM

Paul has served on the CIPC since June 2019.

Paul is a Senior Manager, Performance & Analytics at RBC Global Asset Management (RBC GAM) in Toronto. He joined the performance team at RBC GAM in November 2006 and is currently responsible for leading a global team that calculates, analyzes, presents, and reports on numerous outcomes. Reports include trailing performance, equity and fixed income attribution, ex-post risk, including portfolio characteristics across multiple asset classes. In addition, Paul oversees RBC GAM's compliance with the GIPS Standards and annual verification process.

Prior to joining the RBC GAM team, Paul worked for State Street Canada for 5 years. Paul became a CFA charterholder in 2006 and earned his Certificate in Investment Performance Measurement (CIPM®) in 2010.

1. What is it about volunteering with the CIPC that appealed to you most?

The opportunity to work/network with so many talented and passionate performance professionals from across Canada, while providing the opportunity to advocate for the challenges/opportunities that Canadian investment managers face when implementing the GIPS standards.

2. Why do industry standards like GIPS matter to you (and your firm)? Why do you think promotion of industry standards like the GIPS standards is important?

The GIPS standards are the only globally recognized standard for performance measurement which provides best practices for calculation methodology, and the disclosures needed to create a level playing field for investment managers when competing for new business across the globe.

News

CFA Societies Canada ESG Working Group Responds to CFA Institute's Exposure Draft of the CFA Institute ESG Disclosure Standards for Investment Products



On May 19, 2021 CFA Institute, in collaboration with its volunteer ESG Technical Committee released an [Exposure Draft of the CFA Institute ESG Disclosure Standards for Investment Products](#). The Standards establish disclosure requirements for investment products with ESG-related features. The purpose of the Standards is to provide greater transparency and consistency in ESG-related disclosures, resulting in clearer communication regarding the ESG-related features of investment products.

On July 14, 2021 CFA Societies Canada ESG Working Group submitted a response to the Exposure Draft.

[Read More](#)



New Firms Claim GIPS Compliance

We congratulate the following firms on their recent claim of compliance with the CFA Institute Global Investment Performance Standards (GIPS®) and commend their ongoing commitment to the highest standards of professionalism, disclosure and transparency:

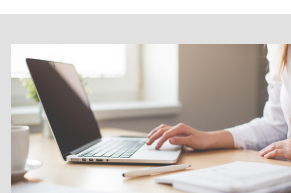
- Fulcra Asset Management Inc.
- Power Pacific Investment Management Inc.
- Vestcap Investment Management Inc.
- Invesco Canada Ltd.
- Steepe & Co Ltd.

Find out the steps your firm can take towards claiming compliance.

[Learn More](#)

New Firms Claim Asset Manager Code Compliance

We congratulate the following firms on their recent announcement of compliance with the CFA Institute Asset Manager Code™, the highest standards of professional responsibility and ethics:



- Fulcra Asset Management Inc.
- Power Pacific Investment Management
- QV Investors Inc.
- Qube Investment Management Inc.

Find out how your firm can claim compliance.

[Learn More](#)

The Canadian Advocacy Council, on behalf of CFA Societies Canada, advances investor protection, industry professionalism, market integrity and transparency to the benefit of society.



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Next Meeting Scheduled: Tuesday, September 14, 2021 at 4:15 pm EDT.

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