

CAC Member Report to Local Board December 22, 2016

The CAC met on the phone on December 13th.

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

- IIROC Re-Publication of Proposed Provisions Respecting Best Execution #016-0233 & #016-0234 (filed December 9, 2016)

About the proposal

The proposed guidance provides additional details on the proposed amendments regarding dealers' best execution obligations, including with respect to the features of a best execution governance structure and the aspects of order handling/routing practices that should be disclosed to clients.

Overview of the Council's comments

The Council is generally supportive of IIROC's efforts to require additional disclosure by Dealer members and in agreement with the changes made in this re-publication. Notably, the CAC strongly supports the prohibition on sending bulk orders to a foreign intermediary without considering other liquidity sources first. The changes should bring more clarity to investors and help them better analyze fulfilment of the best execution obligations.

- IIROC Request for Comments – Guidance on Order Execution Only Services and Activities (filed December 20, 2016)

About the proposal

The proposed new guidance on order execution only services is intended to update existing IIROC rules, given the evolution of the type of products, tools and account types offered by order execution only (OEO) dealers. IIROC considers that many tools may be a means of providing implicit recommendations to clients, which is prohibited. Specific mention is made of model portfolios that provide examples as a guide.

Overview of the Council's comments

The Council agrees that recommendations of any kind should not be permitted to OEO firms. However, the Council respectfully disagrees that research reports made available to investors do not constitute recommendations, when, in fact, they are made available to drive an investment decisions. The CAC would be supportive of an exemptive relief granted to OEO firms allowing investors to pull limited model portfolios. The basis behind this thinking is that asset allocation is an important factor in portfolio construction, more so than securities selection.

- MFDA Proposed Amendments to MFDA Rule 1.2.5 Misleading Business Titles Prohibited (filed December 20, 2016)

About the proposal

The amendments would establish proficiency requirements for MFDA dealers using the term "Financial Planner". The title would only be permitted if (i) approved by the MFDA or

(ii) the individual has obtained a specified certification/designation and satisfies its applicable ongoing requirements.

Overview of the Council's comments

The Council is broadly supportive of the initiative of the MFDA to establish minimum standard to use the title "Financial Planner". While the regulation of titles is a very positive step forward, any regulation that does not deal with the central issue of compensation-driven conflicts of interests and a best interest standard of care may not in itself go far enough to protect the end-users of financial planning services.

- CSA Modernization of Investment Fund Product Regulation – Alternative Funds (filed December 22, 2016)

About the proposal

The proposed amendments represent the final phase of the CSA's ongoing policy work to modernize investment fund regulation and is primarily aimed at the development of a more comprehensive regulatory framework for publicly offered mutual funds that wish to invest in asset classes or use investment strategies not otherwise permitted under NI 81-102.

Overview of the Council's comments

The Council appreciates the opportunities that may be presented to mutual fund managers to broaden their investment strategies. However it wishes to emphasize the general concern that the proposals may result in very complex strategies being introduced to the retail market, while no specific or related proficiency requirements relating to dealers selling these products are currently being proposed. The Council also brings to light the intricacies of liquidity and concentration risks and the difficulties in setting hard limits for them taken in isolation.

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

- AMF Regulation respecting real estate prospectus and registration exemptions (due December 24, 2016)

About the proposal

The Regulation seeks to prescribe and simplify the framework governing certain real estate distributions by proposing a prospectus exemption in respect of the sale of real estate investment contracts that include a real right of ownership in an immovable and a mandatory or optional rental management agreement. The related Policy Statement includes guidance on particular factors that may trigger the registration requirement in respect of the sale of real estate investment contracts.

Reminder:

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

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