

April 2020

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## Chair Summary

## Canadian Advocacy Council



**Parham Nasser, CFA**  
Chair, Canadian  
Advocacy Council

For many of us, April was a furiously busy month that flew by in a flash. While the Canadian and global capital markets zig-zagged, the CAC held many insightful discussions regarding the four outstanding regulatory consultations and pursued a series of proactive advocacy initiatives. These meetings and discussions served as yet another example of the quality and calibre of thought leadership within the CAC.

For example, the team's April meeting was focused on providing input on a submission to Ontario's Capital Markets Modernization Taskforce. In short, the taskforce is exploring avenues to attract and grow capital markets and financial businesses that support and sustain an innovation economy. In this light, the CAC's diversity and domain expertise proved to be key as many innovative and thought-provoking ideas were generated and debated amongst the team. While this workstream is still in progress, the output will be a key testament to the CAC's ability to gather deep market intelligence that strives to advance market integrity, transparency and investor protection, on behalf of CFA Societies Canada and Canadian CFA charterholders.

## Response Drafting in Progress

## Canadian Advocacy Council

**Proposed NI 52-112 and 52-112 CP Non-GAAP and Other Financial Measures Disclosure (Due May 13, 2020)***About the notice*

The CSA is setting out a revised proposal that would set disclosure requirements for certain non-GAAP financial measures, non-GAAP ratios and other financial measures (as defined) and would apply to fewer documents and issuers than originally proposed in an earlier version of this proposed NI in 2018. The disclosure requirements have also been simplified in response to feedback and regulatory burden reduction considerations and to better align disclosure requirements with those of the SEC. The proposals are intended to deal with financial measures that may lack standardized meanings and lack transparency, or that lack context when reviewed outside of the financial statements.

The proposals codify current guidance which currently applies to all issuers that disclose non-GAAP financial measures, but would exempt investment funds, SEC foreign issuers and designated foreign issuers. In addition, incorporation by reference to an issuer's MD&A of certain information would be permitted. The scope of the term "non-GAAP ratio" has also been reduced to only include ratios where a non-GAAP financial measure is used. Disclosure requirements for

forward-looking non-GAAP financial measures has been reduced, particularly with respect to the reconciliation requirements.

Specific documents would not be included within the scope of the rules, such as pro forma financial statements and valuation reports, or financial measures disclosed as required by law or an SRO. The rules would only apply to non-reporting issuers in certain contexts, such as those using the offering memorandum prospectus exemption.

### **Proposed OSC Rule 81-502 and 81-502 CP Restrictions on the use of the Deferred Sales Charge Option for Mutual Funds (due May 21, 2020)**

#### *About the notice*

The OSC is proposing restrictions on the ability of dealers to sell mutual fund securities with a Deferred Sales Charge ("DSC") option. Sales would not be permitted to certain clients, including those over the age of 60, whose investment time horizon is shorter than the DSC schedule, whose account size is over \$50,000 or who use borrowed money to purchase the securities. In addition, dealers could not accept commissions on reinvested distributions and only for new contributions to a client account.

Dealers would have to ensure that redemptions fees are not levied on investors in certain circumstances, including permanent disability or involuntary loss of full time employment; in short, the OSC is setting out more specifically the factors dealers will need to take into account in their suitability determinations.

Investment fund managers offering a DSC series would need to ensure the maximum term of the redemption fee schedule is no longer than 3 years, clients could redeem 10% of the value of their investments (on a cumulative basis) without fees each year, and that the DSC option is placed in its own series of units (to ensure there is no cross-subsidization of larger management fees from other unitholders). It is anticipated the rule would come into force on June 1, 2022 to coincide with the ban on DSCs being implemented in all other Canadian jurisdictions.

### **CSA Proposed NI 45-110 Start-Up Crowdfunding Registration and Prospectus Exemptions (Due May 27, 2020)**

#### *About the notice*

The proposed National Instrument and related guidance attempt to harmonize the framework for securities crowdfunding by start-ups and early stage issuers. The instrument would provide a prospectus exemption to allow a non-reporting issuer to distribute eligible securities through an online funding portal and a registration exemption for funding portals.

The prospectus exemption would be subject to a number of conditions, including that the aggregate gross proceeds raised by the issuer (and certain others) during the prior 12-months cannot exceed \$1,000,000 and that each purchaser would be limited to investments of no more than \$2,500 or, if the purchaser has advice from a registered dealer, \$5,000. While the issuer would need to prepare a prescribed offering document and provide the purchaser with a two-day withdrawal right, it would not be required to provide financial statements or any other continuous disclosure documents.

The registration exemption would also be subject to conditions, including prior filings by the portal with the securities regulatory authority of a completed information form, the funding portal must hold each purchaser's assets separate and apart from the funding portal's own property, and in the case of cash, in a designated trust account at a Canadian financial institution, and the funding portal cannot provide advice to a purchaser or receive a commission, fee or other similar payment from a purchaser. A firm registered as an EMD or investment dealer may operate a funding portal provided that it meets the requirements set out in the proposed National Instrument.

### **CSA Proposed Amendments to NI 31-103 and 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations to Enhance Protection of Older and Vulnerable Clients (Due June 3, 2020)**

#### *About the notice*

The proposed amendments are intended to address financial exploitation and diminished mental capacity in vulnerable clients (i.e. those at risk of exploitation because of an illness, impairment, disability or aging process limitation).

Registrants (including those regulated by SROs) would be required to take reasonable steps to get a name and contact details of a trusted contact person ("TCP") that the registrant could contact in prescribed circumstances. The TCP would be a resource to help protect the client, but wouldn't be the same as an individual appointed under a Power of Attorney or have the authority to transact. The proposed amendments would also provide a "safe harbour" to place a temporary hold on the purchase or sale of a security, or the withdrawal or transfer of securities or cash from an account if the firm reasonably believes that a vulnerable client is being financially exploited or that the client does not have the mental capacity to make financial decisions with respect to an instruction given by them. The firm would have to take a number of steps if they did put a temporary hold on an account, including providing the client with notice of any decision to continue the hold at least every 30 days.

**\*\*If you would like to participate or provide comments to ongoing initiatives, please contact [cac@cfacanada.org](mailto:cac@cfacanada.org)\*\***

## Volunteer Spotlight



### Milos Vukovic, CFA

Milos is Vice President, Investment Policy at RBC Global Asset Management. He joined RBC in 2003 and is responsible for overseeing various investment management related activities including new solution design and development, performance analytics and trade cost analysis. He is also responsible for developing and monitoring investment policy statements and implementing tactical asset allocation for various RBC GAM investment solutions.

Prior to joining RBC Asset Management, Milos had gained extensive experience in the financial services industry working with PricewaterhouseCoopers, TD Securities and Fidelity Investments.

Milos holds a Master of Business Administration degree from Schulich School of Business and earned the CFA charter in 2004. Milos is a Board member of the Canadian Buy-Side Investment Management Association, a member of the Canadian Advocacy Council of CFA Societies Canada and he recently joined IIROC's Market Structure Advisory Committee.

### Why does advocacy matter to you?

Members of the Canadian Advocacy Council (CAC) represent the interests of the Canadian CFA Institute societies and advocate its Code of Ethics and Standards of Professional Conduct to Canada's securities regulators, standard setters, self-regulatory organizations, industry groups and legislators. Advocacy ensures that members of the CFA Institute societies across Canada are able to have their voice heard on issues that are important to them. Members of our CAC team are volunteers who use their subject matter expertise and professional experience to get to the heart of the matter on many important subjects. Through their creativity, insightfulness and inspiration, our team members are able to discuss, provide opinion and recommend solutions on some of the most complex industry specific issues and conflicts. We have strong beliefs and we take action to implement ideas we truly believe in to make the Canadian financial industry a better place to invest and do business in.

### What advocacy issues are you most passionate about?

Each member of the CAC brings their own expertise to the group, which allows us to be a proactive regulatory policy advocate for our members. I have spent my entire career in the banking and investment management side of the industry and I am very passionate about helping to promote the integrity of the rules governing capital markets. One of the key areas

for a properly functioning capital market is a well-developed market structure. The way the markets work will continue to evolve at an unprecedented rate, transforming opportunities and threats to many financial businesses, from investment funds to market data providers. I have, both as a member of the CAC team but also at RBC Global Asset Management, been able to contribute to numerous regulatory requests for comments on matters concerning market structure. In addition, mutual funds and ETFs are key investment vehicles for millions of Canadians and this is an evolving area where regulators welcome opinions of industry experts and advocates. There is an opportunity to simplify the regulation governing investment funds, to make sure it truly protects clients' interests, and increase transparency. Finally, I am also a strong believer in CFA Institute's Code of Ethics and Standards of Professional Conduct, and I think that as a group we ought to strive to see them implemented in wide areas of capital markets.

## Other Updates



[The Canadian Investment Performance Council](#) (CIPC) is seeking new volunteers, read more [here](#). If you're passionate about performance measurement and/or GIPS - this is the right opportunity for you!

Submit your application to [info@cfacanada.org](mailto:info@cfacanada.org) by April 30, 2020.

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*The Canadian Advocacy Council strives to advance market integrity, transparency and investor protection, on behalf of CFA Societies Canada and Canadian CFA charterholders.*



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Next Conference Call Scheduled: Tuesday, May 12, 2020 at 4:15pm EDT

Contact Us

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