July 6, 2020

Delivered By Email: comments@osc.gov.on.ca

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8

Dear Sirs and Mesdames:

RE: Proposed Ontario Securities Commission Rule 81-502 *Restrictions on the Use of the Deferred Sales Charge Option for Mutual Funds* and Proposed Companion Policy 81-502 to Ontario Securities Commission Rule 81-502 *Restrictions on the Use of the Deferred Sales Charge Option for Mutual Funds* and Related Consequential Amendments

The Investment Funds Institute of Canada (**IFIC**) appreciates the opportunity to comment on the Ontario Securities Commission's (**OSC**) proposal to restrict the use of the deferred sales charge option for mutual funds.

IFIC is the voice of Canada's investment funds industry. IFIC brings together 150 organizations, including fund managers, distributors and industry service organizations to foster a strong, stable investment sector where investors can realize their financial goals. IFIC operates on a governance framework that gathers member input through working committees. The recommendations of the working committees are submitted to the IFIC Board or board-level committees for direction and approval. This process results in a submission that reflects the input and direction of a broad range of IFIC members.

OSC proposed Rule 81-502 *Restrictions on the Use of the Deferred Sales Charge Option for Mutual Funds* (the **Proposed Rule**) and Proposed Companion Policy to the Proposed Rule (the **Proposed CP**) permit clients to redeem their mutual fund investments in financial hardship circumstances without incurring deferred sales charges (**DSCs**). IFIC supports retaining a financial hardship exemption in the final version of the Proposed Rule, which is particularly timely in light of the impact of Covid-19. While requests for waiving DSCs due to financial hardship have historically been very few in number, and continue to be very few, IFIC members address these types of requests in different ways on a case-by-case basis. IFIC members are also mindful of the need to keep Canadians focused on their long term investment goals and avoid unnecessary, precipitous action that could harm their retirement savings and the execution of their financial plans.

We offer our comments on three other aspects of the Proposed Rule and Proposed CP:

1. Limiting the sale of mutual fund securities under the DSC option to clients under 60 years of age;
2. Limiting the sale of mutual fund securities under the DSC option to accounts with balances under $50,000; and
3. The requirement to offer the DSC option through a separate series or class of securities.

We offer more specific comments on certain technical aspects of the Proposed Rule and Proposed CP and respond to some of the OSC's consultation questions in Appendix A to this letter.

The Age Limitation

Canadians are living and working longer today than previously[1]. In 2015, one in five Canadians aged 65 or older continued to work at some point and 5.9% worked full time. This was the highest proportion of Canadians aged 65 or older in the workforce since 1981[2]. The number of Canadians that continue to work in their late 60s and into their 70s has nearly doubled between 1995 and 2015[3]. As a result, we believe that the limit in the Proposed Rule for the sale of mutual fund securities under the DSC option to investors under 60 years of age is too low.

Recommendation: IFIC recommends that the OSC increase the limit to clients 65 years of age or older. Age 65 is a hallmark of retirement and is the age at which Canadians can typically access full government retirement benefits. We believe this a better age proxy for seniors than is age 60.

The Account Balance Limitation

We believe the limitation on account size of $50,000 is too low to capture all modest investors. We believe that $100,000 is a more reasonable maximum account size limit, particularly when considered in connection with all the other restrictions in the Proposed Rule.

Recommendation: IFIC recommends that the OSC increase the account balance limitation to $100,000 to permit modest investors to continue to benefit from the DSC option where appropriate.

The Requirement to Offer the DSC Option through a Separate Series or Class

The Proposed Rule requires the investment fund manager to create a separate series or class for the DSC option. The OSC indicates that this prevents any potential for cross-subsidization of investors who purchase under the DSC option by investors who purchase on a no-load or front end sales charge basis.

We are not aware of any evidence of cross-subsidization as a result of the DSC option. Investment fund managers have priced their product offerings through the management fees and finance the cost of the DSC option from the management fee revenue they earn. We do not believe there is any additional cost borne by the mutual fund or its securityholders. We also note that the requirement to create a DSC series or class will increase the cost and regulatory burden on investment fund managers, which is antithetical to the OSC's initiative to reduce regulatory burden for issuers in Ontario. It will also create greater challenges and confusion for investors as a result of an increase in the number of series or classes offered.

We also note in this regard that the potential for cross-subsidization is not unique to the DSC option. To the extent that any cross-subsidization exists, it would exist across all financial services compensation models where the revenues generated by one client exceed those generated by another. For example, accounts with higher balances produce higher margins than accounts with lower balances.

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[1] Canadian life expectancy is 84 for women and almost 80 for men today Statistics Canada, Canada at a Glance, Table 13-10-0114-01, 2019.

[2] See also Census in Brief: Working Seniors in Canada (https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016027/98-200-x2016027-eng.cfm)

[3] Ibid

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We would be pleased to provide further information or answer any questions you may have. Please feel free to contact me by email at ahochman@ific.ca or by phone at 416-309-2314.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

By: Arnie Hochman
Vice-President, Policy and General Counsel

APPENDIX A

Specific Comments and IFIC Responses to Consutlation Questions

Specific Comments on Proposed Rule

1. We note that the Notice to the Proposed Rule and Proposed CP indicates that the 10% free redemption entitlement should apply to the value of the client's investment. However, Section 3(a)(ii) of the Proposed Rule references 10% of the <u>number of securities</u>. We request that this be amended to reflect the value of the securities as at the end of the prior calendar year.
2. With respect to Section 2(a) of the Proposed Rule, we believe it should more closely track the language in section 1.3 of National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) given that the Proposed Rule will be an exception to NI 81-105. We request that Section 2(a) of the Proposed Rule be amended as follows:

   (a) a distribution of securities of a mutual fund that offers or has offered securities under a prospectus or simplified prospectus for so long as in the period the mutual fund remains a reporting issuer; and
3. With respect to Section 3(b)(i), we request the OSC clarify how pre-authorized contribution plans set up before a client turns 60 (or, as we suggest, 65) should be handled once the client turns 60 (or, as we suggest, 65) years of age.
4. With respect to Section 3(b)(iv)(A), we request the OSC clarify whether the prohibition on the use of borrowed funds to purchase mutual fund securities would apply to the use of an RRSP loan, which is a common method used by Canadians to help fund their retirement savings.
5. With respect to Sections 3(b)(iv)(B) and (C) we request the OSC clarify how switches from one fund to another fund in a family will be treated when the first fund was purchased before the coming into force of the Proposed Rule.
6. With respect to Sections 3(b) (iv)(B) and (C) we request the OSC clarify how reinvested distributions on a security purchased before the coming into force of the Proposed Rule will be treated.
7. We note that the collective restrictions on the use of the DSC option will lead to tax complexities for investors that purchase mutual fund securities under the DSC option and eventually hold mutual fund securities purchased under the DSC option and the front-end load option. These will need to be explored further to be fully understood.

Specific Consultation Questions Relating to the Proposed Rule

1. Do you agree that mandating a separate DSC series will help in curtailing the cross-subsidization of the costs attributable to DSC investors? Why or why not?

As set out in our letter, we do not agree that there is any cross-subsidization of investors who purchase under the DSC option by investors who purchase on a no-load or front-end sales charge basis.

2. The effective date of the Proposed Rule coincides with the effective date of the final amendments to implement a DSC ban in the other CSA jurisdictions. Are there additional issues that we should consider?

No; harmonization of the timing of the two regulatory initiatives is crucial.