

INVESTOR ADVISORY PANEL

August 20, 2018

By Email

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Investment Funds and Structured Products
Ontario Securities Commission

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Re: CSA Staff Notice 81-330 Status Report on Consultation on Embedded Commissions and Next Steps

I am writing on behalf of the Investor Advisory Panel (IAP), an initiative by the Ontario Securities Commission (OSC) to enable investor concerns and voices to be represented in its rule making and policy making process.

We look forward to participating in upcoming consultations regarding the CSA's recently issued Staff Notice 81-330 *Status Report on Consultation on Embedded Commissions and Next Steps*. In the meantime, however, we wish to briefly address the need for interim measures that will safeguard the investing public while this consultation process unfolds.

In proposing the elimination of DSCs and the discontinuance of trailing commission payments to discount brokers, the CSA has noted that these fee practices are problematic, inappropriate and harmful. We are very concerned that during the consultation period Canadian investors will remain exposed to these practices and will continue to suffer harm as a result. Also, the anticipated elimination of DSC options may promote the unintended consequence of DSC-laden products being sold more aggressively in advance of the prohibition being fully implemented.

A number of investor advocates have suggested that the CSA should mitigate this risk by combining the publication of the proposed rule consultation in September with an investor alert warning about the potential problems associated with DSC options and trailer fees payable to discount brokers. The IAP supports the publication of this type of investor alert but we are uncertain how effective it will be in protecting the investing public. Consequently, we recommend that the rules setting out the two proposed prohibitions have retroactive effect to the date that the consultation is published. This type of approach is often used by governments in connection with tax changes that may take a number of months to legislate, but nevertheless become effective on the date of announcement. By incorporating this retroactive trigger, which would itself be subject to comment during the comment period, issuers and dealers would be on notice going forward to maintain good records of all such payments they make, in order to be able to fully reimburse those payments in the event that the rules come into effect as proposed.

This approach should not be onerous, and it might help best practices emerge and coalesce around the CSA's proposals. We therefore urge you to give it immediate consideration.

Yours truly,

A handwritten signature in blue ink, appearing to read "Neil Gross", is written over a horizontal line.

Neil Gross, Chair
Investor Advisory Panel