



April 17, 2007

Mr. B. Christie  
Chair, Joint Forum  
Chief Executive Officer & Superintendent of Financial Services  
Financial Services Commission of Ontario  
[bchristi@fSCO.gov.on.ca](mailto:bchristi@fSCO.gov.on.ca)

Mr. G. Swanson  
Chair, CCIR IVIC Subcommittee  
Executive Director  
Financial Services Commission of Ontario  
[gswanson@fSCO.gov.on.ca](mailto:gswanson@fSCO.gov.on.ca)

Mr. R. Bouchard  
Chair, CSA Investment Funds Committee  
Director, Corporate Finance  
Manitoba Securities Commission  
[rbouchard@gov.mb.ca](mailto:rbouchard@gov.mb.ca)

Sent by Email

Dear Sirs/Mesdames:

**Subject: Joint Forum of Market Regulators: Proposals for Point of Sale (POS) Disclosure**

I am writing to you on behalf of the members of Independent Financial Brokers of Canada (IFB) to comment on the proposed point of sale disclosure documents and procedures as outlined in your December 2006 presentation.

While I am aware that you intend to publish a consultation paper, after which IFB will have the opportunity to comment further, we feel it is important to draw your attention to some specific issues that we see now, in the hope that this feedback will be useful to you in drafting the upcoming consultation paper.

To provide context to our remarks, IFB represents approximately 4,000 licensed financial advisors who provide mutual fund, insurance and financial planning services to consumers in communities across Canada everyday. As our name suggests, our members are 'independent' in that they must be able to offer their clients an array of products from

a variety of financial institutions. Our members strongly believe that only by offering such choice can the financial needs of a client be properly met.

There are a number of initiatives contained in the proposal that we agree will improve upon the current system, such as the general cooling-off period and improved harmonization. However, there are some proposals which we believe will make mutual fund transactions more difficult, particularly as they relate to the POS delivery requirements. Therefore, IFB offers the following comments on the POS delivery requirements for your consideration. We also wish to note that, at this time, we are restricting our comments to the potential effects on our members who are registered mutual fund representatives. We will comment more fully on the aspects of this proposal as they affect IVICs and segregated funds separately.

It is important to note that as independent advisors, our members operate their own businesses. Some of these businesses will be situated in smaller or rural communities. It follows then that they will not necessarily be located in close proximity to the major offices of the companies they do business with. As a result, some of the delivery requirements being proposed in this paper will undoubtedly slow down their ability to service their clients and, indeed, may well place them and their clients at a competitive disadvantage.

POS delivery restrictions could create potential inequalities amongst existing channels of mutual fund sales distribution that could ultimately have a negative impact on consumers. IFB fully supports the Committee's intent to ensure that consumers who wish to purchase mutual fund products receive clear and meaningful disclosure and we endorse the concept of a Fund Facts document limited to two pages. However, we are concerned that the nature of the proposed method of delivery of this disclosure document may lead to customer frustration and potentially place our members and their clients at a competitive disadvantage relative to other sales channels.

Those who invest in mutual funds, like purchasers of other types of investment products, expect purchases and sales to be made promptly, once the instruction has been received. Under the proposed POS delivery, clients would have to receive the Fund Facts document before their order can be executed. This lag time will undoubtedly lead to consumer frustration and potentially even negatively affect their investment in the event the unit price has increased between the time they request that a purchase be made and the delivery of an updated Fund Facts document.

In addition, many of our members conduct business with clients in the client's homes or over the telephone. This type of personalized client-broker interaction is a hallmark of the type of convenience and level of service our members provide. Often, these meetings will be informational or instructional in nature, in which case neither party will know in advance which mutual fund product will best suit the client. In fact, our members are bound by this Association's Code of Ethics as a condition of membership – one which reflects the Joint Forum's own guidelines for conducting financial transactions and the three principles for the sale of insurance endorsed by the CCIR – to recommend only those products which meet the needs of the client.

The IFB Code of Ethics begins with the following statement:

*“This Code of Ethics applies to all financial transactions, without regard to the product category, the type of intermediary, or the means by which the purchase of a product or service is transacted.”*

The sections of our Code most relevant to this discussion are that the member must:

1. Place the interests of the Client ahead of the broker’s own interests.
2. Ensure the needs of the Client are met by learning the client’s needs, objectives and circumstances *before* giving advice or making recommendations.
3. Provide full disclosure of any conflicts of interest and financial product information, including a clear description of the product or service and how it will fulfill the needs of the client.

Therefore, the requirement that the Fund Facts be delivered *at or before* the time a client instructs the advisor to purchase a mutual fund will create barriers to this type of business structure by delaying the transaction if the advisor does not have the applicable Fund Facts document with him/her. More importantly, we submit that it may well place our members in a fiduciary conflict situation and undermine the product suitability principle if investors, seeking a more immediate solution, choose a product whose literature the advisor has at hand rather than wait for documents to be delivered at a future time.

In addition, we would be very concerned if consumer frustration arising from these new POS rules was directed at individual advisors such that other sales distribution channels were perceived by consumers to have the ability to be more responsive to their investment instructions. For example, walking into a bank branch may be viewed by the consumer as being more responsive because the bank has the administrative capability to supply the Fund Facts document immediately, even though the actual product choices available to the consumer may be more limited and s/he may not receive the same degree of detailed financial analysis that an independent advisor would provide.

Regulatory rules and procedures should not inadvertently advantage one channel of distribution over another or create a regulatory climate which only large dealers can comply with. We are very concerned that the proposed POS will undermine independent brokers - who are legitimate, licensed participants in the financial marketplace - and place them at a competitive disadvantage. There is already a great deal of pressure on the individual advisor channel. They operate in a highly competitive marketplace and face an increasingly heavy regulatory burden – especially as it relates to the mutual fund industry. Furthering this pressure may well lead to a reduction in those entering and remaining in this industry. It is our strongly held view that the demise of the independent channel is not in the best interests of consumers.

Point of sale requirements need to recognize that there are different levels of investor expertise.

IFB appreciates the difficulties and challenges of ensuring consumers receive appropriate information on mutual fund products, in a plain language format. Certainly, few investors read the plethora of information related to mutual funds already available to them. However, we caution that in trying to implement a “one size fits all” approach to the POS delivery, consumers may turn away from mutual funds and seek out other forms of investment.

Investors in mutual funds will range from the first time buyer to those who have invested in a variety of funds over a number of years. These more experienced investors should not be faced with being forced to wait to receive the Fund Facts document, which may delay their investment. In addition, the proposed rules will change the way these investors have been used to transacting business with their advisor. Such changes may not be welcome if they lead to delays and inconvenience. IFB suggests that at least more sophisticated, or experienced, investors should be able to defer the requirement to receive the Funds Facts document immediately. As an alternative, they could receive it with their trade confirmation.

Mutual funds have a history of being a sound, lower risk investment tool for Canadians. We are concerned that some of these proposals will add unduly to this already heavily regulated sector and put mutual funds on an unequal footing with other types of investment vehicles.

IFB appreciates the opportunity to provide our comments and trusts they will be useful to you as you prepare your consultation document.

As this process proceeds, it will be very important that the views of those who will be charged with delivering these POS requirements to clients are heard. IFB would be pleased to assist you in any way we can to ensure the views of independent advisors, like our members, are brought forward and ensure the success of this venture.

Yours truly,



John Whaley  
Executive Director

Email: [jaw@ifbc.ca](mailto:jaw@ifbc.ca)

Cc by Email: CSA Investment Funds Committee; CCIR IVIC Sub-Committee;  
Joint Forum Point of Sale Committee

---

200 – 4284 Village Centre Court  
Mississauga ON L4Z 1S2  
Tel: (905) 279-2727  
Toll-free: 1-888-654-333  
Fax: (905) 276-7295  
Website: [www.ifbc.ca](http://www.ifbc.ca)