

1.1.4 OSC Staff Notice 81-730 – Consideration of Alternative Approaches to Address Concerns Related to Deferred Sales Charges

OSC Staff Notice 81-730

Consideration of Alternative Approaches to Address Concerns Related to Deferred Sales Charges

December 19, 2019

Introduction

The Canadian Securities Administrators (**CSA**), with the exception of the OSC, announced today that they will publish final amendments in early 2020 to implement a ban on the use of the deferred sales charge option (**DSC option**) in the sale of mutual fund securities. This notice outlines how the OSC will explore alternative approaches for addressing the investor protection concerns arising from the use of the DSC option.

Background

On September 13, 2018, the CSA published for comment proposed amendments to National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) that would prohibit:

- the payment of upfront sales commissions by fund organizations to dealers, and in so doing, discontinue sales charge options that involve such payments, such as all forms of the DSC option, and
- trailing commission payments by fund organizations to dealers who do not make a suitability determination, such as order-execution-only (**OEO**) dealers

(collectively, the **2018 Consultation**).

Today, the CSA published CSA Staff Notice 81-332 *Next Steps on Proposals to Prohibit Certain Investment Fund Embedded Commissions* to provide an update on next steps on the 2018 Consultation. In that publication, the OSC stated that, while it will participate in the OEO trailer fee ban, it will not be implementing a ban on the DSC option.

Next Steps

The OSC is considering restrictions on the use of the DSC option to mitigate negative investor outcomes. Potential options include:

- banning sales to seniors;
- shortening the term of redemption fee schedules;
- banning the use of borrowed funds to finance purchases;
- putting limits on the account size; and
- giving investors hardship exceptions from redemption penalties.

In the upcoming months, the OSC will focus its efforts on working with the CSA to finalize the OEO trailer fee ban. This includes addressing key transitional issues, such as the ability to rebate, to ensure a smooth transition for industry.

Questions

Please refer your questions to any of the following:

Raymond Chan
Director, Investment Funds and Structured Products Branch
Ontario Securities Commission
(416) 593-8128
rchan@osc.gov.on.ca

Notices

Stephen Paglia
Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission
(416) 593-2393
spaglia@osc.gov.on.ca

Irene Lee
Senior Legal Counsel, Investment Funds and Structured Products Branch
Ontario Securities Commission
(416) 593-3668
ilee@osc.gov.on.ca