

## **CAC Member Report to Local Board**

### **June 27, 2017**

The CAC met on the phone on June 13<sup>th</sup> 2017.

**Since the May report, the CAC provided comments on the following consultations (all letters can be seen on the CAC website, [www.cfaadvocacy.ca](http://www.cfaadvocacy.ca))**

- IIROC Continuing Education – Consultation on PLR Proposals and Ongoing Review (filed June 22, 2017)

#### *About the proposal*

IIROC is engaged in a regulatory review of its continuing education program. In addition to comments relating to the plain language rewrite of the IIROC rule book, it is looking for comments to inform future guidance or future phases of its continuous education [CE] review. Specifically, it is looking for feedback on recognizing CE accredited by other regulators, taking the accreditation function in-house, and the ability to extend the validity of the Canadian Securities Course by taking other specified courses.

#### *Overview of the Council's comments*

The CAC thinks that streamlining and recognizing CE requirements among various regulated platforms may yield great benefits to IIROC Approved Persons and lessen any confusion from the public's perspective given the wide array of CE courses currently offered. Still the Council considers that it is important to evaluate each program on a case-by-case basis focusing on the standard of proficiency and relevancy for a person dealing and advising in securities. Also, the Council supports IIROC's proposal to bring the substantive CE course review and accreditation function in-house and suggests that it could limit the appearances of conflicts of interests. Finally the CAC also supports the Voluntary Participation Program if it is restricted to the CSC and not the CPH.

- CSA Proposed National Instrument 91-102 Prohibition of Binary Options and Related Proposed Companion Policy (filed June 22, 2017)

#### *About the proposal*

The CSA, other than BC, are proposing to implement NI 91-102 as a means of implementing a prohibition in line with that set out in prior AMF proposal. The purpose of the Proposed Instrument is to protect investors from becoming victims of binary options fraud, by raising awareness that these products are illegal and by disrupting the advertising and facilitation of these products. To this end, the Proposed Instrument will explicitly prohibit advertising, offering, selling or otherwise trading a binary option to an individual.

#### *Overview of the Council's comments*

The council supports the proposed Binary Option Prohibition but questions whether other financial instruments that raise similar investor protection concerns should also be restricted. The Council is also of the opinion that binary options for durations longer than 30 days may also present certain fraud risks and could also be restricted.

- CSA Consultation Paper 81-408 – Consultation on the Option of Discontinuing Embedded Commissions (filed June 9, 2017)

#### *About the proposal*

The Consultation Paper seeks input on:

- the potential effects on investors and market participants of discontinuing embedded commissions, including on the provision and accessibility of advice for Canadian investors, and business models and market structure;
- potential measures that could assist in mitigating any negative impacts of such a change, if a decision is made to move forward; and
- alternative options that could sufficiently manage or mitigate the identified investor protection and market efficiency issues.

#### Overview of the Council's comments

*[N.B. The comment letter is 26 pages long, answers 36 questions from regulators and provides fairly detailed comments on the specific views of the council. Thus, for a more comprehensive perspective, please refer to the letter directly].*

The council generally supports the proposals in the Consultation Paper which appear to be evidence driven as a result of thoroughly studying embedded commissions and making appropriate recommendations based on the research data. It reminded the CSA that is important to set finite periods for determining next steps in implementation. Also, in implementing these proposals, the CAC believes that addressing conflicts of interest, improving disclosure of fees, advisor's education, deterrent enforcement measures and focusing on the end investor's interest at all times, are paramount.

- OSC Notice 11-777 – Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2018 (filed May 18, 2017)

#### About the proposal

- The Statement of Priorities is the Ontario Securities Commission yearly priorities planning exercise.
- This year the draft statement includes references to publishing reforms to define a best interest standard and improving the adviser/client relationship under the priority of delivering strong investor protection, as well as defining action needed to address embedded commissions.
- A new priority relates to identifying opportunities to reduce the regulatory burden and working with fintech businesses to promote capital formation and regulatory compliance. Under the priority of effective compliance, supervision and enforcement, the OSC intends to raise awareness of the OSC's whistleblower program, among other initiatives.
- With respect to promoting financial stability, the OSC intends to implement rules for clearing, segregation and portability of cleared OTC derivatives and publish rules for market conduct and registration of derivatives dealers.

#### Overview of the Council's comments

The CAC appreciates the opportunity to comment on the OSC priorities and commends the commission on some of its initiatives, especially as it relates to reducing the regulatory burden where appropriate. Some of the key proposals from the CAC revolve around :

- Introducing a timeline of milestones for the commission's major goals;
- Identifying the commission's priorities in the broader global context;
- Providing additional guidance on cybersecurity and data governance;
- Publishing criteria to measure success of various regulatory initiatives.

**The CAC is actively working on a response to the following consultations:**

- CSA Proposed National Instrument 93-101 – Derivatives: Business Conduct and Companion Policy (due September 1, 2017)

*About the proposal*

The proposed National Instrument establishes a regime for over-the-counter derivatives by setting out fundamental obligations for OTC derivatives dealers and advisers, who would be subject to the instrument if they tripped the “business trigger”.

Certain obligations would be created including obligations regarding fair dealing, conflicts of interest and KYC requirements, segregation of assets and trade confirmations. The proposed National Instrument also includes obligations on “senior derivatives managers” that are similar to those of a Chief Compliance Officer with respect to accountability and reporting.

The proposed instrument introduces further measures such as a derivatives-specific suitability standard, the requirement to identify derivatives party-specific needs, and disclosure regarding leverage.

- CSA Consultation Paper 51-404- Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers (due July 7, 2017)

*About the proposal*

In an effort to reduce the regulatory burden for non-investment fund reporting issuers, CSA is contemplating streamlined rules for smaller issuers. For example, fewer financial statement obligations with respect to public offerings, and reducing ongoing disclosure requirements such as the requirement to file a BAR (business acquisition report) are part of this consultation. Other options under consideration include reduced disclosure for short form prospectuses, liberalizing the marketing regime and permitting semiannual financial reporting instead of quarterly reporting.

**General affairs:**

The CAC was recently mentioned in Investment Executive - [Click here to read the article](#)

**Reminder:**

All letters can be seen on the CAC website, [www.cfaadvocacy.ca](http://www.cfaadvocacy.ca)

Be sure to [Follow Us on LinkedIn](#) to stay up to date on our activities.

Michael Thom, CFA  
Chair, Canadian Advocacy Council