

May 2020

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Chair Summary

Canadian Advocacy Council



Parham Nasser, CFA
Chair, Canadian
Advocacy Council

For many of us, the month of May revolved around fully embracing the realities of the working from home life. While babies cried and dogs barked during our back-to-back Zoom calls, we count ourselves lucky to be safe, healthy, and to have the opportunity to keep on doing good work and striving to build on our mission of advancing market integrity, transparency and investor protection. In other good news, the Canadian and global capital markets continued to rebound.

On the advocacy front, the CAC continued to hold insightful discussions regarding four outstanding regulatory consultations (listed below) and pursued a series of proactive advocacy initiatives. These involved meetings with the CSA on the most recent version of Proposed NI 52-112 (the Non-GAAP consultation), the upcoming Client Focused Reforms and providing input on a submission to Ontario's Capital Markets Modernization Taskforce.

On the team front, we had a busy month where we held our annual leadership elections, had one of our most tenured members resign due to personal reasons (with our thanks and gratitude for many years of contribution to our efforts), and joined in on sharing our message via CFA Society Toronto's newly relaunched *The Analyst* publication (read more about this below).

Response Drafting in Progress

Canadian Advocacy Council

Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2021 (Due June 1, 2020)[About the notice](#)

Given the COVID-19 pandemic, the OSC is not currently preparing a full set of priorities for comment. Instead, it has requested comments on its existing priorities as well as its report on regulatory burden reduction initiatives.

Proposed NI 52-112 and 52-112 CP Non-GAAP and Other Financial Measures Disclosure (Due May 13, 2020, extended to June 29, 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, extended to July 6, 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, extended to July 13, 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.

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****

Volunteer Spotlight

Canadian Investment Performance Council



Hope Celani, CIPM

Hope Celani, CIPM, Managing Director, Strategic Client Solutions for CIBC Mellon and BNY Mellon, has over twenty years of performance and risk industry experience and currently works with clients to transform business processes by addressing complex operating model and delivery needs. Hope is the past Chair of the [Canadian Investment Performance Council](#) (CIPC) and a member since June 2012.

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

After earning my Certificate in Performance Measurement (CIPM) designation in 2009 and attending the GIPS® Annual Conference the following year, I was eager to volunteer within the industry. I was encouraged and inspired by Frances Barney, CFA, who helped to establish the CIPM program, and Karyn Vincent, CFA, CIPM, a former verifier and now Head, Global Industry Standards of CFA Institute. After moving to Canada in 2011, I actively sought membership with the Canadian Investment Performance Council (CIPC) in 2012. I was keen to support the promulgation of GIPS and wanted to connect with like-minded professionals across Canada.

What would you tell new members about the CIPC?

I'd tell new members that this group of professionals brings an endless wealth of knowledge on performance-related topics and the practical application of those topics in a variety of investment organizations. I would tell them that the CIPC encourages members to engage with activities and projects that they are passionate about.

Why are you passionate about the GIPS standards/ What aspects of the GIPS standards are you most passionate about?

I am passionate about GIPS because within the investment industry, it provides a framework to do the right thing – not necessarily the easiest thing. At the heart of GIPS, the

end consumer – a pensioner, an investor, maybe even you – is provided with insight to a level playing field. In the end, I am most passionate about education and promulgation of GIPS. I believe all varieties of investment firms can become GIPS compliant and it is in everyone's best interest to see them do so.

Other Updates



Read the CAC's quarterly update in CFA Society Toronto's May 2020 issue of [The Analyst](#). Use your CFA Society Toronto login credentials or register today to access this great publication!



We are excited to announce the FY2020-2021 CAC Leadership team:

Chair - **Parham Nasser, CFA**
1st Vice Chair - **Laura Howitt, CFA**
2nd Vice Chair - **Barbara Bauer, CFA**

We look forward to your leadership this year!



Canadian Investment Performance Council - New Members

We are pleased to announce the newest members to the CIPC:

Vivian Hu, CFA
Lawrence Li, CFA, CIPM
Matthew Swan, CFA

Please join us in welcoming them!

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, June 16, 2020 at 4:15pm EDT

Contact Us

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