

MEMO# 30742

June 12, 2017

Canadian Securities Administrators' Consultation Paper 81-408 - Option to Discontinue Embedded Commissions

[30742]

June 12, 2017 TO: ICI Global Regulated Funds Committee RE: Canadian Securities Administrators' Consultation Paper 81-408 - Option to Discontinue Embedded Commissions

On 9 June, ICI Global submitted a comment letter on the Canadian Securities Administrators' ("CSA") Consultation Paper 81-408 (10 January 2017) regarding the option to discontinue embedded commissions ("Consultation").[\[1\]](#)

In the Consultation, the CSA argues that embedded commissions cause or lead to the following harms to investors:

- conflicts of interest that misalign the interests of fund managers, dealers and representatives with those of investors;
- limit investor awareness, understanding and control of dealer compensation costs; and
- generally do not align with the services provided to investors.

The Consultation's Appendix A, Evidence of Harm to Investor Protection and Market Efficiency from Embedded Commissions ("Appendix"), sets forth the information and studies gathered to support the CSA's identified issues with embedded commissions.

Many of the academic studies cited in the Appendix include US-based studies relied upon by the US Department of Labor ("DOL") for its fiduciary rulemaking. ICI raised significant concerns with the research cited by the DOL. We described inaccurate characterizations of the academic research and described how the academic research did not capture the current state of the US market for mutual funds sold with front-end loads.

In our comment letter, we recommended that the CSA be cautious when using the US-based studies to support broad conclusions related to adverse investor outcomes as a result of commissions paid to intermediaries. An Annex to our letter describes our views on the US-based studies in more detail. We also directed the CSA's attention to the current re-examination of the DOL's fiduciary rulemaking and experiences with the UK's Retail Distribution Review ("RDR"). We noted that there is evidence that the DOL's fiduciary rule, as it is being implemented, is harming US investor access to financial advice. Similarly for RDR, the UK Financial Conduct Authority has identified concerns with higher costs for

advice as well as an unwillingness of some advisers to serve smaller account customers. We also encouraged the CSA to take time to study the effects of regulatory changes in the Canadian market, such as the new annual intermediary disclosure on fees and performance. More generally, we urged the CSA to carefully consider not only the benefits that the CSA seeks to bring to Canadian investors but also the potential for the proposed changes to negatively impact investors, including reducing their access to financial advice.

Susan Olson
Chief Counsel

[Attachment](#)

endnotes

[1] The Consultation is *available at* http://www.osc.gov.on.ca/documents/en/Securities-Category8/sn_20170110_81-408_consultation-discontinuing-embedded-commissions.pdf.

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