



THE INVESTMENT FUNDS INSTITUTE OF CANADA
L'INSTITUT DES FONDIS D'INVESTISSEMENT DU CANADA

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Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
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Re: Proposed Amendments to National Instrument 31-103: Cost Disclosure and Performance Reporting

We are writing to provide the comments of the Members of The Investment Funds Institute of Canada to the proposed amendments to *National Instrument 31-103 Registration Requirements and Exemptions: Cost Disclosure and Performance Reporting* (the "Proposals"), published on June 24, 2011.

Our Members support the general principles of the Proposals to provide clients with clear and transparent reporting on performance and costs. In this submission we offer general comments regarding regulatory co-ordination, cost/compensation disclosure, and performance reporting, and provide more detailed comments in Annex A: Matrix for Proposed Amendments NI-31-103 ("Matrix"), and estimated summary impacts of the provisions in Annex B.

In our submission we will address the details of the Proposal but we would like to highlight two significant concerns with the process and content of the Proposal:

- Disregard for the CRM consultative process under the Registration Reform project where the items addressed in this Proposal were delegated to IIROC and MFDA for rule development but readdressed here with confusion and overlap;
- Misleading of mutual fund investors through an overemphasis on the disclosure of fees and compensation that are already paid by the MER and included in net return reporting.

We ask that serious consideration be given to these two concerns before any further work is done on regulations in the areas covered by this Proposal.

Regulatory Co-ordination:

The Client Relationship Model (CRM) Project, introduced in the OSC's Fair Dealing Model Concept Paper of January 2004, was brought under the Registration Reform Project of the CSA in September 2004. Working groups of industry and regulatory staff were set up at that time to develop rulemaking recommendations in areas of relationship disclosure, costs, conflicts and compensation transparency, and performance reporting. After years of extensive work by joint SRO committees, industry working groups and stakeholders through public consultations, these efforts have produced rules from both the MFDA and IIROC. MFDA Rules regarding client accounts, account supervision, client reporting and communications, including MFDA Rule 5.3.5 addressing performance reporting, were approved by the CSA in July 2010, were ratified by the MFDA Board and are required for implementation by July 2012. Proposed Rule changes to address CRM issues were published by IIROC in February 2008, subsequently revised and republished in April 2009, and were re-released for public comment in January 2011.

Our Members have noted with concern that some of the provisions of the Proposal do not reflect conclusions reached following lengthy public consultation by the MFDA, as reflected in MFDA Rule 5.3.5 ("the Rule") approved by the CSA last year. The industry believes that the rules developed by the MFDA in the context of these consultations address the principles of CRM, are balanced in their application, and should not be set aside by these Proposals. To do so, in our Members' view, would undermine the value of the extensive and valuable work contributed over the last seven years of public consultations, and would place at risk the credibility of the public consultation process itself.

Our MFDA Dealer members are concerned that the statement and system changes that will be made to meet MFDA Rule 5.3.5, due to become effective in July 2012, will be largely redundant upon the implementation of the proposed changes to NI 31-103. If dealers are required to make

statement reporting changes to meet the MFDA requirement, and subsequently make further changes to meet NI 31-103, then over a relatively short time investors will experience two significant statement and reporting changes. Such instability in reporting and statement presentation cannot be in the best interests of the investor. Our Members believe it *is* in the best interests of investors and the industry to have one clear and consistent rule for performance reporting and cost disclosure as developed through accepted practices of public consultation.

Our members also have noted the absence of any meaningful analysis and balancing of the costs and benefits of the Proposal.

We ask that the CSA allow the SROs to develop rules for the regulation of performance reporting and cost disclosure of their members, and exempt SRO members from compliance with the Proposals.

Overlap with Point of Sale NI 81-101 Changes:

There is significant overlap with the Point of Sale (POS) disclosure requirements. Disclosure of mutual fund costs, charges and commissions is made in the Fund Facts document. Issues of mutual fund disclosure are being addressed through the Point of Sale project and the implementation of changes to NI 81-101. The POS initiative is proceeding with the implementation of Phase 2. This will ensure the Fund Facts document is delivered within 2 days of sale. The delivery of mutual fund information at POS has been the subject of industry comment and is intended to be part of Phase 3 of the POS initiative. It is our view that disclosure of mutual fund information should be mandated through changes to NI 81-101, and should not also be mandated in advance of Phase 3 of POS through changes to NI 31-103.

Annual Cost Disclosure:

The cost disclosures found in the Proposals will confuse investors and may lead them to draw misleading cost comparisons.

The new emphasis on aggregating charges and disclosing fees such as trailer fees may cause investors to double count charges that have already been charged to their investments and are disclosed elsewhere. This emphasis on certain charges that form part of the Management Expense Ratio is an abandonment of the longstanding policy of providing information on a net basis. Mutual fund disclosures of performance have been done on a net basis to avoid confusion.

This misleading practice may cause investors to believe their mutual fund investments are being overcharged relative to other products, and lead them away from suitable mutual fund investments to less suitable and less transparent investment options in the banking and insurance sectors where such detailed disclosure is not required. Mutual Fund dealers will report costs and fees associated with mutual fund distribution, while other entities and products that are not regulated by the CSA or MFDA will not be required to provide the same level of cost and compensation reporting.

The CSA has recognized that there are implementation issues with disclosure of fees on fixed income products in provision 14.2(4.1)(d) and have required only a text-based disclosure for these

products. We believe that this is the appropriate level of disclosure for these costs. We will show in the attached detailed comments that there also are significant implementation issues and costs associated with requiring the disclosure of trailing commissions on a dollar and per account basis. This provision would require costly system builds for fund managers, FundSERV and dealers - costs which would ultimately be borne by investors. The additional value of the proposed disclosures to investors should be weighed against the additional costs of recording, storing, extracting and reporting the data. We believe that additional costs should not be imposed on investors without a full assessment of benefits versus costs and without taking into consideration the existence of the already available robust disclosure regime.

Annual Performance Reporting:

The performance reporting requirements of the MFDA Rule are in line with the principles of the CRM and provide return information in a desired format to investors. The Rule represents the balance of interests reflected in the extensive public consultations that preceded its adoption. The basis for the Rule is in fact well supported by the CSA's own investor research conducted in 2010. The Brondesbury Group's paper "*Report: Performance Reporting and Cost Disclosure*" prepared for the CSA in September 2010 shows that a majority of investors (52%) would not like more detailed performance reporting than they receive currently, and of the 48% who would like more information nearly half (45%) would not want to pay anything for it. The Report goes further to note: "When we look at how investors assess the performance of their portfolio, we find that most people simply assess the amount of money they gained or lost since their last account statement. The use of market indices and benchmark performance is most common among those with the most money invested"¹. Given that 80% of mutual fund accounts are in amounts of less than \$50,000, we believe that the MFDA Rule 5.3.5 which mandates a simple measure with flexibility to provide annual gain/loss information or percentage return, aligns well with the expressed needs of investors and their unwillingness to pay additionally for more detailed performance information. The analysis provided in the attached Annexes illustrates the substantial costs associated with the implementation of these Proposals.

Transition:

Should these changes nevertheless be made despite the objections set out here, at a minimum a 3-year transition period should be provided to accommodate system changes required at both the fund manager and dealer levels.

Conclusions:

In addition to these general comments you will find Annex A which provides detailed comments and Annex B which provides a summary report on anticipated impacts of the Proposal.

We urge the CSA to reflect on the rule making process to date and request that the issue of cost disclosure and performance reporting for SRO Members be left under SRO jurisdiction. As shown

¹ *Report: Performance Reporting and Cost Disclosure*, prepared for the Canadian Securities Administrators, The Brondesbury Group, September 17, 2010.

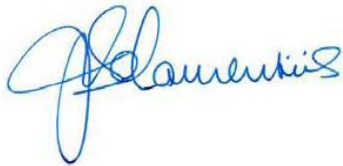
John Stevenson, Me Anne-Marie Beaudoin
Proposed Amendments to National Instrument 31-103: Cost Disclosure and Performance Reporting
September 7, 2011

by our evidence above, the SROs are in a unique position to determine an appropriate level of cost and performance reporting and to monitor the implementation of new regulatory changes for their members. Our industry fully supports the implementation of MFDA Rule 5.3.5 as an appropriate cost disclosure and performance reporting rule for the mutual fund industry.

If you have any questions, regarding anything in this letter please contact me directly by phone at 416-309-2300 or by email at jdelautentiis@ific.ca or Jon Cockerline, Director, Policy and Research by phone at 416-309-2327 or by email at jcockerline@ific.ca.

Yours truly,

The Investment Funds Institute of Canada



By: Joanne De Laurentiis
President & Chief Executive Officer

ANNEX A - IFIC MATRIX FOR PROPOSED AMENDMENTS TO NI 31-103: PERFORMANCE REPORTING AND COST DISCLOSURE

SECTION	PROPOSED REQUIREMENT	NOTES/ COMMENTS	STAKEHOLDER IMPACT / REQUIRED CHANGES OR OTHER ISSUES
<p><u>General Comments</u></p> <p>1. MFDA Rule 5.3.5 (Account Performance Reporting)(“MFDA Rule”)</p> <p>It is our view that the SROs are in the best position to develop and recommend reporting rules that suit the distribution channel that they regulate.</p> <p>There was extensive public consultation that resulted in the adoption and approval by the CSA of the MFDA Rule which deals with performance reporting. The manner in which the CSA has reopened the issue of cost and performance reporting undermines the credibility of the public consultation process that has already occurred through the MFDA which resulted in the MFDA Rule which we believe is an appropriate rule for MFDA dealers.</p> <p>MFDA dealers currently are engaged in statement redesign and are making significant expenditures to comply with the pending MFDA Rule (June 2012). The MFDA Rule requires dealers to annually report either the change in value of the account, or the annual percentage return. There is no annual cost reporting requirement in the MFDA Rule. This makes sense because MFDA dealers do not control or levy many of the charges or fees that are required to be reported under the proposed NI 31-103 cost and performance disclosure requirements (“Proposed NI 31-103 Rules”). There is no requirement in the MFDA annual reporting for complex calculations, such as net invested, multiple year annual returns and account performance since inception as would be the case in the Proposed NI 31-103 Rules.</p> <p>MFDA dealers are concerned that they will be making significant efforts and expenditure to comply with the MFDA Rule, only to have to repeat the effort and expense to accommodate cost and performance changes mandated by Proposed NI 31-103 Rules. MFDA members wish to have one clear rule on performance so that system and statement changes only need to be done once. The CSA and MFDA need to co-ordinate their approach to this.</p> <p>We request that MFDA members be exempt from compliance with the Proposed NI 31-103 Rules.</p> <p>This issue needs to be determined urgently as MFDA dealers are currently working to meet the MFDA Rule implementation date of June 2012.</p>			

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<p>2. Fairness Issue</p> <p>The Proposed NI 31-103 Rules will result in extensive cost reporting for mutual funds. Since this requirement will not exist for other investment products, investors may be misled to believe that mutual funds are more costly and have more fees than other types of investment products. Mutual fund dealers will report costs and fees associated with mutual fund distribution, while other entities and products that are not regulated by the CSA or MFDA will not be required to provide the same level of cost and compensation reporting.</p> <p>3. Transition</p> <p>If these proposals are implemented, a transition period of 3 years should be provided to accommodate IT system changes required at both the fund manager and dealer levels.</p> <p>4. Cost/Benefit</p> <p>The system build and maintenance required to implement the Proposed NI 31-103 Rules will be significant and costly for the industry. The costs of statement production, printing and distribution will increase significantly. There should be a meaningful study of cost and benefit.</p> <p>5. Overlap with Point of Sale NI 81-101 Changes</p> <p>There is significant overlap with the Point of Sale (POS) disclosure requirements. Disclosure of mutual fund costs, charges and commissions is made in the Fund Facts document. Issues of mutual fund disclosure are being addressed through the POS project and the implementation of changes to NI 81-101. The POS initiative is proceeding with the implementation of Phase 2. This will ensure the Fund Facts document is delivered within 2 days of sale. The delivery of mutual fund information at POS was the subject of industry comment and is intended to be part of Phase 3 of the POS initiative. It is our view that disclosure of mutual fund information should be mandated through the changes to NI 81-101 and should not also be mandated in advance of Phase 3 of POS through the Proposed NI 31-103 Rules.</p>			
1.1 [New]	<p>Definitions:</p> <p>“charges” include operating charges and transaction charges;</p> <p>“compound percentage returns” means cumulative gains and losses over time</p>	<p>The definition of “charges” should be limited to charges directly levied to an account by a mutual fund dealer for the following reasons:</p> <p>1) There may be certain charges that</p>	

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	<p>expressed as a percentage;</p> <p>“net amount invested” means the sum of all contributions of cash or securities into an account, not including income generated by investments in the account if that income is reinvested, less all withdrawals of cash or securities out of the account, except charges paid out of the account;</p> <p>“operating charges” means any amounts charged in respect of the operation of an investment account of a client, including service charges, administration fees, safekeeping fees, management fees, performance fees;</p> <p>“original cost” means the total amount paid for a security, including any commissions or other charges related to purchasing the security;</p> <p>“transaction charges” means any amounts charged in respect of a purchase or sale of securities, including commissions, sales charges, transaction fees;</p>	<p>are levied and invoiced directly by third parties such as custodians. As a result, we believe that such charges should not have to be shown on the mutual fund dealer’s statements as well since they have already been invoiced by the party levying the charge.</p> <p>2) While we understand the intent of the CSA is to provide clients with a statement that shows all charges related to the account we believe that this intent is undermined by the confusion that will result when clients receive one statement from the third party levying the charge and another statement from the mutual fund dealer showing the same charge. This over-reporting can be problematic in the tax filing sphere because clients will have to sort out which charges they need to exclude as a tax deduction so as not to over-claim in their tax returns.</p> <p>As a result of the above, our suggested changes to the definitions are as follows:</p> <p>“Operating charges” means any amount charged directly by a registrant to an account ...”</p>	

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		<p>And, “transaction charges” means any amounts charged directly by a registrant to an account in respect of a purchase or sale of securities ...”</p> <p>If the CSA will provide registrants with the option of choosing between original cost and tax cost (see our comment on provision 14.14(5.2) below), then it will be necessary to include a definition of “tax cost”. We suggest that “tax cost” be defined to include such items as return on capital, distributions and dividends.</p> <p>In addition, we kindly request that the CSA confirm that items such as foreign exchange spreads and withholding taxes are not considered “charges”.</p>	
14.2(2) [Amended]	<p>Relationship Disclosure Information: [At account opening] A registered firm must deliver to a client information including:</p> <p>(f) disclosure of all operating charges the client may pay related to the account;</p> <p>(g) a general description of the types of transaction charges the client may pay;</p> <p>(h) a general description of any</p>	<p>Currently MFDA members are exempt from this requirement. We expect this exemption to continue.</p> <p>We note that MFDA Rule 2.2.5 (Relationship Disclosure) comes into effect in September 2011. MFDA members have already developed Relationship Disclosure Documents to comply with the MFDA requirement. The MFDA requirement meets the needs of investors and should not be</p>	

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	<p>compensation paid to the registered firm by any other party in relation to the different types of products that a client may purchase through the registered firm;</p>	<p>changed.</p> <p>In any event we do provide comments below regarding the proposed changes to 14.2(2):</p>	
<p>14.2(2)(m) [New]</p>	<p>(m) a general description of investment performance benchmarks and the factors that should be considered by a client when comparing actual returns in the client's account to benchmark returns, and any options for benchmark information that are made available to clients by the registered firm.</p>	<p>(m) While we understand that the use of benchmarks is not mandated in the Proposed NI 31-103 Rules, we would still like to point out that benchmarks are not useful for measuring the performance of a mutual fund account. Mutual fund accounts may contain different types of mutual fund products and will, as a result, not align with a benchmark. Customized benchmarks for individuals are difficult to develop and monitor at the retail level. We therefore recommend that this section should specifically state that it does not apply to mutual fund dealers. The use of benchmarks makes sense in a managed account context and most managed accounts already provide benchmark disclosures.</p>	

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14.2(3) [Amended]	<p>Relationship Disclosure Information: A registered firm must deliver the information in subsection (1), paragraphs (2)(a), 2(c) to (k) and 2(m) to the client in writing, and the information in paragraphs (2)(b) and 2(l) either orally or in writing.</p>		
14.2(3.1) [New]	<p>Relationship Disclosure Information: [At point of trade] Before a registered firm makes a recommendation to or accepts an instruction from a client to purchase or sell a security in an account other than a managed account, the firm must disclose to the client</p> <p>(a) the charges the client will be required to pay in respect of the purchase or sale, and</p> <p>(b) in the case of a purchase, any deferred charges that the client might be required to pay on the subsequent sale of the security, or any trailing commissions that the firm may receive in respect of the security.</p>	<p>(a) MFDA Dealers should be exempt from this as it is already an MFDA requirement (Rule 2.4.4).</p> <p>(b) The disclosures contemplated by this section are related to charges and commissions that are charged or paid by fund managers.</p> <p>Disclosure of deferred charges and trailing commissions that may be applicable to a mutual fund is made in the Fund Facts and the Simplified Prospectus documents. It is</p>	<p>(b): Fundserv – None</p> <p>Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Compliance tracking mechanisms to be built

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		<p>not necessary to also require this disclosure in NI 31-103. The POS initiative is proceeding with the implementation of Phase 2. This will ensure the Fund Facts document is delivered within 2 days of sale. The delivery of this information at POS was the subject of industry comment and is intended to be part of Phase 3 of the POS initiative. It is our view that disclosure of mutual fund information should be mandated through the changes to NI 81-101 and should not also be mandated in advance of Phase 3 of POS through changes to NI 31-103.</p> <p>In any event, since the amount of possible future deferred sales charges that a client may be required to pay cannot be determined with certainty at point of sale, we do not believe it is practical or possible to require disclosure beyond that which is already in the Fund Facts document. We note that a schedule of applicable deferred sales charges is provided in the Fund Facts document. Disclosure of deferred sales charges at point of sale should be regulated through NI 81-101.</p> <p>In addition, disclosure of trailing commissions also is made in the Fund Facts document and regulated through NI 81-101. Given the difficulty associated with determining the exact amount of trailing</p>	<p>evidencing delivery of information at the point of sale (i.e. those commensurate with Point Of Sale Phase 3 implementation).</p> <p>Advisor</p> <ul style="list-style-type: none"> ➤ Advisor training regarding delivery of Fund Facts documents (or equivalent) at Point of Sale; collection of evidence/proof of delivery. <p>Client</p> <ul style="list-style-type: none"> ➤ Potential for delays in trading as Fund Facts (or equivalent) required to be delivered before trade can be executed.

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		<p>commissions due to the fact that fund managers do not generate trailing commission information on a per client basis, we suggest that trailing commission disclosure be more general. Given that most trailing commissions are in the range of 1.5-2.5%, we suggest that the disclosure be in the nature of “your firm may receive a trailing commission in the range of 1.5-2.5% in respect of the security”. We believe that this notion of general disclosure of the existence of trailing commissions is contemplated in the companion policy, however, we would appreciate a more certain confirmation that this approach would be acceptable.</p>	
<p>14.2(4.1) [New]</p>	<p>Relationship Disclosure Information: A registered firm must deliver the following information to a client every 12 months with or in the account statement that is accompanied by or includes the report containing the account performance information required under section 14.15 [account performance reporting]:</p>	<p>MFDA members should be exempt from this requirement.</p> <p>As discussed in greater detail below, the cost of developing this report will be significant and the research done by the Brondesbury Group for the OSC does not demonstrate investor demand for this type of reporting. In addition, charges at the trade level are already reported on the trade confirmation and charges at the account level are reported on account statements. Dealer charges are disclosed in the Relationship Disclosure Document. Trailing commissions are disclosed in the Fund Facts document</p>	

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		<p>and Simplified Prospectus. There is no evidence that the benefit of this report will justify the cost of aggregating the required information and presenting it annually on an account statement.</p> <p>The Brondesbury research shows that clients have a high level of understanding regarding costs, such as the “Buy/Sell commission”, and less understanding of concepts such as trailing commissions. This supports the need for better investor education about these concepts, rather than more detailed annual disclosure.</p> <p>The research also shows that most clients want to know about costs before buying or selling (48.4%) and few were interested in specifically learning about costs on the account statement. (13.6%). The clear majority of clients with an advisor wanted to learn about costs from their advisor. The research does not support the need for detailed annual cost reporting on an account statement.</p> <p>Detailed comments on each sub-section are below:</p>	

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	<p>(a) the registered firm’s current operating charges which may be applicable to the account;</p> <p>(b) the total amount of each type of operating charge related to the account paid by the client during the 12 month period covered by the account statement, and the aggregate amount of such charges;</p> <p>(c) the total amount of each type of transaction charge related to securities in the account paid by the client during the 12 month period covered by the account statement, and the aggregate amount of such charges;</p>	<p>(a) Dealer charges are disclosed in the Relationship Disclosure Documents. It is unnecessary to list them again on the statement. In addition, the statement should show actual account charges as opposed to charges that <i>may</i> be charged which can be confusing to the client.</p> <p>(b) (c) Some firms may charge one fee for “all services rendered” including trading fees, custodian fees, administrative fees, etc. For those firms we would assume that it would not be necessary to undertake an artificial exercise to break down the charges related to each service. Registrants are still required to report the type of charges that relate to accounts under 14.2(2) in NI 31-103 and they also would report the total amount under the Proposed NI 31-103 Rules. Therefore we recommend that all inclusive charges should not require a breakdown into component parts and ask for confirmation of same in the companion policy.</p> <p>The proposed requirement for registered firms to disclose the fees and charges that may be charged by third parties outside the dealer is challenging (see our comments on</p>	<p>(b) (c): Fundserv – None Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Back office systems programming to extract and aggregate each type of operating charge, and then aggregate all operating charges as part of the statement extract process; ➤ Back office systems programming to extract and aggregate each type of transaction charge, and then aggregate all transaction charges as part of the statement extract process; ➤ Client statement redesign; and ➤ Printing systems modification to

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		<p>this point in the definitions section above). This disclosure should be restricted to fees and charges that are charged to an account by the dealer.</p> <p>We note that investors are provided with transaction fee information on trade confirmations. Investors receive disclosure of the percentage amounts of deferred charges in the Fund Facts document. It would be more cost effective to refer investors to these sources of information.</p>	<p>include amounts on the annual statements.</p> <p><i>Note that cost reporting (12 month period) is not the same as transaction statement reporting period (3 month period); separate extracts will be required and then these extracts will need to be merged for the purposes of printing the annual statements and performance report.</i></p> <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training to understand that information provided on a 12-month basis is just a summary of information reported elsewhere. ➤ Training to understand that charges disclosed have been provided to clients on transaction confirmations and do not represent new or additional charges to the account. <p>Client</p> <ul style="list-style-type: none"> ➤ Potential confusion that charges represent additional costs beyond that which were already reported as part of transaction confirmations; ➤ Potential confusion arising from

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	<p>(d) if the price paid or received by the client in respect of purchases or sales of fixed income securities in the account during the 12 month period covered by the account statement included any dealer compensation, and the compensation was not disclosed to the client, the following notification or a notification substantially similar to the following:</p> <p><i>“For some of the fixed income securities purchased or sold in your account during the period covered by this report, dealer charges were added to the price in the case of a purchase or deducted from the price in the case of a sale”;</i></p>	<p>(d) It is noted that in the case of fixed income a uniform disclosure is provided and the specific dollar amount of compensation is not required. This contrasts with trailing commissions where specific dollar amounts are required. It is suggested that a similar uniform disclosure be required for trailing commissions.</p>	<p>the fact that cost information is reported on a 12-month basis whereas transaction statement is reported on a 3-month basis.</p> <p>(d): Fundserv – None Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Back office systems programming to integrate commission systems with client transaction / record keeping systems to identify those accounts where commission was earned on a fixed income sale. ➤ Changes to statement extracts to indicate presence of a fixed income instrument purchase or sale during the 12 month period ➤ Statement programming / redesign so that required disclosure is provided only in cases where (i) a fixed income instrument was purchased by a client during the reporting period, (ii) dealer compensation

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	<p>(e) the aggregate amount of any fees paid to the registered firm by any person or company in relation to the client during the 12 month period covered by the account statement;</p> <p>(f) an identification of any securities in the account that may be subject to deferred sales charges;</p>	<p>(e) Clarification is required. If this requirement is intended to capture referral fees, it is noted that NI 31-103 and MFDA Rules already require disclosure of referral fees. Therefore, we recommend that referral fees not be captured in this section.</p> <p>(f) Deferred Sales Charge mutual funds are generally identified together with the fund name as it appears on the dealer statement. This practice could be made a requirement. There is no practical need to provide this on</p>	<p>was added to / earned on the transaction, and (iii) the compensation was not otherwise disclosed to the client at the time of the transaction.</p> <ul style="list-style-type: none"> ➤ Printing systems modification to include amounts on the annual statements <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions related to the disclosure. <p>Client</p> <p>Understanding of what the disclosure means in the context of their account holdings.</p> <p>(e)(f): Fundserv – None</p> <p>Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Back office systems programming to integrate commission systems with client transaction / record keeping systems to identify and summarize any fees paid to the

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		an annual performance statement.	<p>dealer relating to the client's accounts;</p> <ul style="list-style-type: none"> ➤ It is unclear from the Instrument if "fees" are intended to include all sales commissions paid to the dealer, or whether it is just referral or other fees; ➤ Back office systems programming to extract total fees earned on accounts as part of the statement extract process; ➤ Back office systems programming for statement extracts to identify funds for which deferred sales charges may apply; ➤ Client statement redesign; ➤ Printing systems modification to include amounts on the annual statements. <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions related to the disclosures. ➤ Training to explain to clients that trailer fee commissions are paid by client indirectly (via MER) and are not a separate charge to their account. <p>Client</p>

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	<p>(g) if the registered firm received trailing commissions on investment funds held by the client during the 12 month period covered by the account statement, the following notification or a notification substantially similar to the following: <i>“We received \$ ** in trailing commissions on the investment funds you held during the period. Investment funds pay managers a fee for managing their funds. The managers pay us ongoing trailing commissions from that management fee for the service and advice we provide you. The amount of the trailing commissions depends on the sales charge option you chose when you purchased the fund. As is the case with any investment fund expense, trailing commissions affect you because they reduce the amount of the fund’s return to you.”</i></p>	<p>(g) Trailing commissions are currently not aggregated at the account level by fund companies. In order to comply with this requirement, dealers and fund companies would have to build systems that would generate account level information pertaining to annual trailing commission payments to a dealer.</p> <p>At this time, fund companies provide to registered firms through FundSERV a feed to show trailer fees by representative code. There is no reporting of the dollar amounts of trailing commissions paid to dealers at an account level. Fund managers will have to build systems to make this information available to dealers so they can aggregate it for presentation annually on a statement. Dealers will have to build systems to accept the information and report it at the account level on an annual basis. In addition, FundSERV will be required to build the systems to deliver account level trailing commission information from fund managers to dealers.</p> <p>The cost to the industry will be significant. The time required to build the necessary</p>	<p>➤ Understanding of what the disclosures mean in the context of their account holdings.</p> <p>(g): Fundserv</p> <p>➤ Modification to industry Service Fee (AS) file format ESG standards to report trailer fee information based on account rather than representative.</p> <p>Fund Co</p> <p>➤ Modifications to fund company record keeping systems to track trailer fee commissions payable to dealers at the account rather than the representative level; ➤ Modifications to Service Fee (AS) extract files to report information based on account rather than representative level.</p> <p>Dealer Back Office</p> <p>➤ Modification to commission processing systems to import new AS file format. ➤ Modification to back office systems to integrate commission systems with client transaction / record keeping systems to identify and summarize any</p>

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		<p>systems will be in the range of 3 years.</p> <p>Alternatively, we recommend that a uniform disclosure be made to explain the trailing commission and to refer the investor to the Fund Facts document for disclosure of the percentage amount of the commission for a specific product.</p>	<p>trailer fees paid to the dealer relating to the client's accounts;</p> <ul style="list-style-type: none"> ➤ Back office systems programming to extract total trailer fee commissions earned on accounts as part of the statement extract process; ➤ Client statement redesign; ➤ Printing systems modification to include amounts on the annual statements. <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions related to the disclosures. ➤ Training to explain to client that trailer fee commissions are paid by client indirectly (via MER) and are not a separate charge to their account. <p>Client</p> <ul style="list-style-type: none"> ➤ Understanding of what the disclosures mean in the context of their account holdings.
<p>14.12(1) (b.1, c, i) [New]</p>	<p>Content and delivery of trade confirmation: Trade confirmation must include:</p> <p>(b.1) <i>in the case of a purchase of a fixed income security, the security's yield;</i></p> <p>(c) the commission, sales charge, service</p>	<p>Currently MFDA members are exempt from this requirement. We request that this exemption continue.</p>	

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	<p>charge, <i>deferred sales charge</i> and any other amount charged in respect of the transaction;</p> <p>(i) if the price paid or received by the client in respect of the purchase or sale of a fixed income security included any dealer compensation, and the compensation is not otherwise disclosed to the client in the trade confirmation, the following notification or a notification substantially similar to the following:</p> <p style="padding-left: 40px;">(i) <i>“Dealer charges were added to the price of this security”</i> in the case of a purchase, or</p> <p style="padding-left: 40px;">(ii) <i>“Dealer charges were deducted from the price of this security”</i> in the case of a sale.</p>		

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<p>14.14 (5.1) [New]</p> <p>14.14 (5.2) [New]</p>	<p>Account statements: If a registered firm cannot determine the market value of a security, the firm must disclose that fact in the account statement and exclude the security from the calculation in paragraph 14.14(5)(e).</p> <p>An account statement delivered under subsection (1), (2), (3) or (3.1) must include the following:</p> <p>(a) for each security position opened in the account after [implementation date], the original cost of the position presented on either an average cost per unit or share basis, or on an aggregate basis, unless the security position was transferred from an account of another registered firm and the original cost of the transferred security position is not available or is known to be inaccurate, in which case the registered firm may</p> <p>(i) use the market value of the security position as at the date of its transfer if that fact is disclosed to the client in the account statement, or</p> <p>(ii) if the market value of the security position as at the date of its transfer cannot be determined, disclose that fact in the account statement;</p> <p>(b) for each security position opened in</p>	<p>(a)(b). Some members have concerns with mandating original cost for the account statement as this is not the way that they currently report. They do not believe original cost represents an accurate method as it does not include such items as return on capital, distributions or dividends, and is not the most favourable way of reporting on tax-advantaged items such as mortgage-type securities. These dealer systems would require reprogramming, which is costly and time consuming. As a result, we recommend that the CSA provide dealers with the option of choosing between original cost and tax cost as long as the dealer discloses clearly to the client the reporting method.</p>	<p>(a)(b): Fundserv – None</p> <p>Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Back office systems programming to extract original cost information as part of the statement extract process; ➤ Client statement redesign; ➤ Printing systems modification to include original cost amounts on annual statements. <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions related to the differences between original cost (invested amount) and book value (tax cost).

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	<p>the account before [implementation date], the original cost of the position presented on either an average cost per unit or share basis, or on an aggregate basis, unless original cost information is not available or is known to be inaccurate, in which case the registered firm may</p> <ul style="list-style-type: none"> (i) use the market value of the security position as at [implementation date] or an earlier date if the same date and value is used for all clients of the firm holding that security and that fact is disclosed to the client in the account statement, or (ii) if the market value of the security position as of [implementation date] cannot be determined, disclose that fact in the account statement. 		<p>Client Understanding of what the disclosures mean in the context of their account holdings, and the fact that original cost (invested amount) and book value (tax cost) are not identical.</p>
<p>14.15 [New]</p>	<p>Performance reports: (1) A registered firm must deliver a report containing account performance information to a client every 12 months with or in an account statement.</p> <p>(2) This section does not apply to an account that has existed for less than a 12 month period.</p>	<p>MFDA members should be exempt from this requirement.</p> <p>The MFDA have adopted an annual performance reporting rule that meets the requirements of mutual fund investors. The MFDA Rule allows investors to judge the performance of their account over the past year. The Proposed NI 31-103 Rules provide reporting that goes beyond the needs of investors. This is supported by the research conducted for the CSA by the Brondesbury</p>	

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		<p>Group.</p> <p>The research shows that:</p> <ul style="list-style-type: none"> • Most investors judge investment performance according to the amount of money made/lost since the last statement. • The timeline used by most investors for judging performance is the past year. <p>The present MFDA Rule accommodates this.</p> <p>The Brondesbury research does not support detailed annual reporting of account performance since account opening, or, annual rate of return over 3, 5 and 10 years and since account opening.</p> <p>We note that a majority of investors either want the same or a lesser amount of detail in reporting (52%), and of the 48% who would like more information nearly half (45%) would not want to pay anything for it.</p> <p>The annual performance report together with cost reporting will add at least two pages to every account statement. This is a very significant cost.</p> <p>It is important to preserve the MFDA dealer</p>	

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		as a low cost and accessible alternative for all Canadians.	
14.16 [New]	<p>Content of performance reports: (1) The information delivered under section 14.15 must include all of the following:</p> <p>(a) the net amount invested in the client’s account or, if the account was opened before [implementation date] and the net amount invested up to [implementation date] is not available, the registered firm may use the market value of all securities and cash in the account as of [implementation date] plus the net amount invested since [implementation date] if the firm discloses in the performance report that it is using market value instead of net amount invested for the period prior to [implementation date];</p> <p>(b) the total market value of all securities and cash in the account as at the end of the 12 month period preceding the date of the performance report;</p>		<p>(a)(b): Fundserv – None Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Back office systems programming to summarize the net amount invested information for the past 12 months and since account inception as part of the statement extract process; ➤ Client statement redesign; ➤ Printing systems modification to include amounts on annual statements. <p><i>Note that, unless the client is otherwise provided with an annualized rate of return in accordance with MFDA rule 2.8.3, the “net amount invested during the past 12 months” will be required by the MFDA Rule. The Proposed NI 31-</i></p>

SECTION	PROPOSED REQUIREMENT	NOTES/ COMMENTS	STAKEHOLDER IMPACT / REQUIRED CHANGES OR OTHER ISSUES
			<p><i>103 Rules will require <u>both</u> the net amount invested and annualized rate of return to be provided. In addition, it adds the requirement for net amount invested in the account <u>since inception</u>.</i></p> <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions on components of the net amount invested for the two periods. ➤ Training that “since inception” may mean a period different than the actual history of the account – depending on whether implementation date or some other date is used to describe “since inception” amounts. ➤ Training on the differences between “Net Invested” and “Tax Cost”. <p>Client</p> <ul style="list-style-type: none"> ➤ Understanding of what the new disclosures mean in the context of their account holdings. Potential confusion on “since inception” gain/loss since it could be based on implementation date rather than account opening. Also

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	<p>(c) the change in value of the client’s account during the 12 month period preceding the date of the performance report, calculated by subtracting the total of the market value of all securities and cash in the account at the beginning of the 12 month period plus the net amount invested in the account during the 12 month period, from the market value of all securities and cash in the account as of the end of the 12 month period;</p> <p>(d) the change in value of the client’s account since the account was opened, calculated by comparing the total market value of all securities and cash in the account as of the end of the 12 month period preceding the date of the performance report to</p> <p>(i) the net amount invested in the account since the account was opened, or</p> <p>(ii) if the account was opened before [implementation date] and the actual amount invested is not available, the market value of all securities and cash in the account as of [the implementation date] plus the net</p>		<p>potential confusion with “net invested” amounts where dealer transfer-in has occurred.</p> <p>(c)(d)(e): Fundserv – None Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Back office systems programming to summarize the change in account value information for the past 12 months as part of the statement extract process; ➤ Back office systems programming to summarize the change in account value information since account inception (or implementation date if the account was opened before implementation date); ➤ Client statement redesign; ➤ Printing systems modification to include change in value amounts and definition of net amount invested on annual statements. <p><i>Note that, unless the client is otherwise provided with an annualized rate of return in</i></p>

SECTION	PROPOSED REQUIREMENT	NOTES/ COMMENTS	STAKEHOLDER IMPACT / REQUIRED CHANGES OR OTHER ISSUES
	<p>amount invested since [implementation date];</p> <p>(e) a definition of “net amount invested” in the document where the information required under paragraphs (a) to (d) is presented;</p>		<p><i>accordance with MFDA rule 2.8.3, the “change in value during the past 12 months” will be required by the MFDA Rule. The Proposed NI 31-103 Rules will require <u>both</u> the change in value and annualized rate of return to be provided. In addition, it adds the requirement for change in value in the account <u>since inception</u>.</i></p> <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions on how to interpret the gain / loss calculation for the two periods. <p>Client</p> <ul style="list-style-type: none"> ➤ Understanding of what the new disclosures mean in the context of their account holdings. Potential confusion on “since inception” gain/loss since it could be based on implementation date rather than account opening. Also potential confusion with “net invested” amounts where dealer transfer-in has occurred.

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	<p>(f) annualized compound percentage returns for the client’s account calculated net of fees, using one of either a time weighted or dollar weighted method;</p> <p>(g) notice of the calculation method used under paragraph (f) in the document where the information required in paragraph (f) is presented;</p> <p>(h) a definition of “compound percentage returns” in the document where the information required in paragraph (f) is presented.</p>	<p>(f) This should be restricted to fees directly paid out of the account. If fees are not paid out of the account they should be excluded.</p> <p>Dealers should be provided the option to disclose returns net or gross of fees so long as the method chosen is disclosed to the client.</p>	<p>(f)(g)(h):</p> <p>Fundserv – None</p> <p>Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Back office systems programming to calculate annual compound percentage returns for client accounts. Functionality may already exist in some back office systems and/or may be provided by systems vendors at additional cost; ➤ Client statement redesign; ➤ Printing systems modification to include annual compound percentage returns in statements, as well as notice of calculation method and definition of compound percentage returns. <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions on rate or return of their account. <p>Client</p> <ul style="list-style-type: none"> ➤ Understanding of what the new disclosures mean in the context of their account holdings.

SECTION	PROPOSED REQUIREMENT	NOTES/ COMMENTS	STAKEHOLDER IMPACT / REQUIRED CHANGES OR OTHER ISSUES
	<p>(2) The information delivered under section 14.15 must be presented using both text and tables, charts or graphs, and must be accompanied by notes in the performance report explaining</p> <p>(a) the content of the performance report and how a client can use the information to assess the performance of the client’s investments,</p> <p>(b) the changing value of the client’s investments as reflected in the information in the performance report.</p>	<p>(2) The CSA should not mandate the use of both text and table but should leave it to registrants to choose the method of disclosure that is most user friendly.</p>	<p>(2):</p> <p>Fundserv – None</p> <p>Fund Co – None</p> <p>Dealer Back Office</p> <ul style="list-style-type: none"> ➤ Client statement redesign; ➤ Printing systems modification to include information in chart / graph format rather than just text. <p>Advisor</p> <ul style="list-style-type: none"> ➤ Training on how to address client questions on overall content of performance report and how to assist the client’s assessment of the performance of their investments. <p>Client</p> <ul style="list-style-type: none"> ➤ Understanding of what the new performance reporting disclosures mean in the context of their account holdings and how to assess the performance of their investments relative to all factors (risk tolerance, investment goals, etc).

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	<p>(3) The information delivered for the purposes of paragraph 14.16(1)(f) must be provided for each of the following periods ending on the date of the report:</p> <ul style="list-style-type: none"> (a) the past year; (b) the past three years; (c) the past five years; (d) the past ten years; (e) the period since the account was opened if the account has been open for more than one year before the date of the report. If the account was opened before [implementation date] and the annualized compound percentage return for the period prior to [implementation date] is not available, the period since [implementation date]. 		
	<p>(4) If a registered firm delivers account performance information to a client for a period of less than one year, it must not do so on an annualized basis.</p> <p>(5) If market value cannot be determined for a security position in the account, the security position must be assigned a value of zero in the calculation of the information delivered under subsection 14.15(1) and the reason for doing so must be disclosed to the client.</p>		

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	<p>(6) If there are no security positions in the account for which market value can be determined, the registered firm is not required to deliver account performance information to the client.</p> <p>(7) If the registered firm changes the calculation method used under paragraph 14.16(1)(f), it must, in the performance report where the change is first used, provide notice of the change and explain the reasons for it.</p>		
14.17 [New]	<p>Benchmark Information: Before a registered firm delivers investment performance benchmark information to a client, it must set out the benchmarks it will provide in a written agreement between the registered firm and the client.</p>		

Annex B - Summary: Report on Anticipated Operations Impact of the New Requirements under Revised NI 31-103

	31-103 COSTS DISCLOSURE – IMPACT (TIME / COMPLEXITY / COST)					
	14.2 (3.1) (b)	14.2 (4.1) (b) (c)	14.2 (4.1) (d)	14.2 (4.1) (e) (f)	14.2 (4.1) (g)	14.14 (5.2) (a) (b)
FUNDSERV						
Modification of AS File standards					MED	
FUND COMPANY BACK OFFICE						
System build - allocate trailer fees by account					HIGH	
AS File extract modification					MED	
DEALER BACK OFFICE						
Compliance tracking mechanism - evidence delivery of FF	MED					
System build - aggregate operating / transaction charges		MED				
Integration of commission systems w/ client account systems			HIGH	HIGH	HIGH	
AS File import modification					MED	
Client statement extract modifications		HIGH	HIGH	HIGH	HIGH	HIGH
Fund setup extract modifications				LOW		
Client statement redesign		HIGH	HIGH	HIGH	HIGH	HIGH
Printing systems modifications		MED	MED	MED	MED	MED
Staffing / training for additional customer and advisor questions	MED	MED	MED	MED	MED	MED
ADVISOR TRAINING						
Requirement to deliver FF at point of sale	MED					
Nature of operating / transaction charges		LOW		LOW		
Trailer fee or sales commission paid indirectly by client			HIGH		HIGH	
Understanding of new disclosures in general		MED	MED	MED	MED	MED
Differences between original and tax cost						HIGH
CLIENT						
Potential delays due to FF delivery requirement	HIGH					
Potential confusion over new disclosures		MED	MED	MED	MED	MED

Annex B - Summary: Report on Anticipated Operations Impact of the New Requirements under Revised NI 31-103

	31-103 PERFORMANCE DISCLOSURE IMPACT(TIME / COMPLEXITY / COST)			
	14.16 (1) (a) (b)	14.16 (1) (c) (d) (e)	14.16 (1) (f) (g) (h)	14.16 (2)
FUNDSERV				
No impact				
FUND COMPANY BACK OFFICE				
No impact				
DEALER BACK OFFICE				
System build to summarize net invested and gain (loss) since inception	MED	MED		
System build to calculate % returns (1, 3, 5, 10, inception)			HIGH	
Client statement extract modifications	MED	MED	MED	
Client statement programming to present info in chart / graph format				MED
Client statement redesign	HIGH	HIGH	HIGH	HIGH
Printing systems modifications	MED	MED	MED	MED
Staffing / training for additional customer and advisor questions	MED	MED	MED	MED
ADVISOR TRAINING				
Explaining differences between net invested and tax cost	HIGH			
Explaining where "inception" is not equal to original purchase date	MED	MED	MED	
Explaining performance information relative to risk, objectives, etc.		MED	MED	MED
CLIENT				
Potential confusion over new disclosures	MED	MED	MED	MED