

May 29, 2012

Ontario Securities Commission

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Re: 2012-13 Statement of Priorities

The Canadian Advocacy Council¹ for Canadian CFA Institute² Societies (the CAC) appreciates the opportunity to comment on the 2012-13 Statement of Priorities of the Ontario Securities Commission.

In addition to addressing specific goals named in the Statement of Priorities, we would like to add general comments that apply to all the goals discussed below. The CAC would like to suggest that in order to be most efficient, goal setting requires milestones and measures of success. For all of the goals set in the OSC's Statement of Priorities, it would be beneficial to add a discussion of how a success or failure of a certain initiative will be measured, timelines within which each initiative would be deemed a success or failure, and what steps would be taken if the initiative is not deemed to have been successful.

Below are comments addressing the specific goals set out in the Statement of Priorities.

¹ The CAC represents the 12,000 Canadian members of CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at <http://www.cfaadvocacy.ca/> Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx> .

² CFA Institute is the global association for investment professionals. It administers the CFA and CIPM curriculum and exam programs worldwide; publishes research; conducts professional development programs; and sets voluntary, ethics-based professional and performance-reporting standards for the investment industry. CFA Institute has more than 110,000 members, who include the world's 90,000 CFA charterholders, in 135 countries and territories, as well as 135 affiliated professional societies in 58 countries and territories. More information may be found at www.cfainstitute.org.

Goal #1 – Deliver Responsive Regulation

With many issues facing today's regulators, the CAC supports narrowing down the list of priorities to those most important to be addressed within the short term. In 2011, the CAC surveyed all the Canadian CFA charterholders to find out their priorities regarding securities regulation in Canada. We would like to present some of these issues to the OSC's attention when it considers its key priorities for Goal #1 – Deliver Responsive Regulation.

- 1) Harmonization of securities regulation across provinces and creation of a single set of rules for all investment industry participants across Canada.
- 2) Changes needed in regulation of financial institutions – such as compensation, capital, risk management, structures, limits on authorized activities.
- 3) Fee unbundling for retail investment products – separate disclosure of trailer fees vs. management and other fees.
- 4) Fiduciary conflict and lack of disclosure for financial institutions when acting on multiple legs of the same trade.
- 5) Impact of high frequency trading on securities markets in Canada.
- 6) The impact of actuarial and accounting rules and regulations on behavioral issues in pension management.
- 7) Regulation and conflicts of interest for publicly traded stock exchanges.
- 8) Harmonizing of hedge funds regulation with regulations that apply to other institutional investors.
- 9) Fiduciary duty of retail brokers.
- 10) Transparency in bond prices.

Goal #2 – Deliver Effective Enforcement and Compliance

We concur that actions directed toward preventing non-compliance by issuers and registrants, including enforcement actions that serve as deterrent for others, should be a higher priority than finding non-compliance after the fact. We suggest that the OSC continue its practice of publishing registration history, including disciplinary actions and complaints on past and present registrants. We encourage the OSC to promote this database beyond our industry so that disciplinary records follow former registrants into other fields. Ideally, searching for disciplinary actions against registrants and issuers would become part of a routine background check; therefore, making it much more difficult for wrong doers to 'walk away' from their histories in the investment industry.

The CAC would like to add a comment on the OSC statement that it works in the best interests of investors and market participants in Ontario. As the financial industry continues to evolve and become more global, it is no longer possible to say that investors in Ontario only invest in Ontario issuers or that market participants in Ontario are only affected by Ontario regulations. Therefore, cooperation between regulators and harmonization of rules across provincial and global boundaries becomes paramount in

helping protect Ontario investors and issuers affected by cross-jurisdictional issues and to prevent regulatory arbitrage.

The CAC represents the Canadian CFA charterholder societies, which are part of the global CFA Institute organization. The CFA Institute has analysed and commented on many global issues related to ethics, governance, professional standards, and investor protection in the capital markets. The CAC would be pleased to draw on this research in assisting the OSC in reviewing and analysing these issues.

Goal #3 – Deliver Strong Investor Protection

The CAC supports the creation of an Office of the Investor and the focus on understanding investor issues. As discussed above, the CAC can help provide access to research and analysis of investor protection issues conducted globally by the CFA Institute. For example, respondents to the 2011 annual CFA Institute Financial Market Integrity Outlook Survey in nine of the 16 largest markets, including Canada, indicated that the most serious issue facing their local market in the coming year was financial advisors selling inappropriate products to generate commissions.

The CAC members are available to discuss any questions regarding investor protection issues as they are raised by the OSC and to participate in Advisory Committees and ad-hoc meetings as needed.

As mentioned in numerous past CAC submissions, we support the concept of fiduciary duty for all registrants who act in an advising capacity to clients. The CFA Institute Code of Ethics and Standards of Professional Conduct require CFA charterholders to place the interests of their clients above their own interests. The CAC believes that fiduciary duty is an important part of overall investor protection framework and that simply providing investors with more product information can not accomplish the goal of investor protection in the world of financial complexity.

The CAC has also commented in the past about the Fund Facts risk disclosure and we are available to discuss this issue further. For example, the CAC believes that the Fund Facts risk disclosure should contain discussion of largest actual past losses of a fund compared to its benchmark and other measures that can be intuitively understood by investors, rather than subjective descriptions such as “high” or “low” risk. The CAC would also suggest expanding short, intuitively understood disclosure similar to the Fund Facts to other products similar to mutual funds.

The CAC supports the OSC examining the exempt market to obtain a better understanding of this market. Past comments by the CAC indicate that we believe the market and investors in it is not well understood, and as a result the regulations designed to protect these investors do not achieve their goals.

Goal #4 – Run a Modern, Accountable and Efficient Organization

We are encouraged to see that the Commission is expanding its research and data analysis capabilities. We noted in our review of the Minimum Amount and Accredited Investor exemptions that data about the exempt offering segment of the market was limited. As investment professionals, our own work is highly dependent upon accurate, complete and up-to-the-minute data. We expect that as the Commission improves its data collection and analysis, the quality and responsiveness of regulation will continue to improve.

We would suggest that the data collected is also used to evaluate the effectiveness on new rules and regulations after they are introduced.

Goal #5 – Support and Promote Financial Stability

We encourage the Commission to work with other financial regulators and other members of the CSA to promote financial stability.

We would encourage the Commission to harmonize its regulations, as much as possible, with the other members of the CSA. We believe that harmonized regulation would be a significant boon to capital markets in Ontario and the rest of Canada as well as a force for improving investor protection.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at chair@cfaadvocacy.ca on this or any other issue in future.

(Signed) Keith Summers

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