

May 8, 2019

BY EMAIL

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Dear Mesdames:

Re: Proposed Amendments to MFDA Rule 2.3.1(b) (Discretionary Trading) (the “Proposed Amendments”)

The Canadian Advocacy Council¹ for Canadian CFA Institute² Societies (the CAC) appreciates the opportunity to provide comments on the Proposed Amendments.

We are generally supportive of the Proposed Amendments, which are intended to permit limited discretionary trading by Members with respect to mutual fund model portfolios offered by Members.

The notice accompanying the Proposed Amendments specify that the discretionary trading afforded to Members will be limited to (i) fund substitutions, and (ii) changes to portfolio asset allocations within pre-established parameters of their mutual fund model portfolios. We believe that registration as a restricted portfolio manager (with the accompanying compliance obligations and standard of care) is a sound requirement. We are also of the view that the limitations on discretionary trading are key to ensuring that the objectives of the Proposed Amendments are met and the flexibility sought by Members is appropriately balanced with investor protection objectives.

¹ The CAC is an advocacy council for CFA Societies Canada, representing over 17,000 Canadian charterholders, of the 12 Member Societies across Canada. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

²CFA Institute is a global, not-for-profit professional association of over 166,000 investment analysts, advisers, portfolio managers, and other investment professionals in 163 markets, of whom more than 159,000 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 152 member societies in 74 markets. For more information, visit www.cfainstitute.org.

In this light, we query whether the Proposed Amendments would be interpreted more broadly than may be intended, and thus additional clarity with respect to the degree of permitted discretion would be a required addition to the Proposed Amendments.

For example, the Proposed Amendments are unclear with respect to the extent of permitted fund substitutions. It is important that a fund used to replace a fund in an existing portfolio has similar characteristics (risk allocation, capital allocation, style, geography allocation, a combination of the foregoing, etc.). To illustrate, it should not be expected that the Member's discretion within the equity portion of a model portfolio would include the ability to substitute a large capitalization, core fund with a small capitalization or sector fund, even though the latter two may still qualify as equity funds. While the client account might have the same asset mix, the portfolio risk could be quite different.

Similarly, with respect to changes to asset allocation which can be made within the pre-established parameters of the mutual fund model portfolios, we are unclear from the Proposed Amendments how wide the pre-established parameters can be. For example, tolerance around strategic asset weights in the range of +/-2% might be appropriate, while more substantial changes could be more problematic. We believe that additional constraints on a Member's discretion might be warranted.

As mentioned in the notice, the written policies and procedures of Members would need to be amended to ensure that discretionary trading complies with applicable laws. If the Proposed Amendments move forward, it will important for the MFDA to engage in regular targeted reviews of any discretionary trading activities to ensure the constraints thereon are respected. Increased training and proficiency requirements for these additional activities are warranted and presumably would be required in order to obtain the necessary restricted portfolio manager registration. It will also be important to educate clients on the clear distinction between the types of discretion an Approved Person may have under the Proposed Amendments when compared to a fully discretionary portfolio management relationship.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council for
Canadian CFA Institute Societies*

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