



**BY EMAIL:** [comment@osc.gov.on.ca](mailto:comment@osc.gov.on.ca), [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

July 27, 2022

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

The Secretary  
Ontario Securities Commission  
20 Queen Street West  
22<sup>nd</sup> Floor, Box 55  
Toronto, Ontario M5H 3S8  
[comment@osc.gov.on.ca](mailto:comment@osc.gov.on.ca)

M<sup>e</sup> Philippe Lebel  
Corporate Secretary and Executive Director, Legal Affairs  
Autorité des marchés financiers  
Place de la Cité, tour Cominar  
2640, boulevard Laurier, bureau 400  
Québec (Québec) G1V 5C1  
[consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Dear Sirs / Mesdames:

**RE: Proposed Amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and to Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations (the “Proposed Securities Amendments”) and Proposed CCIR Individual Variable Insurance Contract Ongoing Disclosure Guidance (together, the “Proposed Amendments”)**

Thank you for the opportunity to provide comments to the Canadian Securities Administrators (the **CSA**) on the Proposed Amendments.

Fidelity Investments Canada ULC (**Fidelity**) is the 3<sup>rd</sup> largest mutual fund company in Canada. As at June 29, 2022, Fidelity managed more than \$189 (CAD) billion in retail mutual funds, exchange traded funds and institutional assets. Many Canadians entrust us with their savings, and we take their trust very seriously.

## **Summary of Fidelity's Position on the Proposed Amendments**

We applaud the CSA and the Canadian Council of Insurance Regulators (**CCIR**) for working together on this initiative and are pleased to see that the Proposed Amendments aim to harmonize the cost disclosure requirements for segregated funds and mutual funds, which will allow investors to be able to compare the costs of investing in similar investment products. The Proposed Amendments, once implemented, will lead to better disclosure for investors and a greater awareness of the total cost paid to invest (**Total Cost Disclosure**). We also believe in full disclosure concerning the costs of investing in other investment products, such as bank products (e.g. PPNs) and are hopeful that we will see similar cost disclosure for these products.

Overall, we are highly supportive of this initiative, with the following exceptions/clarifications (as applicable):

1. If the Trading Expense Ratio (**TER**) is going to be reported, explanatory language must be provided to investors concerning the limitations of this number.
2. The Fund Expense Ratio (**FER**) should not be included in quarterly account statements.
3. Flexibility should be given when it comes to how information is reported in statements.
4. The amendments should outline the information that can be used for new funds and include standard disclosure concerning the limitations of that information.
5. The amendments should contemplate that investment fund managers (**IFMs**) cannot provide investor-level information for certain funds.
6. The transition period should be extended.

In addition, we have participated in the Investment Fund Institute of Canada's (**IFIC**) Full Cost Disclosure Sub-Group, and we are generally supportive of IFIC's comments.

## **Fidelity's Position on the Proposed Securities Amendments**

1. **If the Trading Expense Ratio (TER) is going to be reported, explanatory language must be provided to investors concerning the limitations of this number**

We believe it would be acceptable if the management expense ratio (**MER**) alone was used to calculate fund expenses for the purposes of the Annual Report on Charges and Other Compensation based on the limitations of the TER, as further outlined below. However, we understand that the point of this initiative is to give investors an appreciation for their total cost of investing and the TER is a factor in the overall cost. As such, we are not opposed to the inclusion of the TER provided appropriate disclosure is provided to investors concerning the limitations of the TER.

### *Limitations of the TER*

Because the TER is expressed as a percentage of a fund's total assets, it is affected by factors such as the age of the fund, fund type and market conditions. For example, if an investment fund is in redemption, the

TER will generally be under reported, because in this case the average net assets used to calculate the TER would be overstated. On the other hand, the TER is generally over reported for new funds as they are in the process of obtaining assets. The TER is more variable than the MER from year to year, and it can be seen to be misleading as it reflects the previous year's trading activity. Fidelity has observed variances in this number up to 80 basis points comparing two consecutive years, which could lead an investor to believe the fees they paid were much higher than the fees they actually paid.

If the TER is to be included in investor reporting, it would be beneficial for investors to receive appropriate disclosure that identifies the potential fluctuations in the TER and that the TER used may provide a reasonable approximation of fund expenses, but that the actual fund expenses paid by the investor on their units/shares for the relevant period may differ.

## **2. The Fund Expense Ratio (FER) should not be included in quarterly account statements**

We do not believe that including the FER as a percentage in monthly or quarterly account statements would be beneficial to investors. The MER and TER are already included in the Fund Facts and Management Reports of Fund Performance (**MRFPs**). We do not see the value in duplicating this disclosure and we agree with IFIC that from an investor's perspective, this disclosure could be misleading and confusing for the various reasons set out in IFIC's comment letter. The most compelling reasons in our opinion are as follows:

- (i) The FER in percentage terms would not necessarily reflect what the investor pays given the investor may receive management fee rebates or other volume-based discounts. However, all other information in client account statements is personalized to investors.
- (ii) The FER is an annual number, but the client account statements include shorter periods of performance in dollar terms. This could confuse investors about what their expenses were during the month/quarter.
- (iii) The performance information in client account statements is at the account level but the Proposed Securities Amendments require the FER to be presented for each fund held (without the corresponding performance being provided at the fund level). This could lead investors to draw inappropriate conclusions about the FER since they don't have the appropriate context to conduct a comparison (i.e., fund performance at the account level for the same period of time).
- (iv) Monthly or quarterly client account statements do not contain cost information so the inclusion of the FER without an additional requirement to include all costs, would be misleading.

In addition, providing fund expenses based on the TER annually in dollar terms would align with the frequency that Total Cost Disclosure will be provided to segregated fund investors in their annual statements.

We are supportive of the proposed cost disclosure in dollar terms in the Annual Report on Charges and Other Compensation.

## **3. Flexibility should be given when it comes to how information is reported in statements**

We appreciate the provision of a prototype statement in the Proposed Securities Amendments. In recognition that dealers have spent a considerable amount of time making updates to their account

statements in connection with CRM2, we believe that dealers should have flexibility in implementing the Proposed Requirements and not be required to conform to a predefined template in providing this additional disclosure, provided the requirements in the Proposed Securities Amendments are met.

We note that the prototype Annual Report on Charges and Other Compensation could mislead investors since trailing commissions are included with other fund expenses as an aggregate number in the section “Investment fund company fees” and are also captured in the section on dealer compensation under the heading “Trailing commissions paid to us by investment fund companies”. This could lead to investors double counting these fees.

We do not believe that trailing commissions should be included in the section of the statement or under a heading that reads “amount paid to investment fund companies.” This makes it seem like these fees are retained by the IFM instead of being passed on to the dealer.

**4. The Proposed Securities Amendments should outline the information that can be used for new funds and include standard disclosure concerning the limitations of that information**

The Proposed Securities Amendments should prescribe the information that an IFM can use to calculate the daily dollar cost per unit/share for new funds that do not have an MER or TER until the first MRFP is filed for that fund. The IFM should be able to use the management fee, administration fee, and any other fund fees disclosed in the fund’s most recent prospectus or fund facts to determine the FER and standard disclosure should be provided to investors to inform them that the fund expenses reported are reasonable estimates and may not represent what they actually paid to hold the fund.

**5. The amendments should contemplate that IFMs cannot provide investor-level information for certain funds.**

Unlike conventional mutual funds, IFMs do not have any information on the number of securities held by an Exchange-Traded Fund (ETF) investor, because ETFs trade on an exchange. While an ETF’s IFM can provide annualized historical MER and TER figures for the ETF to advisers and dealers, the IFM cannot apply those figures against each investor’s holdings in order to provide the information required by the Proposed Securities Amendments. The Proposed Securities Amendments should clearly outline the roles and responsibilities of IFMs vs. dealers when it comes to the calculation of the total amount of fund expenses and should recognize that where IFMs do not have visibility into the end investor, they will not be able to provide the total amount of fund expenses.

**6. The transition period should be extended.**

Fidelity believes that a lengthy transition period is justified by the amount of work required to build the systems and processes necessary to operationalize Total Cost Disclosure. We agree with the comments made by IFIC in respect to the challenges with the proposed transition period and refer you to the very detailed implementation timeline and supporting rationale discussed in their comment letter. We ask the CSA to give due consideration to the very thorough and thoughtful response provided by IFIC on the appropriate transition period.

We agree with IFIC that this work cannot commence until after the final version of the amendments to NI 31-103 is published by the CSA. We ask for a minimum transition period of 2.5 years from the date the final

amendments are published, plus one year for collecting and storing one full year's worth of data required for the Annual Report of Charges and Other Compensation. That means that investors will first receive the updated Annual Report on Charges and Other Compensation in December of 2026.

We feel strongly that the industry should not have a shorter transition period than what was allowed for CRM2, especially since the changes required to meet the Proposed Securities Amendments for Total Cost Reporting requires new FER data to be created. FER data at the investor level does not exist in the fund managers' transfer agency system. Currently, the FER can only be calculated at the fund level on fund accounting systems. Fundserv does not have a file for this data point to be transmitted and will need to make system updates to capture this data point. In turn, dealers will need to make system updates to receive and store this information, perform necessary calculations at the investor account level and update client account statements with the additional disclosure. This is even more challenging for other types of investment fund providers and dealers (ETFs, prospectus-exempt funds, scholarship plans, labour-sponsored funds and foreign investment funds) since there currently is no infrastructure - similar to Fundserv - for the required data transmission and retention.

The CRM2 requirements did not require new data to be created since fund managers were already providing dealers with trailer fee information. Considering that under CRM2 the CSA provided most registrants with a total transition period of 3.5 years, it is very reasonable for the industry to be given a comparable period of time to implement Total Cost Reporting.

### **Fidelity's Response to Specific Questions Regarding the Proposed Securities Amendments**

For your ease of reference, we have reproduced the CSA's questions in bold font below followed by our responses to each question.

- 1. Do you anticipate implementation issues related to the inclusion of any of the following in the Proposed Securities Amendments,**
  - (a) exchange-traded funds,**
  - (b) prospectus-exempt investment funds,**
  - (c) scholarship plans,**
  - (d) labour-sponsored funds,**
  - (e) foreign investment funds?**

We appreciate that a consistent calculation methodology should be used to calculate the total cost of owning the funds listed above. However, please see our response under: 5. The amendments should contemplate that IFMs cannot provide investor-level information for certain funds and 6. The transition period should be extended above, where we note the challenges with providing investor-level information for these funds.

- 2. Would you consider it acceptable if, instead of information about each investment fund's fund expense ratio (MER + TER), the MER alone was disclosed in account statements and additional statements and used in the calculation of the fund expenses for the purposes of the annual report on charges and other compensation?**



Please see our response under: 1. If the Trading Expense Ratio (TER) is going to be reported, explanatory language must be provided to investors concerning the limitations of this number above.

3. **For the purpose of subsection 14.1.1(2), is the use of net asset value appropriate, or would it be more appropriate to use market value or another input? Would it be better to use different inputs for different types of funds?**

We believe that NAV is more appropriate than market value.

4. **Do you anticipate any other implementation issues related to the Proposed Securities Amendments?**

We have outlined the material anticipated implementation issues in this comment letter and we support the additional issues addressed in IFIC's comment letter.

5. **Do you anticipate any issues specifically related to the proposed transition period?**

Please see our response under: 6. The transition period should be extended above.

-----

Once again, we would like to thank the CSA for the opportunity to comment on the Proposed Amendments and we would be pleased to discuss any of our comments.

Yours sincerely,

**"Sian Burgess"**

Sian Burgess  
SVP, Fund Oversight  
Fidelity Investments Canada ULC

c.c. Rob Strickland  
President  
Fidelity Investments Canada ULC