John Stevens, Secretary

Ontario Securities Commission

20 Queen Street West, Box 1903

Toronto, Ontario M5H3S8

Dear Mr. Stevenson,

The Investor Advisory Panel (IAP) is an independent body that was appointed by the Ontario Securities Commission (OSC) in August, 2010. Our mandate is to represent the views of investors and enable investor concerns and voices to be represented to the OSC in its rule and policy making process. Our mandate centres upon our written submissions to the OSC and CSA regarding various regulatory initiatives including proposed rules and policy statements.

The Investor Advisory Panel is pleased to submit this comment letter regarding the request for comment on CSA Consultation Paper 33-403 - The Standard of Conduct for Advisers and Dealers: Exploring the Appropriateness of Introducing a Statutory Best Interest Duty When Advice is Provided to Retail Clients".

Executive Summary:

The Panel strongly supports the introduction of a statutory best interest standard when advice is provided to retail clients. We believe that the current suitability standard is inadequate to meet investor protection requirements.

A best interest standard would provide many significant benefits for Canadian investors. A best interest standard would eliminate current compensation practices which can increase costs for investors and bias advisers' product recommendations. It would require advisers to advance the best interests of their clients to the exclusion of all other competing interests that may exist, thus ensuring that conflicts are not merely disclosed (demonstrably an inadequate investor protection remedy) but are avoided. Adoption of a best interest standard would ensure that Canadian investors are not afforded a lower level of protection than citizens of similar jurisdictions (including Australia, the U.K and the United States) where regulators are moving to introduce or implement such wide ranging and necessary reforms.

We also believe that, consistent and concurrently with introduction of a best interest standard, Canadian regulators must address the issue of mandated titles, including enhanced proficiency/credential requirements along with statutory standards of practice.

1. It is clear from our experience and from dialogue and opinion provided to Panel members that there is a false assumption in the marketplace regarding the required type and level of service and duty of care. Simply put, investors generally do not understand the current nature of the client adviser relationship, specifically the regulatory and legal obligations placed upon advisers

and firms. An Investor Education Fund study (cited in CSA 81-407 Mutual Fund Fees, seehttp://www.getsmarteraboutmoney.ca/en/research/Our-research/Documents/2012%20IEF%20Adviser%20relationships%20and%20investor%20decision-making%20study%20FINAL.pdf) indicates that seven out of ten investors believe their adviser already has a legal duty to put their clients' best interest ahead of their own. This misunderstanding is symptomatic of the asymmetrical relationship which exists between adviser and investor. Some suggest that reliance on investor education will remedy this damaging power imbalance. We do not agree. While effective investor education can help mitigate information and financial literacy asymmetry, in today's rapidly evolving and complex marketplace, with a plethora of opaque and complicated product offerings that even professionals are sometimes challenged to understand, investors' interests must be protected through higher regulatory standards than today's current suitability regime.

2. In past communications this panel has recommended that Ontario securities law should be amended to ensure that financial service providers are bound by a fiduciary duty to their clients. We acknowledge that careful thought will need to be given to the precise definition of a best interest standard. The objectives of a best interest standard are, however, clear. As the CSA discussion paper notes: the standard requires that client interests are paramount; conflicts are avoided, not merely disclosed; clients are not exploited; and services are performed reasonably prudently. We are confident that securities regulators can appropriately and effectively define a best interest standard that will require that advisers act in the client's best interest and exercise the care, diligence and skill of a reasonably prudent person in the circumstance. We also believe that Canadian regulators can learn and benefit from the experience of regulators in those other jurisdictions which are already introducing or implementing such reforms.

3. Introduction of a best interest standard would involve changes to the current compensation practices of dealers and advisers. The suitability regime does not explicitly require the adviser to make a recommendation that offers the fairest price/cost for the investor, based upon the complexity of the product and/or service being offered. (An adviser can recommend the most expensive --and hence most remunerative to the adviser-- among different but otherwise equally 'suitable' recommendations.) A best interest standard would require the adviser to choose the lowest cost solution of equally 'suitable' recommendations. The benefits to the investor are clear when the adviser can no longer put his/her commercial best interests ahead of the investor.

Permitted fee structures and compensation methods would need to be fully consistent with the duty of care and conduct established by a best interest standard. Since this standard entails avoiding all conflicts of interest and putting the client's interest first, we do not see how the current practice of non-negotiated embedded commissions which is prevalent in mutual fund fee structures could be permitted. We will comment on this further in our response to the CSA Discussion Paper and Request for Comment 81-407 Mutual Fund Fees.

4. We strongly recommend that the introduction of a best interest standard be accompanied by reform of regulations regarding titles and the specific proficiency requirements supporting the use and maintenance of such titles. Advisers today are free to choose a title that will allow them to most effectively market and promote their services. Too often, titles used by advisers are at

best confusing, at worst misleading. Regulators need to ensure, as is the case in professional services across a range of industries from accounting to healthcare that mandated adviser titles which reflect the adviser's expertise and scope of practice and services that can be offered are in place if the best interest standard is to be fully effective. Here, too, we note that the UK and Australian reforms have been accompanied by title changes and would urge Canadian regulators to review these new practices (e.g. UK introduction of restricted and independent adviser titles). The Investment Industry Regulatory Organization of Canada (IIROC) has recently completed a review of advisers' titles and the supervisory practices and policies of dealer firms. The IIROC study underscores the need for regulators to address outdated proficiency standards and to act to ensure that advisers have the education and training which is congruent with a best interest standard.

5. The Panel is also acutely aware of the fact that in the Canadian marketplace the changes we recommend are restricted to those participants who operate under the aegis of the CSA. We urge other players, notably the federal government and banking and insurance regulators, to address these same challenges. It is unacceptable that investors who purchase insurance products like seg. funds and principal protected notes from a CSA regulated dealer or adviser are subject to lower levels of investor protection.

6. The Panel acknowledges that the scope of these recommended changes is large and will have profound impacts. While we recommend adoption of these reforms without delay, we understand that full implementation may take some time, requiring a timeline of enactment for industry over a reasonable time frame, with clear deadlines. Here too, we can look to and learn from the examples and experiences of other jurisdictions engaged in these changes.

Conclusion:

We call on Canadian governments and regulators to act to ensure that Canadian investors are not subject to a lower standard of investor protection than their counterpart in similar jurisdictions. Canada is subject to Principle 6 of the G20 High Level Principles on Financial Consumer Protection. Canadian securities regulators are members of IOSCO which has endorsed a best interest standard. We urge Canadian governments and regulators to live up to these international commitments.