

January 2023

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Chair Summary

Canadian Advocacy Council



Barb Bauer, CFA, CFE
Chair, Canadian
Advocacy Council

It's hard to believe 2023 is now well underway. 2023 in the Gregorian calendar is designated the Year of the Rabbit. As the Rabbit is a symbol of longevity, peace, and prosperity in Chinese culture, the start of the year is thought to usher in a welcomed respite from volatility and unpredictability of the Year of the Tiger, which preceded it. This hopefully means we have seen the last interest rate hike, and that inflation and the cost of living will come down in 2023.

It's also a time for caution as the Rabbit is also associated with trustfulness. Trust underpins our capital markets – trust in ESG, Indigenous reconciliation, and other financial reporting; trust in financial professionals; trust in the regulators and regulatory processes; trust that investors have a system that affords them protections. The Council continues to advocate for regulators that support these trusts.

Our recent letters touched on various trusts. In our response to the OSC's Statement of Priorities we highlighted that we were disappointed at the lack of new investor protection initiatives and the seeming lack of progress on existing initiatives (e.g., the provision of binding authority to OBSI). The Council queried why the priorities in the Consultation were so heavily weighted toward financial innovation (which could increase systemic risk), rather than innovation aimed at protecting investors (which is often a systemic risk reducer). As related to climate disclosures we noted that rather than pause work on climate disclosure standards to consider developments in other jurisdictions, we would prefer that the CSA proceed with its proposed improvements and update these standards as international practices. Our complete summary and link to the respective consultation letter is included below.

The Council also responded to IIROC's Consultation Paper (Phase III) – Competency Profiles for Supervisors, Traders, Associate Portfolio Managers and Portfolio Managers. We firmly support initiatives to examine and improve registrant proficiency. While the proposed competency profiles are generally comprehensive, we noted potential gaps for consideration in the approach, such as consideration of sustainability and ESG reporting by issuers and approaches in investing, Indigenous reconciliation, rights and title, DEI (diversity, equity and inclusion) and vulnerable clients. We suggested reviewing the competencies against requirements for the types of investors who are serviced by these registration categories, from the "bottom up," as opposed to the "top down" segmentation of registrant categories. Such a review would accord with securities regulators' investor protection mandate. Our complete summary and link to the respective consultation letter is included below.

The work the Council does to build and uphold trust in our Canadian financial system would not be possible without our dedicated volunteers. I would also like to thank our volunteers for their continued service and extend a warm welcome to the newest member of CAC, Jeoma Madueke, CFA.

Published Comment Letters

Canadian Advocacy Council

OSC Notice 11-797 - Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2024

About the notice

The draft statement of priorities is similar to prior years and sets out four goals: Building Trust and Fairness in Ontario's Capital Markets, Strengthening Investor Safeguards, Adapting Regulation to Align with Innovation and Evolving Markets, and Enabling the OSC to Deliver Effective Regulation. It includes a few new specific items the CAC has commented on in the past, such as advancing work on ESG requirements for reporting issuers; considering broader diversity on boards and in executive roles at reporting issuers; and incorporating Indigenous peoples' issues and perspectives into CSA policy work.

Overview of the Council's comments:

The Consultation includes many laudable priorities. But in the Council's view, without more background from the OSC on how its proposed priorities connect to its expanded mandate and more substantive target outcomes and related KPIs, it is difficult for stakeholders to meaningfully engage in this process.

Key comments are summarized below:

- We are disappointed at the lack of new investor protection initiatives and the seeming lack of progress on existing initiatives (e.g. the provision of binding authority to OBSI).
- We query why the priorities in the Consultation are so heavily weighted toward financial innovation (which could increase systemic risk) aimed at protecting investors (which is often a systemic risk reducer).
- Rather than pause work on climate disclosure standards to consider developments in other jurisdictions, we would prefer that the CSA proceed with its proposed improvements and update these standards as international practices evolve.

With respect to ESG-related investment fund disclosures, we remain concerned that without additional rulemaking, problematic marketing practices may impair investor confidence.

- We strongly support the OSC's pledge to incorporate Indigenous Peoples' perspectives into CSA policy work. But we expected more explanation on how the OSC and CSA plan to consult and cooperate with Indigenous Peoples as required under UNDRIP.
- We support a broader regulatory focus on the promotion of diversity, equity and inclusion among market participants, rather than the current, narrow focus on regulators and issuer boards and management.
- Further transparency is needed on the current status and future direction of the client-focused reforms, which the registrant community has been heavily focused on implementing for the last two years. The OSC should report on whether the regulatory and industry effort in implementing these reforms is achieving intended outcomes.

CSA - Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers

About the notice

The proposed amendments to various national instruments would provide new alternatives for investment funds that are reporting issuers in delivering financial statements and management reports to fund performance to uninformed investors. The purpose of these changes is to modernize the method by which these documents are made available to investors and would replace mandated default delivery with a requirement to post the documents on a designated website, issue, file on SEDAR and post a news release announcing the availability of the documents, and a requirement to deliver the documents upon request or upon standing instructions. Reporting issuer funds would no longer have to send an annual reminder or similar notice to standing instructions regarding the delivery of financial statements. Investors could still request or provide standing instructions to receive the documents in either paper or electronic format.

Overview of the Council's comments:

The Council is generally supportive of the proposed access-based model as an alternative to delivering financial statements and management reports of fund performance for investment fund reporting issuers. Nevertheless, we believe that investors should be alerted to the release and availability of designated documents either through periodic notices or through new functionality on SEDAR+.

Our key comments are summarized below:

- We agree that securityholders should continue to be permitted to provide standing instructions to receive paper copies.
- We also agree that the benefits to securityholders of being able to provide standing instructions to receive electronic copies are significant relative to the innovation cost savings can be generated from this initiative.
- In our view, retail investors are unlikely to monitor or search the funds or investor or search the designated website frequently to be aware of the availability of new filings.
- We think that SEDAR+ should include enhancements to allow for subscriptions to alerts for new filings and should enable easy access to the documents.
- We believe that the news release should include a hyperlink to the documents on the designated website and a direct link to the available documents in SEDAR+. The designated website and the issuer's main page on SEDAR+ should reference each other.
- For the designated website, we think best practices would include adhering to any applicable federal and provincial accessibility guidelines.
- We also believe the designated documents should be posted on the designated website for a reasonable amount of time for comparability purposes.

IIROC - Consultation Paper (Phase III) – Competency Profiles for Supervisors, Traders, Associate Portfolio Managers and Portfolio Managers

About the notice

Investment Industry Regulatory Organization of Canada (IIROC) is in the process of developing and publishing competency profiles for an IIROC individual approval categories as a multi-year policy project. Last year, they published competency profiles for their Director, Executive, Ultimate Designated Person (UDP), Chief Compliance Officer (CCO) and Chief Financial Officer (CFO) categories. In 2020, they published for comment the first phase of this project, which involved the development of competency profiles for their Registered Representative (RR) and Investment Representative (IR) categories.

The third (and current) phase of this project is this publication of a Consultation Paper to solicit feedback on their proposed competency profiles for Supervisors, Traders, Associate Portfolio Managers (APMs), and Portfolio Managers (PMs).

Overview of the Council's comments:

We firmly support initiatives to examine and improve registrant proficiency, especially for categories of registration that involve dealing directly with clients. We also think it will be helpful, when finalizing the competencies for all registration categories, to review the expectations against the requirements of the end-clients served by those registrants, and to set in place processes that regularize the review of the competency profiles to be responsive to changing markets, client demands, and the resulting emerging competency needs.

While the proposed competency profiles are generally comprehensive, we have noted potential gaps for further consideration in the approach:

- We note that the framework begins "at the top" by considering each individual registration category. We have recently made a number of comments responding to various client-focused regulatory initiatives, including the need for those within the financial industry to be educated and proficient on themes of increasing secular importance, such as consideration of sustainability and ESG reporting by issuers and approaches in investing, Indigenous reconciliation, rights and title, DEI (diversity, equity and inclusion) and vulnerable clients. We suggest reviewing the competencies against requirements for the types of investors who are serviced by these registration categories, from the bottom up. Such a review would accord with the investor protection mandate of securities regulators.
- We also believe that both a retrospective and regularized review of related programs that survey for and analyze emerging topics and professional competency needs, such as the results of the CFA Institute Practice Analysis Annual Review would lead to an improved and increasingly forward-looking competency analysis process for IIROC's competency profiles.

With respect to the proposed competency profiles for Supervisors, we are of the view that the competency expectations capture the appropriate level of knowledge that should be expected from individuals holding these important roles. Our core recommendations include knowledge in the following areas:

- Pension legislation, and related investment restrictions at a high level (for example, as set out in the Pension Benefits Standards Act, 1985).
- A high-level understanding of documents typically utilized in derivatives trading such as ISDA and credit support annexes.
- We would recommend adding a reference to mortgage loans, given the prevalence today of utilizing same in various collective investment vehicles and the current interest rate environment.
- In connection with the proposal applicable to certain client types such as pensioners (as mentioned in comments relating to the Supervisor competency profile above). It could also be improved through additional competency requirements relating to the understanding and application of various asset allocation frameworks applicable to both institutional and retail clients, understanding and evaluation of risk-adjusted performance, and the assessment and understanding of investment and investment manager performance through widely utilized performance evaluation methodologies and metrics. All of these topics are extensively addressed in the CFA Program's learning objectives and curriculum.

Response Drafting In Progress

Canadian Advocacy Council

OBSI - Governance Review - Request for Public Comment (Due January 31, 2023)

About the notice

The Ombudsman for Banking Services and Investments (OBSI) is seeking input from stakeholders and the public in relation to its organizational governance. This consultation is focused on understanding how OBSI's board can best ensure that it has the opportunity to consider the perspectives of stakeholders with financial service industry expertise and consumer advocacy expertise in its decision making. OBSI is committed to ensuring a deep knowledge of these perspectives at the board level because they are crucial to ensuring that the organization is able to continue to fulfill its mission of helping to ensure a fair, effective and trusted financial services sector.

AMF - Second Consultation - Regulation Respecting Complaint Processing and Dispute Resolution in the Financial Sector (Due February 6, 2023)

About the notice

The AMF has published for consultation a new version of the draft Regulation respecting complaint processing and dispute resolution in the financial sector. The Notice of Consultation as well as the draft Regulation are available in the "Public Consultations" section of the AMF Website. The first version of this draft Regulation, published in the fall of 2021, generated many comments, particularly regarding the regulatory compliance burden it imposed. Thus, some rules and practices have been reviewed in order to allow greater flexibility for financial institutions, financial intermediaries and credit assessment agents in the processing of complaints, while maintaining the AMF's objective to ensure that consumer complaints are processed fairly.

The AMF plans to hold a meeting early January 2023 to discuss the changes and answer questions from participants. It also plans to address the new rules applicable to the reporting of complaints to the AMF.

CSA - 21-403 - Access to Real-Time Market Data (Due February 10, 2023)

About the notice

The consultation goes through the CSA's findings with respect to their review of concerns raised by market participants in Canada about accessing real-time market data. They are seeking feedback on a two-stage set of options that may be considered in future to deal with the concerns raised. Initial options look at using standardized terminology to describe data products and how they are accessed, enhancing the transparency of any proposed fee changes by marketplaces, and reviewing the current methodology the CSA uses to allocate fees amongst marketplaces. While longer-term, the CSA is considering overhauling the whole regime. Potentials include leveraging the current IP model, or introducing an entirely new model for data consolidation. There are a number of embedded questions which get quite granular with respect to current fees.

FRSA - Consultation on Proposed Amendments to the UDAP rule - Deferred sales charges (Due February 23, 2023)

About the notice

FRSA has released a short consultation that proposes amendments to its Unfair or Deceptive Acts or Practices Rule. The amendments would eliminate DSCs on new segregated fund contracts effective as of June 1, 2023. For contracts that are pre-existing, new requirements would include customer disclosure and limits on the use of existing DSC options. The consultation has a one-page appendix flow chart that is a good illustration of what FRSA's expectations are of insurers in various circumstances.

IIROC - Review of the IIROC Arbitration Program (Due March 6, 2023)

About the notice

IIROC is undergoing a review of their arbitration program (last reviewed in 2011), which requires dealers to participate in binding arbitration at a request of a client. The consultation is in response to 17 recommendations made by an independent working group, which range from changes that can immediately be put in place to those changes that will require further public consultation. IIROC proposes to maintain the program alongside OBSI's dispute resolution services and the availability of litigation as avenues of redress for clients. As the arbitration program is intended to be an alternative to litigation, focusing on complex and large claims, IIROC is considering having the program available only for claims above OBSI's claim threshold (except in Québec). Recommendations for immediate implementation include revising program materials to use plain language and increase public awareness of the program, as well as allowing parties to pick their own arbitrator and establishing shorter timelines for certain case resolutions. A pilot program is suggested for certain procedural changes, including case management and mandatory mediation. Public consultation is suggested for items such as the potential publication of arbitration decisions and an increased award limit.

IIROC/CSA - Joint CSA and IIROC Staff Notice 23-329 - Short Selling in Canada (Due March 8, 2023)

About the notice

The Canadian Securities Administrators (CSA) and the Investment Industry Regulatory Organization of Canada (IIROC) are seeking input from investors, industry and the public on the current regulatory framework surrounding short selling in Canada. In a published staff notice, the CSA and IIROC:

- Offer an update of the existing regulatory landscape for short selling, including rules governing failure to settle trades,
- Provide an update on current related initiatives, and
- Request public feedback on areas for regulatory consideration

The staff notice also describes recent international developments and highlights the results of a study completed by IIROC on failed trades. The CSA also published a summary of comments and responses to CSA Staff Consultation Paper 25-403 Activist Short Selling. This consultation paper was published on December 3, 2020 to facilitate the discussion about concerns relating to activist short selling and its potential impact on capital markets.

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

Volunteer Spotlight

Canadian Investment Performance Council



Benjamin Banyal, CFA, CIPM
1st Vice Chair

Benjamin has served on the CIPM since June 2017.

Benjamin joined Burgundy Asset Management in 2014, where he holds the position of Senior Manager, Performance Measurement. He leads a team responsible for analyzing and reporting performance, attribution, and performance related statistics. In addition, his role entails oversight of the firm's GIPS compliance and verification process. Beyond performance measurement, Benjamin leads various projects and initiatives for process improvement and reporting.

Prior to Burgundy, Benjamin worked for State Street for seven years, four of which were in a performance measurement role.

Benjamin graduated in 2006 with a Bachelor of Commerce (BCom) from the University of Toronto. He earned the Certificate in Investment Performance Measurement (CIPM) in 2012 and became a CFA charterholder in 2013.

Why do you think promotion of industry standards like the GIPS standards is important?

The GIPS standards are important because they promote performance calculation and presentation fairness, therefore facilitating an even field for firms competing in the industry. The Standards also help to increase investor confidence and promote trust, which is crucial when managing other people's money.

What would you tell new members about the CIPM?

The CIPM is a great forum for deep conversations about performance measurement and the GIPS standards. Our diverse membership strikes a good balance between technical conversations and practical applications. The CIPM members bring with them a wide range of industry experiences and perspectives. It's a great group and there's a sense of enthusiasm evident during our monthly calls.

News



SEC Marketing Rule for Canadian Market Participants Open Call

On February 16th at 2:00 pm EST, the Canadian Investor Performance Council (CIPM) will host an open call with Q&A to discuss the SEC Marketing Rule for Canadian Market Participants.

Guest speakers include:

- [Ann Stancil, CFA, CIPM](#), Guardian Performance
- [Karyn Vincent, CFA, CIPM](#), CFA Institute

The Canadian Investment Performance Council (CIPM) of CFA Societies Canada is a council of independently minded expert volunteers from across Canada. The objective of the CIPM is to provide thought leadership on investment performance best practices and promote adoption of the GIPS® standards in the pursuit of fairness and transparency for Canadian market participants.

[Register Here](#)

Comment Period Now Open for CFA Institute's Code of Ethics and Standards of Professional Conduct Exposure Draft

The exposure draft for revisions to the CFA Institute Code of Ethics and Standards of Professional Conduct is now available! CFA charterholders and other interested stakeholders are now encouraged to submit a comment letter on the revisions in the 60-day consultation period ending March 6, 2023.

The exposure draft and comment form can be found below. You may also wish to register for a [webinar on February 1, 2023](#), discussing the potential revisions.

[Learn More](#)

CFA Societies Canada Launches New Website

We are very pleased to announce the launch of our new website! Some of the new features of the site include:

- Improved access to learning resources and events
- Simplified site navigation
- French language option

Please let us know if you have any [feedback](#) you wish to share with us.

[Explore the New Website](#)

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

[Follow us on LinkedIn!](#)

Next CAC Meeting Scheduled: Friday, February 24, 2023 in Montréal

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