

**Via email**

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The Secretary  
Ontario Securities Commission  
20 Queen Street West  
22nd Floor  
Toronto, Ontario M5H 3S8  
Fax: (416) 593-2318  
E-mail: [comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

Me Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
800, rue du Square-Victoria, 22e étage  
C.P. 246, tour de la Bourse  
Montréal (Québec) H4Z 1G3  
Fax: 514-864-6381  
E-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

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

**CSA Notice and Request for Comment  
Proposed Amendments to National Instrument 81-105 Mutual Fund Sales  
Practices and Related Consequential Amendments**

[http://www.osc.gov.on.ca/documents/en/Securities-Category8/csa\\_20180913\\_81-105\\_mutual-fund-sales.pdf](http://www.osc.gov.on.ca/documents/en/Securities-Category8/csa_20180913_81-105_mutual-fund-sales.pdf)

Thank you for the opportunity to provide the CSA comments on this very important Consultation.

**Discount brokers collecting money for doing nothing**

The discount brokerage issue is clearly a huge destructor of retail investor nest eggs. According to some media reports, it runs into tens of millions of dollars per

year. The practice of mutual funds knowingly paying trailing commissions to a discount broker to provide advice and "services" who they know won't provide anything ( other than order execution and routine related services) and an IIROC regulated dealer accepting payments for services they have no intention of providing, boggles the mind. It is unclear what the commenter is expected to say. [The average mutual fund investor cannot assess whether they received "services and advice" at all, let alone "services and advice" of a value that is equal to the trailing commission paid on their behalf "]

The industry is pillaging investors and the CSA is asking Main Street questions. Why not enforce common law of contract? Why not agree that abusing unsophisticated investors who believe regulators are protecting them is not supportive of a fair and efficient capital market? Why not bring enforcement actions against the dealers for a decade or more of systemic financial assault? Why not let OBSI make a determination for redress? I am so dumbfounded by this consultation I can only ask-WHY?

IIROC has already publicly declared the selling of A series mutual funds is a conflict-of-interest and has recommended rebates be made to investors. IFIC says the trailer should not be paid in the discount broker sales channel and investor advocates have come right out and called current practices unmitigated investor abuse. No matter how you slice it, IIROC should get on with enforcing its own rules. Stop the exploitation of DIY investors - Discount brokers receiving kickbacks for services and advice they have no intention of ever providing is immoral and unethical. These payments are really for shelf space – great fund companies who won't pay are kicked off the shelf.

The CSA should also be asking why the fund company trustees and Independent Review Committees are approving this abuse of investor assets. That seems like a blatant breach of fiduciary duty that should be harshly punished. In fact, it is this breach that is the root cause of this issue. The CSA is dealing with the symptom. Law firm Siskinds have got it right by filing Class action lawsuits against the asset managers. In this 3 minute CBC report, watch retail investor Steve Pozgaj's story about paying almost \$5,000 in trailer commissions last year, for advice he says he never got. <https://www.siskinds.com/diy-investors-fight-back-trailer-fees/> It is a real eye opener.

### **The DSC financial assault**

The other issue on the table is the DSC sold mutual fund. The DSC sold fund is NOT about investor choice. No rational investor making an informed choice would ever choose a DSC fund in lieu of the FEL version. The real issue is about financing salespersons. Why should investors be responsible for financing salespersons? Why isn't the CSA holding dealers responsible for financing their own sales force?"

The DSC structure was originally developed to SAVE the client money. As I understand it, the DSC "commission" is actually an advance on the 1% trailer commission. It is paid by the fund company upfront and recovered, in part, by

cutting the trailer commission in half for the DSC period. Back in the eighties that was ten years:  $1/2\% \times 10 \text{ years} = 5\%$  advance. This is why a DSC sold fund should have a higher MER but in practice, except for Fidelity, all funds are penalized with a higher MER. Elimination of the DSC fund should reduce fees across the board as the CSA has noted. As per the MFDA and other research, the front load is currently zero. This means that any IIROC registrant is bound to resolve conflicts-of-interest in the client's best interests MUST recommend the FEL series of a fund. When that does not happen, there is a breach of the rules and enforcement comes into play. The CSA is also aware of cases of DSC fund sales that are not congruent with KYC. This mostly harms the elderly and those in retirement. Why is there a need to consult?

It should be noted that all the issues associated with DSC sold funds being discussed today were extensively documented in a report by former OSC Commissioner Glorianne Stromberg in 1998 **Investment Funds in Canada and Consumer Protection**  
[http://www.sipa.ca/library/SIPAdocs/Stromberg\\_InvFunds-Oct1998.pdf](http://www.sipa.ca/library/SIPAdocs/Stromberg_InvFunds-Oct1998.pdf)

I fully support putting the DSC sold fund in the scrap heap where it belongs. I do not understand why any transition time to stop harming retail investors is warranted or justified. A car with defective breaks would be recalled for correction in an expeditious manner and car owners warned in writing.

I sincerely hope this commentary is of use to the decision makers.

I agree to public posting of my Comment letter.

Alan Blanes