

CSA PROVIDES FURTHER GUIDANCE TO NI 31-103 COST DISCLOSURE AND PERFORMANCE REPORTS

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On April 14, 2016, the Canadian Securities Administrators ("**CSA**") issued [CSA Staff Notice 31-345 Cost Disclosure, Performance Reporting and Client Statements – Frequently Asked Questions and Additional Guidance](#) (the "**Staff Notice**"), a compilation of frequently asked questions concerning amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations ("**NI 31-103**") and Companion Policy 31-103 CP Registration Requirements, Exemptions and Ongoing Registrant Obligations that came into force on July 15, 2013 (the "**Amendments**").

The Amendments implement phase two of the CSA's long standing project on enhancing a registrant's relationship with its clients, called the client relationship model (the "**CRM2**"). The CRM2 imposes additional reporting requirements over a three-year transition period from 2013 through 2016. The new requirements are designed to ensure that investors receive enhanced disclosure regarding the costs and compensation associated with their investments and the performance of their investments.

When the Amendments were proposed they raised a number of issues relating to performance reporting, including the choice by the CSA of the "money-weighted rate of return" (the "**MWRR**") over the "time-weighted rate of return" (the "**TWRR**"), which historically has been the preferred industry approach to performance reporting. The Staff Notice clarifies that a firm may show returns using TWRR, as long as the firm also provides the return using MWRR in accordance with the requirements of NI 31-103. Furthermore, the CSA does not plan on publishing an approved formula to calculate MWRR as there are different ways of calculating MWRR.

The Staff Notice also provides further guidance on how the Amendments may affect sole exempt market dealers ("**EMD**") as sole EMDs do not normally hold client assets. The applicability of some of the Amendments depends on whether a registered firm holds client assets or, if it does not, whether certain other specific criteria apply. In circumstances where sole EMDs do hold client assets, they must deliver account statements with the prescribed information along with position cost information. Furthermore, since holding clients' assets is a clear indication of an ongoing client relationship, a sole EMD is also subject to the requirement to deliver an annual report on charges and other prescribed compensation. The Staff Notice provides examples of when sole EMDs are considered to have limited, transactional relationships with their clients as opposed to ongoing client

relationships.

For further information on the applicability of the Amendments or the Staff Notice, please refer to the individual regulator's website.

by Marina Tran

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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