

CAC Member Report to Local Board September 29, 2016

The CAC met on the phone on September 13th.

Since the August report, the CAC provided comments on the following consultations (all letters can be seen on the CAC website, www.cfaadvocacy.ca)

- CSA Proposed Amendments to NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and NI 33-109 Registration Information (due October 5, 2016) (filed September 26, 2016)

About the proposal

The proposed amendments are aimed at enhancing custody requirements for certain registrants, clarifying activities that may be conducted by exempt market dealers, incorporating relief from certain CRM2 requirements and addressing certain housekeeping changes. The proposals relating to custody are driven by concerns related to the safety of client assets and potential intermediary risk, and would apply to registrants that are not members of IIROC or the MFDA.

Overview of the Council's comments

The council is supportive of the clarifications to the permitted activities for exempt market dealers. The council found that the new proposed guidance in 31-103CP is particularly helpful with respect to investment fund securities, where it is specifically noted that exempt market dealers may trade in such securities provided they are distributed under a prospectus exemption. It also agrees that freely tradeable securities should only be traded by investment dealers subject to the oversight of IIROC and subject to the universal market integrity rules.

- MFDA - Proposed New MFDA Policy No. 8 – Proficiency Standard for Approved Persons Selling ETFs (filed August 26, 2016)

About the proposal

The proposed policy establishes minimum standards for MFDA dealers trading ETFs. Since MFDA dealers do not transact on exchanges, the dealers do not generally have the functionality and policies dealing with exchange traded securities, and their current training does not generally address the differences between ETFs and mutual funds, including how they are transacted. The proposed policy sets out minimum requirements for training of approved persons, through independent courses or through the member firm, with respect to enumerated topics (contained in the Appendix to the Notice). Member firms must ensure approved persons advising or transacting in ETFs receive training on the characteristics, features, benefits and risks of ETFs, as well as how they will be offered through the Member.

Overview of the Council's comments

The council is broadly supportive of the initiative of the MFDA to establish minimum standards for Approved Persons trading in ETFs as it believes strongly in higher investment education standards. However it reminded the MFDA that there are fundamental differences between ETFs and mutual funds that the advisors should master before providing advice and also that a Best Interest Standard should be applicable to anyone providing such advice.

- ASC Request for Comment – Proposed Multilateral Instrument 45-108 – Crowdfunding (filed August 25, 2016)

About the proposal

The ASC is proposing to adopt MI 45-108, which has already been adopted in Saskatchewan, Manitoba, Ontario, Quebec, NB and NS. The prospectus exemption allows for crowdfunding offerings through a registered online portal. Limits would be placed on the total amount that could be raised as well as the amount that could be raised from any one investor. The annual investor limits adopted in Ontario would also apply.

Overview of the Council's comments

The Council previously expressed its concerns with respect to the crowdfunding prospectus exemption. Many market participants agree that crowdfunding investment decisions are based mostly on emotions, which could result in a precarious situation for investor protection. Given the small amounts of capital that can be raised, both by issuers and the individual limits placed on investors themselves, CAC does not think it will be economically feasible for issuers to raise capital based on this exemption if the terms are different in various jurisdictions. It is thus supportive of harmonizing, to the extent possible, the exemption with that adopted by the Ontario Securities Commission, including with respect to the proposed annual investor investment limits.

The CAC is actively working on a response to the following consultations:

- CSA - Consultation Paper 33-404 Proposals to Enhance the Obligations of Advisers, Dealers and Representatives Toward Their Clients (due September 30, 2016)

About the proposal

The proposed amendments to NI 31-103 relate to the proposed implementation of a regulatory best interest standard, and includes many other specific proposed changes to enhance the obligations of advisors to clients in areas such as the regulation of conflicts of interest, KYC and KYP requirements, the suitability obligation, the role of the CCO and UDP (ultimate designated person) and the use of business titles and proficiency requirements.

General affairs:

- The CAC is still looking to add a few members to its membership base (especially from Ontario, Western or Atlantic Canada). If you are a dedicated volunteer with intelligent opinions that like to work in teams, feel free to contact us for more information at info@cfaadvocacy.ca or chair@cfaadvocacy.ca.
- The CAC is happy to welcome two new members: Parham Nasser, CFA from CFA Society Toronto and Karen Stangherlin, CFA from CFA Society Calgary.

Reminder:

All letters can be seen on the CAC website, www.cfaadvocacy.ca

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Chair, Canadian Advocacy Council