



**Advocis**  
390 Queens Quay West, Suite 209  
Toronto, ON M5V 3A2  
T 416.444.5251  
1.800.563.5822  
F 416.444.8031  
www.advocis.ca

September 6, 2012

Canadian Securities Administrators (see list below)

Care of:

John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West, Suite 1903, Box 55  
Toronto, ON M5H 3S8  
Fax: 416-593-2318  
E-mail: [jstevenson@osc.gov.on.ca](mailto:jstevenson@osc.gov.on.ca)

Me. Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
800, square Victoria, 22e étage  
C.P. 246, tour de la Bourse  
Montréal (Québec) H4Z 1G3  
Fax : 514-864-6381  
E-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Dear Sirs / Mesdames,

**CSA NOTICE AND REQUEST FOR COMMENT**  
**IMPLEMENTATION OF STAGE 2 OF**  
**POINT OF SALE DISCLOSURE FOR MUTUAL FUNDS**  
**PROPOSED AMENDMENTS TO**  
**NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE, FORM**  
**81-101F3**  
**AND COMPANION POLICY 81-101CP MUTUAL FUND PROSPECTUS DISCLOSURE**  
**AND CONSEQUENTIAL AMENDMENTS**  
**(2nd PUBLICATION)**

We are writing in response to the Canadian Securities Administrators' (CSA's) Request for Comment on Proposed Amendments To National Instrument 81-101 Mutual Fund Prospectus Disclosure, Form 81-101F3 And Companion Policy 81-101CP Mutual Fund Prospectus Disclosure And Consequential Amendments, For The Implementation Of Stage 2 Of Point Of Sale Disclosure For Mutual Funds (the "Proposals").

## **Advocis: Who We Are**

With more than 11,500 members organized in 40 chapters across Canada, Advocis is the largest and oldest voluntary professional membership association of financial advisors in Canada. Our members are independent owners and operators of small businesses and financial advisors and financial planners who are sales representatives of medium- and large-sized financial services companies, who provide comprehensive financial planning and investment advice, retirement and estate planning, and wealth and risk management expertise. Our members offer clients a prudent long-term perspective on managing a wide array of financial risks and meeting long-term financial goals. Our members are typically dual-licensed to provide life and health insurance as well as mutual funds and securities.

As a voluntary organization, Advocis is committed to professionalism among financial advisors. Advocis members adhere to an established professional Code of Conduct, uphold standards of best practice, participate in ongoing continuing education programs, maintain appropriate levels of professional liability insurance, and put their clients' interests first.

Across Canada, no organization's members spend more time working one-on-one on financial matters with individual Canadians than us. Advocis advisors are committed to educating clients about financial issues that are directly relevant to them, their families and their future. Almost all Advocis members are regulated under provincial securities commissions.

### **Our comments:**

Set out below are our comments in response to specific issues in respect of which feedback was requested, followed by other comments.

#### **I. Introductory comments**

The Fund Facts appears to proceed from the premise that the investor should be able to rely on the information set out in the Fund facts document to assess the merits of a particular mutual fund, and that the investor thereby will be able to make an informed investment decision as to whether to purchase units of that fund. We believe this aim is ambitious, given the scope and escalating complexity of the issues that typically bear upon the appropriateness of an investment. The aim of distilling all of the information that the investor needs to make an informed decision into a few pages in a Fund Facts document seems even more ambitious, and unrealistic, given the increasing complexity and number of investment products that are available.

We do not fully accept the premise that the information that an investor needs in order to be able to make an informed choice can be distilled down to a few pages. In our view, the information in the Fund Facts document will in general only support a superficial understanding of a particular mutual fund. We believe that professional financial advice is critical to help the investor to assess each investment choice in context and in appropriate depth.

Thus we believe it is important to expressly refer the reader of the Fund Facts to the value of seeking out professional financial advice and discussing with their advisor the merits and risks of the fund, in order to place the potential investment choice in proper context and make a sound investment decision.

There is no single information resource that provides more value to investors, than a financial advisor. No one does more than the financial advisor to teach investors about their financial affairs and their investments, and to raise their financial literacy.

The financial advisor is crucially important to helping the investor to achieve financial literacy, to identify their financial goals, and to understand the risks and merits of investment choices in context – having regard to the merits of individual investments, the investors' goals, the benefits of diversification and professional investment management, and the forces in the broader economy that bear on the long-term suitability of investment choices.

## **2. Replacement of the term “adviser” with the term “dealer representative”**

In Appendix C, the Summary of Public Comments, you note that in the comments regarding the Fund Facts, an investor advocate commenter requested that the CSA use terms set out in National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) in the Fund Facts, and replace the term "adviser" with "representative". The commentary that follows states that you accordingly replaced the term "adviser" with "dealer representative", for consistency with NI 31-103.

We submit that it is a mistake to replace the references to the term “adviser” in the Fund Facts, with “dealer representative.”

A rationale for the change is not presented in so many words. The sole explanation is that a commenter prefers consistency of terminology, as between NI 31-103, a form of statutory instrument or delegated legislation, and the Fund Facts document.

The Fund Facts is not legislation that requires consistent use of technical terminology. It is an informational piece that is meant to inform and educate the investor, to help the investor make informed investment decisions.

In the context of the consideration of possible investments, including particular mutual fund investments that are described in Fund Facts documents, the dealer representative's key role is as a financial or investment adviser and not merely as a “dealer representative.” To change every reference to an adviser in the Fund Facts, to “dealer representative” robs the document of meaning and deprives the investor of important information, in terms of the characterization of an individual who is a vital resource in the investor's decision process.

Imagine that delegated legislation required that hospital patients who were about to undergo a medical procedure, must be provided with an informational brochure about the procedure and the attendant risks and treatment alternatives. Imagine, further, that the healthcare regulator were to require, for the sake of consistency of terminology as between regulations and brochures, that the term "physician" in all such brochures be replaced with "healthcare provider representative." As in: "if you have any questions, you should ask your healthcare provider representative."

## **II. Comments in response to the “Issues for Comment”**

### **1. The proposed explanatory text above the risk scale**

*The CSA asks for feedback on whether the proposed text will assist investors in understanding how to interpret the risk scale in the Fund Facts, and whether the explanation is compatible with the risk classification methodologies used by fund managers.*

#### **Comments:**

The explanatory text advises the investor that fund investments involve risk and can go down in value as well as up, that the label “Low risk” means lower expected returns but also a lower chance of loss, and the label “High risk” means greater expected returns but also a greater chance of loss.

We believe the explanatory text focuses too narrowly on the volatility-based risk of mutual funds, and would benefit from the addition of information about the benefits of diversification and the risks of inadequate diversification, and the benefits of the professional management that mutual funds offer as compared with alternatives.

One important type of risk that appears to be absent from the “What are the risks of this fund?” section, is diversification risk. In our view, prospective investors would benefit from the inclusion of a brief explanation of the benefits of various types of diversification within a mutual fund and within an investor’s overall portfolio.

For information about risk to contribute in a meaningful way to the decision process of someone who is actively considering investing in a mutual fund, they also should have some understanding of the risks of the main alternatives to mutual funds.

Investment in GICs is one alternative to mutual funds. Another alternative is investing in shares and bonds, whether selected by the investor on their own or with the assistance of their broker. Such investing can replicate the diversification of a mutual fund to some extent. However, in general such “do it yourself” portfolios differ from mutual funds in that they are not selected and managed by professional managers and are seldom as diversified as mutual funds would be.

We would suggest that the risks section of the Fund Facts be expanded to include at least some reference to the benefits of diversification and professional management that investing in mutual funds offer in comparison with other types of investments such as selecting individual stocks and fixed income instruments, and GICs. If the investor is to be expected to consider various types of risk when evaluating a mutual fund, they probably should also be aware of the advantages of mutual fund investing in comparison with common alternatives.

#### **Add a section to the Fund Facts: “How to Use the Fund Facts”**

We believe it would be helpful to add a section to the Fund Facts, perhaps highlighted in a box, under the heading “How to Use the Fund Facts”. This box could be placed on the first page, below the “What does this fund invest in?” section, with the “What are the risks of this fund?” section moving down to the second page.

The “How to Use the Fund Facts” section should make the following points:

## How to Use the Fund Facts

- You should read the Fund Facts document in order to familiarize yourself with the main features and risks of the Fund before you decide whether to invest.
- Mutual funds offer the benefits of diversification and professional investment management.
- For additional information about investing in mutual funds, you should read and be familiar with the brochure "Understanding Mutual Funds" which is available on the website of the Canadian Securities Administrators at: [www.securities-administrators.ca](http://www.securities-administrators.ca)
- You should obtain professional financial advice to help you to decide whether the investment is suitable, given your long-term financial goals and your overall investments, and whether the investment will help you to maintain a suitably diversified portfolio.
- When considering the features and the possible benefits and risks of investing in any particular fund, you should consider, in consultation with a professional financial advisor, the merits of the fund in comparison with other suitable investment products, including both mutual funds and other types of investments.

## 2. The requirement to list the fund's main risks

*The CSA has asked for feedback on whether the proposed inclusion of the fund's main risks will assist investors in better understanding the risks associated with investing in the fund, and also on how narrative descriptions of each risk factor might help.*

### Comments:

It is difficult to say how useful the proposed inclusion of information about the main risks that the fund is subject to will be in helping investors to understand the risks of investing in the fund and make a sound investment decision.

The sample Fund Facts for XYZ Mutual Funds refers to three specific risks – Active Management Risk, Equity Risk and Specialization Risk, but does not actually provide any explanation about those risks. While the section does refer the reader to the fund's simplified prospectus for additional information, the Fund Facts is ostensibly meant to stand on its own in providing key information to help the prospective investor make an informed choice. Thus it seems likely that many readers will learn what three main types of risk that the fund is subject to are called, but will have little or no meaningful understanding to help them decide.

It is not at all certain that investors who take in the information that lists the three specific risks will be in a materially better position to make sound investment decisions and achieve better investment outcomes.

It would be helpful to the reader of the Fund Facts document, to provide a short glossary at the end of the document that briefly explains the specific risks.

## The CSA's Understanding Mutual Funds Brochure

It would be helpful to include in the Fund Facts a reference to the CSA's excellent 13-page Understanding Mutual Funds brochure ("UFM").

The UFM could accompany or be incorporated by reference into the Fund Facts (if it is not to be included in a new "How to Use the Fund Facts" section that we have suggested above), under the heading "For More Information", with the following text:

You should read and be familiar with the brochure "Understanding Mutual Funds" which is available on the website of the Canadian Securities Administrators at: [www.securities-administrators.ca](http://www.securities-administrators.ca). Alternatively, you can request a paper copy of this brochure from your dealer. This brochure is deemed to form part of this Fund Facts.

We also suggest that the CSA put a link to the UFM on their home page, to make it easier for investors to visit this document.

### **3. Low-risk benchmarks**

*The CSA has proposed the use of a one-year GIC as a performance benchmark, for comparison, and has requested feedback as to whether there are other appropriate benchmarks.*

#### **Comments:**

We are not convinced that a one-year GIC is a suitable performance benchmark for comparison for mutual funds that are not low-risk, unless the purpose of requiring that the GIC benchmark be included in the Fund Facts is to ensure that all prospective mutual fund investors are provided with a low-risk GIC investment as a basis for comparison.

A GIC in our view will be suitable as a benchmark for comparison, where the mutual fund under consideration is a conservative, low-risk investment such as a money market fund. However, where the mutual fund that is the subject of the Fund Facts is an equity fund or a balanced fund, we are not certain that a GIC is a suitable benchmark for comparison.

As GICs can be subject to fluctuation from year to year, we would suggest that instead of using a one-year GIC, a staggered five-year GIC program should be used.

#### **Benchmark should be comparable to the Fund**

As we have stated above, we do not believe that a one-year GIC will be appropriate as an all-purpose benchmark. In our view, to be appropriate as a benchmark for comparison, and useful to the prospective investor, the investment should be broadly comparable, in terms of risk and objectives and underlying assets, to the mutual fund that is being considered, that is to be compared with the benchmark.

Thus, for example, an appropriate recognized equity market index would be more appropriate than a GIC as a benchmark to compare an equity fund to. As well, a composite of recognized market indices could be used to provide a benchmark for a balanced fund.

We believe the question of what benchmarks are appropriate to help a prospective investor in a mutual fund assess the relative performance and merits of the fund, highlights the value and importance of professional financial advice. Many if not most of those individuals who are considering investing in mutual funds need the advice that a professional financial advisor can offer, to help them assess the funds they are considering in proper context.

## Other comments

### Trading Expense Ratio

Some bond funds and some balanced funds disclose that their trading in bonds does not incur any trading costs. Given that there is a spread between bid and selling prices for bonds, such funds should be disclosing a trading expense based on the spread.

### Trailing commission

Under the heading “trailing commission”, the Fund Facts includes the statement that “the trailing commission is paid out of the management fee.” We believe it would be more accurate to state that “The trailing commission is paid by the management company out of its management fee, and does not represent an additional cost to the investor.”

Should you have any comments or questions, please do not hesitate to contact the undersigned, or contact Ed Skwarek, Vice President Regulatory and Public Affairs at [eskwarek@advocis.ca](mailto:eskwarek@advocis.ca), or by calling 416-342-9837.

Sincerely,



Greg Pollock, M.Ed., LL.M., C.Dir., CFP  
President and CEO



Dean Owen, CLU, CH.F.C.  
Chair, National Board of Directors

c.c. British Columbia Securities Commission  
Alberta Securities Commission  
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  
Superintendent of Securities, Nunavut  
Mutual Funds Dealers Association  
Investment Industry Regulatory Organization of Canada