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ATTN:  
The Secretary  
Ontario Securities Commission  
20 Queen Street West  
22<sup>nd</sup> Floor

**Re: OSC Staff Notice 11-784 *Burden Reduction***

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Dear Sirs and Mesdames:

Manulife is pleased to provide this submission to the Ontario Securities Commission's (OSC) on Staff Notice 11-784 and commends the OSC's initiative to reduce unnecessary regulatory burden.

Serving one in five Canadians, Manulife is a leading financial services organization offering a wide range of protection, estate planning, investment and banking solutions through a diversified multi-channel distribution network.

Manulife Asset Management Limited and its entities provides a range of investment fund products and a range of services including acting as a portfolio manager and investment fund manager. In addition, it provides comprehensive asset management solutions for institutional investors and investment funds in key markets around the world. This investment expertise extends across a broad range of public, private and alternate asset classes, as well as asset allocation solutions.

Manulife Investments, a division of Manulife Asset Management Limited, represents the wealth management arms of Manulife in Canada. As one of Canada's leading integrated financial services providers, Manulife Investments offers a variety of products and services, including mutual funds, non-redeemable investment funds and exchange traded funds.

Manulife Securities consists Manulife Securities Investment Services Inc., a mutual fund dealer, Manulife Securities Incorporated, an investment dealer, and Manulife Securities Insurance Inc., an insurance agency, each of which is a wholly owned subsidiary of Manulife. Our advisors provide Canadians with access to stocks, bonds, mutual funds, and other investment products as well as a suit of life and health insurance solutions.

Our response complements the submissions made by the Investment Industry Association of Canada (IIAC), the Investment Funds Institute of Canada (IFIC), and the Portfolio Management Association of Canada (PMAC), all of which we generally support.

We are pleased to provide thoughts about regulatory burden from our experience as an asset manager and as a dealer.

**Overview**

We believe that Canadian investors are best served when the regulatory framework for securities supports strong investor protection, confidence in capital markets and a stable ecosystem that efficiently delivers the financial solutions that Canadians want and need.

We support this review of Ontario's securities regulatory and administrative frameworks and look forward to continuing to work with regulators to enhance customer experience and improve financial outcomes.

We believe that regulatory burden could be significantly reduced by improving the policymaking/rulemaking framework, enhancing regulatory clarity and transparency, increasing harmonization across jurisdictions and across similar financial products, and better leveraging new technology both in regulation and its use by the regulators.

Below we provide further detail on our position for reducing regulatory burden.

### Principles for Burden Reduction

#### Improving the Framework for Policymaking and Rulemaking: Broadening Policy Objectives

The public policy objectives of securities regulation have traditionally been to foster consumer protection, to promote efficient capital markets and to ensure confidence in securities markets. We believe that the Ontario government and securities regulators should consider whether slightly broader policy objectives could improve consumer outcomes.

For example, in some circumstances, a narrow focus on consumer protection may result in overly conservative regulation. Adjusting to look more broadly at 'consumer interest' may result in better policymaking. As an illustration, Canada's investment industry plays a vital role in helping Canadians accumulate wealth and save for retirement. Canadians have approximately \$1.6 trillion invested in investment funds. For context, the total amount held by government and private pension funds is approximately \$1.5 trillion. Securities regulation can have a significant impact on Canadians' financial wellbeing and their retirement savings. Looking beyond consumer protection and more broadly at consumer interest would help to ensure that securities policy takes into account things like the impact on Canadians' wealth and retirement savings.

If there are concerns that regulators are not well suited to undertake a broader analysis, then consideration could be given to increasing the role for government officials in securities policymaking and rulemaking.

#### Improving the Framework for Policymaking and Rulemaking: A Robust Regulatory Impact Analysis

Regulation can promote economic growth and enhance consumer protection. Regulation can also generate significant costs and limit business from providing services consumers want. Regulators and policymakers should be required to conduct a thorough impact assessment for any proposed policy or rule and the current practice is inconsistent. When there is an impact analysis, the benefits of the proposal are often presumed without significant factual evidence. Concerns about or analysis of financial or opportunity cost borne by firms or consumers frequently go unaddressed.

For example, in January 2017, the Client Relationship Model II (CRM2) came into effect. We support the principle of increased transparency; the industry spent tens of millions of dollars to provide information that, according to focus groups conducted in October 2018 by the British Columbia Securities Commission, many consumers find "overwhelming or simply boring".

To reduce regulatory burden, we recommend the OSC establish a regulatory impact analysis process that more fully assesses the impact of adopting, implementing and maintaining the proposed regulations. We recommend the process include consideration of the following impacts:

- Access to professional advice;
- Informed consumer choice and availability of products and services;
- Costs passed on to consumers in form of higher fees or increased demand on consumer time/inconvenience;

- Consumer interest;
- Impacts to existing or new business models;
- Costs for updating back office systems and platforms;
- Barriers to entry;
- Duplicative or conflicting compliance measures; and
- Costs to the government and regulator.

The OSC should consider working with industry participants, both large and small firms, investors and advisors alike, to come up with a more comprehensive list of considerations to be included in a regulatory impact analysis. The list should be used to evaluate the proposed regulations and determine whether there is substantial benefit and value-add to achieve the intended policy objective while ensuring economic growth and regulatory efficiency.

### Promoting Transparent Regulation

From determining regulatory goals, to evaluating the alternatives available to achieve those goals, transparency in the regulatory process should be a guiding principle. Transparent regulation best positions market participants to comply with regulatory requirements and achieve the policy objectives.

The OSC should consider prioritizing increased transparency between regulators and registrants as this will promote a common understanding of how and why the rule making was implemented. The OSC could consider increasing formal and informal communications with industry players, to provide additional clarity in the intended objectives of the rule.

As an example, in August 2018, the OSC issued its decision concerning the obligation to deliver fund facts to clients participating in an auto-rebalancing program. For relief to be granted from this obligation, several conditions must be met. Of these, there is a requirement that Filers must provide the principal regulator, on an annual basis, with a current list of all such Dealers relying on the requested relief and updated list of any changes made. The purpose of this list and how it would be used to promote investor protection remains unclear and requires increased resources and administrative effort to comply. We understand the need for the OSC to be informed but an *ad hoc* or informal request from information from market participants would be less intrusive than mandatory annual filings.

A transparent regulatory ecosystem gives market participants the predictability and necessary knowledge for best compliance practices. Opaque or ambiguous regulations create uncertainty, delays and increased costs among licensed market participants and investors.

### Regulating through Guidance, not Enforcement

Regulation is a fundamental policy tool that creates symmetry between regulators and market participants to achieve common goals such as, among other things, investor protection.

Regulatory guidance is needed to ensure that market participants can set up adequate internal policies, procedures and operations that meet the policy intent. When guidance is necessary, regulators should ensure that it is being used exclusively to improve the clarity of the regulation.

Since guidance is not subject to the normal rule making process it should not be put on an equal footing with regulation. Regulators should be flexible and accommodating when considering processes and procedures that may not align with guidance, but, do comply with the regulation. Audits and enforcement should be based on compliance with regulation and not compliance with guidance.

Regulatory standards should not be set or communicated through enforcement. As an example, the industry has been trying to obtain guidance on Mutual Fund Sales Practices from the regulators but they were unable to share actionable details until recent enforcement actions.

Enforcement is not the appropriate method of providing guidance to market participants.

Enforcement should arise from a failure to meet clearly defined and communicated regulatory standards.

### Harmonizing Regulatory Requirements

We believe that the harmonization of consumer outcomes and consumer experience should be a guiding principle in rule making. Consumers of similar financial products, whether they are securities, insurance or banking products, and/or consumers of multiple financial interests in several provinces, should benefit from equivalent protections and receive similar outcomes. A non-harmonized regulatory regime creates redundancies and duplicative processes and requires increased resources leading to increased costs or a reduction in the availability of advice for Canadians.

We applaud the work of the CSA to promote harmonization and provincial governments should consider expanding the role of the Council of Ministers for Securities Regulation to coordinate securities policy and possibly other financial services within provincial jurisdictions (pensions, trust companies and insurance).

We further acknowledge the Supreme Court's recent ruling that a co-operative approach among the provinces and territories to regulate securities trading is constitutional. We strongly believe that this is a step in the right direction. Provincial support for the national securities regulator will be important and we encourage the OSC to work with the provinces, the CSA, market participants, and the federal government in moving this mandate forward in a timely manner.

### Modernizing OSC Tools & Resources

The rise of FinTech solutions has continued to bring increased operational efficiency to the financial services industry. FinTech solutions allow financial institutions to meet consumers evolving needs and expectations at a faster rate by automating numerous back office operations. Despite these advances however, national IT systems such as the National Registration Database (NRD) and the System for Electronic Document Analysis and Retrieval (SEDAR), remain complex, archaic and burdensome to navigate creating significant delays in workflow processes.

The NRD was launched in 2003 and has remained relatively unchanged since, while dealer data platforms have continued to evolve. Interface problems have persisted, and we are required to run parallel sets of books that support the NRD and our own, creating redundant and costly efforts. For securities dealers, NRD is a primary touch point with provincial regulators and the OSC could consider coordinating modernization efforts. This will ensure better provincial collaboration and a significant decrease in duplicative processes.

Moreover, it would be helpful if the OSC consolidated its resources. For example, it would increase efficiency in the industry if there was a centralized repository of forms and a checklist of which filings are required for whichever purpose. It would also be productive if both clean and blacklined versions of National Instruments was made available to the public as it would assist industry stakeholders in quickly identifying amendments. The OSC may look to the BSCS's and the AMF's website for examples.

### Leveraging Innovative Technology

Leveraging innovative technology could help regulators to more efficiently establish strong information-based strategies. For example, Artificial Intelligence (AI) and data analytic capabilities may assist in managing systemic risks. Leveraging technology more effectively may unlock cost efficiencies and generating significant benefits to the industry, the investor and the taxpayer.

The OSC should consider technology in regulatory design. For example, the position that access does not equal documentary delivery may have made sense in a world where few people were



online. However, in a world where the Internet has achieved almost perfect penetration, consumers have easy and permanent access to information. At the same time, *National Policy 11-201 – Delivery of documents by electronic means* has hardly seen any changes since its adoption more than 15 years ago. Reg-tech solutions could significantly reduce burden while improving consumer outcomes.

### Conclusion

Manulife is appreciative of the opportunity to participate in this review and we would be pleased to partake in further consultations or discussions.

We hope that you find our perspectives useful and we are happy to answer any questions you may have.

Yours very truly,

A handwritten signature in black ink, appearing to read "Bernard Letendre".

**Bernard Letendre**  
Head of Wealth and Asset Management, Canada  
President & CEO, Manulife Asset Management Limited

A handwritten signature in black ink, appearing to read "Rick Annaert".

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