BY ELECTRONIC MAIL

May 31, 2014

Mr. Robert Day
Senior Specialist, Business Planning
Ontario Securities Commission
20 Queen Street West
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Toronto ON, M5H 3S8
Email: rday@osc.gov.on.ca

Dear Mr. Day:

Re: Ontario Securities Commission Statement of Priorities for Financial Year To End March 31, 2015

We are writing in response to the Request for Comments issued by the Ontario Securities Commission (the "OSC") and dated April 3, 2014 with respect to the proposed Statement of Priorities ("SOP") for the financial year ending March 31, 2015.

Fidelity Investments Canada ULC ("Fidelity") is the 5th largest fund management company in Canada and part of the Fidelity Investments organization in Boston, one of the world's largest financial services providers. Fidelity Canada manages over $90 billion in mutual funds and investment assets and offers over 200 mutual funds and pooled funds to Canadian investors.

Comments

Investor Protection and Investor Confidence

The OSC's mandate is "to provide protection to investors" and the OSC's vision is to "instill investor confidence in the capital markets." Fidelity applauds the OSC on its recent efforts to increase investor protection and investor confidence in the capital markets, however efforts to protect the investor should not have the unintended consequence of eroding investor confidence. Investor confidence is one of the most important factors to ensuring a strong economy. Investor confidence should be promoted through fair presentation of both the risks and benefits to investing in securities like mutual funds and backed by sound research.

The recent focus on mutual fund regulation in CSA consultation papers 81-407 (Mutual Fund Fees) and 33-403 (The Standard and Conduct for Advisor and Dealers: Exploring the Appropriateness of Introducing a Statutory Best Interest Duty when Advice is Provided to Retail Clients) have done a great deal to advance the conversation about investor protection - a conversation that Fidelity supports. However, as these papers develop, the OSC needs to ensure that investor confidence is not eroded.

Mutual funds have been an excellent product for Canadian investors. Currently, over 4.6 million Canadian households own mutual funds[1] with over $1 trillion in investments[2]. Mutual funds support Canadian investors' personal financial goals such as saving for retirement, supporting children's education and saving for home ownership. Any future regulation should not harm a product that has been serving Canadian families well for over 50 years, or negatively impact the delivery or quality of financial advice.

Finally, we reiterate our view that mutual funds are highly regulated and far more transparent than other securities products. It is critical that any new regulations on standards or fees be applied equally across all investment products. If increased standards and changes to fee structures are only introduced to mutual funds, the unintended consequence could be that investors and advisors alike will move to products that are not governed by the same standards or fee structures. This would include insurance and banking products that are not regulated by the CSA. Ensuring that all securities products are on a level regulatory playing field is an important step in effective investor protection.

Investor Research

We support the OSC's effort to complete research on the application of a best interest duty for advisors and mutual fund fees. Quality research that is peer reviewed and verified is the best way to conduct meaningful analysis on the possible impacts of increased regulation for advisors. Research should be exhaustive and represent a mixture of the types of financial advisors and various delivery channels to fully assess the investor experience.

Furthermore, other international jurisdictions have introduced a best interest duty for advisors and have changed the way that embedded fees are offered. It is incumbent upon the OSC to include in its research a detailed analysis of the international experience and assess any learnings that these jurisdictions have applied to comparable best interest standards and mutual fund fees. For example, in November 2013, the new government in Australia introduced amendments to the Future of Financial Advice legislation (FoFA). The purpose of the amendments is to roll back aspects of the legislation that, according to the government, "went too far, creating

[1] Source: IFIC Stats and Facts https://www.ific.ca/en/info/stats-and-facts/
[2] Source: IFIC Industry Overview, April 2014

unnecessary complexity, imposing significant burdens on industry and reducing the availability and increasing the cost of advice to consumers."[3]

Numerous research studies have shown that Canadians who work with a financial advisor are better off with their savings and investments. Investors should be able to choose how they want to pay for their financial advice. The use of an embedded commission ensures that the delivery of advice is ongoing and that investment strategies take a long-term approach. In addition, embedded commissions ensure that that the small asset investor and the first time investor have access to advice. It is important to focus on the good that embedded commissions offer investors.

Finally, it is important to fully measure the new disclosure requirements brought in under NI 31-103. Changes to the cost disclosure and performance reporting and client statements were intended in increase the level of transparency and increase the dialogue between the investor and the advisor on the purchase of the mutual fund. Many of the OSC's priorities to "deliver strong investor protection" can be solved with the recent regulatory changes and proposals to enhance investor transparency. However, these changes need time to take effect. Fidelity supports increased transparency, including the most recent proposal to implement the final phase of the Point-of-Sale (POS) initiatives, and encourages the OSC to fully measure all the disclosure changes as part of the research initiatives.

Best Interest Duty to Investors

The purpose of the OSC's mystery shop research is to inform a "decision regarding the application of a best interest duty and evaluate options to move forward." To properly gauge the interaction between the investor and the advisor and measure the suitability of advice provided to investors, the mystery shop research needs to cover different delivery channels and a variety of investor needs. For instance, a small asset investor would have different needs from a high-net worth investor and the research should be inclusive of the asset spectrum of investors.

Furthermore, the research should take a longitudinal approach. Many investors receive advice from an advisor over a period of time – advice is not limited to a single interaction. The first interaction with an advisor might be significantly different from the second, third or fourth interaction because both the investor and the advisor are developing a partnership and familiarity with each other. To accurately gauge the suitability of advice, the mystery shop should include more than one interaction with the advisor and mystery investor.

[3] Source: Australia Department of Treasury, *Delivering affordable and accessible financial advice*. December 20, 2013. http://axs.ministers.treasury.gov.au/media-release/011-2013/

Many advisors and dealers note that the relationship between an investor and a financial advisor is not limited to a single interaction, and basing research conclusions on a single interaction may not accurately capture the intended research objective or the reality of the advisor investor relationship.

Embedded Fees in Mutual Funds

Fidelity is encouraged by the OSC's approach to measuring using data to assess how compensation influences advisor behavior. It is important to note that the research should not begin with the hypothesis that there is a conflict of interest or that embedded fees are harmful. Rather, the research should examine asset flows and advisor behavior without any predisposition to a conflict of interest.

In addition, we support the OSC's aim to "assess whether the use of fee-based compensation materially changes the advice given to the client and has the potential to lead to enhanced long-term investment outcomes relative to the use of commission compensation." It is important to measure performance over a full market cycle as part of the analysis of flows based on compensation structures.

In addition, the research should aim to assess how each class of fund serves different types of investors. For example, do more small-asset investors utilize commission-based funds because it is a more affordable approach to paying for advice? Our concern has always been that the banning of embedded commissions will limit small asset investor's ability to access and pay for financial advice.

Finally, Fidelity supports the examination of how "various forms of distribution affect fund sales". The OSC's research should include an examination of potential conflicts of interest that might arise in firms that manufacture proprietary funds and also distribute proprietary funds and 3rd party funds. The research should measure if there are additional incentives being offered to promote the proprietary fund over the 3rd party fund.

Point-of-Sale

Fidelity has submitted a detailed response to the CSA POS initiative. Please see that letter for specific comments. In general, Fidelity supports any initiatives that help investors receive clear and transparent information about mutual funds. However, we are concerned that the implementation period of one year is too short given that dealers would be simultaneously working to implement changes to CRM2 in addition to the pre-sale delivery.

Fidelity agrees that a new disclosure document for ETFs should be created and delivered to investors prior to the sale. Other securities products, such as ETFs, are not subject to the same regulatory requirements as mutual funds. Fidelity supports equal transparency for all securities products and the creation of a level-playing field among all securities products, including ETFs. We hope that all securities products will aspire to the same level of transparency that the mutual fund industry has embraced.

Improve Capital Formation

Fidelity supports the OSC's initiative to increase the capital raising ability of start-ups and small and medium enterprises (SMEs). Mutual funds are one of the first securities products to support investment in small-cap and mid-cap companies. Fidelity believes that purchase of a mutual fund is an excellent way for all investors, regardless of their net-worth, to support the economy by helping SMEs raise capital and create jobs. Fidelity has invested billions in small and mid-cap companies across Canada for over 25 years.

Systemic Risk to Financial Markets

We support the OSC's proposal to develop rules for an OTC derivatives regulatory framework and stress the importance of keeping up with regulatory reforms that are happening in other jurisdictions.

Effective Enforcement and Compliance

In our comment letter on the OSC's 2013-14 SOP, Fidelity encouraged the OSC to move to "the implementation of a vigorous and proactive compliance program, similar to the approach taken by the Office of the Superintendent of Financial Institutions (OFSFI)." We are encouraged by the OSC's commitment in the 2014-15 SOP "select registrants for compliance reviews that are more likely to have material compliance issues, are new registrant firms, or are involved in specific topic or industry sector that is of concern", however we would suggest that the OSC heed our suggestion to go a step further by visiting registrants on a regular basis. We applaud the OSC for making this a priority item and we look forward to the advancement of this discussion.

Last summer, Fidelity was subject to an audit as a fund manager and portfolio manager. We were pleased with the approach and quality of the knowledge of the group that audited us. However, the OSC has taken an inordinate amount of time to issue guidance to the industry resulting from the audits. Letters were provided to registrants in January yet the OSC has failed to communicate with the industry. This is quite disappointing and has resulted in Fidelity being put at a competitive disadvantage. As part of the audit, we were required to make changes, however due to the OSC's delay, our competitors were not required to make the same changes because they are not on notice of the OSC's views. All of the issues were known by late Fall and, in our view, the notice should have been drafted very soon after. It is not fair or responsible for regulators to give interpretations on issues and require only some registrants to adhere to those interpretations.

Conclusion

Fidelity believes that the informed investor is the best investor. As a company, we aspire to provide investors with the right information to make informed decisions about purchasing our products and working with a financial advisor. A good example of this is our "Getting Good Advice" program which investors can access at www.gettingadvice.ca. Fidelity believes that the OSC is taking the right approach to providing investors with the information they need to make informed choices about purchasing securities products. Furthermore, we are encouraged that the OSC will be conducting research on a statutory best interest standard and mutual fund fees. Again, we hope that the research is thorough and properly examines the relationship that advisors have with investors. However, there is much work to be done in order to ensure that there is a level-playing field, and the OSC needs to continue to introduce additional disclosure measures to securities products that do not have the same level of transparency as mutual funds.

We thank you for the opportunity to comment on the SOP and would be pleased to discuss any of our comments further.

Yours sincerely,

"W. Sian Burgess"

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