Canadian Securities Administrators / Autorités canadiennes en valeurs mobilières

Multilateral CSA Notice of

Amendments to National Instrument 81-105 *Mutual Fund Sales Practices*

Changes to Companion Policy 81-105CP to

National Instrument 81-105 *Mutual Fund Sales Practices*

and

Changes to Companion Policy 81-101CP to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*

relating to Prohibition of Deferred Sales Charges for Investment Funds

February 20, 2020

Introduction

The Canadian Securities Administrators (**CSA**) except the Ontario Securities Commission (the **Participating Jurisdictions** or **we**), are adopting amendments to National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) and changes to Companion Policy 81-105CP to NI 81-105 (**81-105CP**) and Companion Policy 81-101CP to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**81-101CP**) (collectively, the **Amendments**).

The Amendments prohibit the payment by fund organizations (as defined below) of upfront sales commissions to dealers, which will result in the discontinuation of all forms of the deferred sales charge option[1] including low-load options[2] (collectively, the **DSC option**).

[1] Under the traditional deferred sales charge option, the investor does not pay an initial sales charge for fund securities purchased, but may have to pay a redemption fee to the investment fund manager (i.e. a deferred sales charge) if the securities are sold before a predetermined period of typically 5 to 7 years from the date of purchase. Redemption fees decline according to a redemption fee schedule that is based on the length of time the investor holds the securities. While the investor does not pay a sales charge to the dealer, the investment fund manager pays the dealer an upfront commission (typically equivalent to 5% of the purchase amount). The investment fund manager may finance the payment of the upfront commission and accordingly incur financing costs that are included in the ongoing management fees charged to the fund.

[2] The low-load purchase option is a type of deferred sales charge option, but has a shorter redemption fee schedule (usually 2 to 4 years). The upfront commission paid by the investment fund manager and redemption fees paid by investors are correspondingly lower than the traditional deferred sales charge option.

The Ontario Securities Commission is not adopting the Amendments but will publish for comment an alternative proposal to address the investor protection and market efficiency issues arising from the payment of upfront sales commissions by fund organizations to dealers.

In some jurisdictions, ministerial approvals are required for the implementation of the Amendments. Provided all ministerial approvals are obtained, the Amendments will come into force on June 1, 2022.

The text of the Amendments is contained in Annexes B through D of this notice and will also be available on websites of the following jurisdictions, including:

www.bcsc.bc.ca
www.mbsecurities.ca
www.lautorite.qc.ca
www.fcnb.ca
https://nssc.novascotia.ca

Substance and Purpose

The Amendments, together with the enhanced conflict of interest mitigation framework for dealers and representatives under detailed reforms to NI 31-103 (the **Client Focused Reforms**) published on October 3, 2019, comprise the Participating Jurisdictions' policy response to the investor protection and market efficiency issues we have identified with the use of the DSC option. The Amendments restrict the compensation that members of the organization of publicly-offered mutual funds (**fund organizations**) may pay to participating dealers, and that participating dealers may solicit and accept in connection with the distribution of mutual fund securities.

Background

The Amendments were developed over the course of an extensive consultation process.

CSA Consultation Paper 81-408

On January 10, 2017, the CSA published for comment CSA Consultation Paper 81-408 *Consultation on the Option of Discontinuing Embedded Commissions* (the **Consultation Paper**), which identified and discussed key investor protection and market efficiency issues arising from mutual fund embedded commissions.[3] The Consultation Paper sought specific feedback, including evidence-based and data-driven analysis and perspectives, on the option of discontinuing embedded commissions as a regulatory response to the identified issues and on the potential impacts to both market participants and investors of such a change, to enable the CSA

[3] The Consultation Paper followed the CSA's initial consultation on mutual fund fees under CSA Discussion Paper and Request for Comment 81-407 *Mutual Fund Fees* published on December 13, 2012, which was followed by in-person consultations in several CSA jurisdictions in 2013. The CSA published an overview of the key themes that emerged from this consultation process in CSA Staff Notice 81-323 *Status Report on Consultation under CSA Discussion Paper and Request for Comment 81-407 Mutual Fund fees*.

to make an informed policy decision on whether to pursue this option or consider alternative policy changes.

CSA Staff Notice 81-330

On June 21, 2018, the CSA published CSA Staff Notice 81-330 *Status report on Consultation on Embedded Commissions and Next Steps* (**CSN 81-330**) which proposed the following policy changes:

1. to implement enhanced conflict of interest mitigation rules and guidance for dealers and representatives requiring that all existing and reasonably foreseeable conflicts of interest, including conflicts arising from the payment of embedded commissions, be addressed in the best interests of clients or avoided;

2. to prohibit all forms of the DSC option and their associated upfront commissions in respect of the purchase of securities of a prospectus qualified mutual fund; and

3. to prohibit the payment of trailing commissions to, and the solicitation and acceptance of trailing commissions by, dealers who do not make a suitability determination in connection with the distribution of securities of a prospectus qualified mutual fund.

In addition to announcing the CSA's policy decision and providing a summary of the consultation process and the feedback received, CSN 81-330 provided an overview of the regulatory concerns that the proposed policy changes aimed to address, and also discussed why CSA members were not proposing to ban all forms of embedded commissions.

The Proposed Amendments

On September 13, 2018, the CSA published proposed amendments (the **Proposed Amendments**) to

- prohibit investment fund managers from paying upfront commissions to dealers, which would result in the discontinuation of the DSC option, and

- prohibit the payment of trailing commissions to dealers who are not subject to a suitability requirement, such as dealers who do not provide investment recommendations, in connection with the distribution of prospectus qualified mutual fund securities.

The 90-day comment period ended on December 13, 2018.

CSA Staff Notice 81-332

On December 19, 2019, the CSA published CSA Staff Notice 81-332 *Next Steps on Proposals to Prohibit Certain Investment Fund Embedded Commissions* (**CSN 81-332**) to announce that the Participating Jurisdictions will publish for adoption final amendments in early 2020 to prohibit the DSC option.

CSN 81-332 also announced that all members of the CSA will publish for adoption final amendments later in 2020 to prohibit payments of trailing commissions to dealers who do not make a suitability determination.

Summary of Written Comments Received by the CSA

The CSA received 56 comment letters on the Proposed Amendments. We thank everyone who provided comments. A summary of the comments together with our responses are set out in Annex A. The names of the commenters are also set out in Annex A.

Copies of the comment letters are posted on the website of the Autorité des marchés financiers at www.lautorite.qc.ca.

Summary of Changes to the Proposed Amendments

After considering the comments received, we have made some non-material changes to the Proposed Amendments. These changes are reflected in the Amendments that the Participating Jurisdictions are publishing as Annexes to this Notice. As these changes are not material, we are not republishing the Amendments for a further comment period.

The following is a summary of the key changes made to the Proposed Amendments:

- **Definition of "trailing commission"**

  After consideration of the comments received, we have not added a definition of "trailing commission" as proposed in the Proposed Amendments, as it is not needed.

- **Section 3.1 of NI 81-105**

  As section 3.1 of NI 81-105 will continue to apply in Ontario, section 3.1 will no longer be repealed. However, we have added subsection (2) to section 3.1 to carve out the Participating Jurisdictions so that the provision does not apply to a distribution of a mutual fund security to a client resident in a Participating Jurisdiction. As a result, the DSC option will not be permitted for clients who are resident in Participating Jurisdictions as of the Effective Date (as defined below).

- **Section 4.1.1 of 81-105CP**

  We did not add section 4.1.1 of 81-105CP as proposed in the Proposed Amendments because it is a statement regarding the operation of NI 81-105, rather than guidance, and is not necessary. We did add section 4.1.2 of 81-105CP as proposed in the Proposed Amendments as it provides clarification that the front-end load option is not impacted by the Amendments to NI 81-105. We have re-numbered section 4.1.2 of 81-105CP as section 4.1.1 and changed the sub-heading from "Means of payment" to "Front-end load option" for clarity.

- **Section 4.1.2 of 81-105CP**

  As the deferred sales charge option will be prohibited in the Participating Jurisdictions, we added section 4.1.2 of 81-105CP to provide guidance relating to the disclosure of the DSC option in the simplified prospectus and the fund facts document where the DSC option is available in Ontario. Where the DSC option is one of multiple purchase options available under a single series or class of mutual fund securities in Ontario, the simplified prospectus should provide disclosure to clearly indicate that the DSC option is not available in the Participating Jurisdictions and is only available in Ontario. Investment fund managers may opt to provide a separate series or class of mutual fund securities for the sale of the deferred sales charge option in Ontario.

- **Sections 4.1.6 and 5.6 of 81-101CP**

  Similar to section 4.1.2 of 81-105CP, we added sections 4.1.6 and 5.6 of 81-101CP to provide guidance relating to the disclosure of the DSC option in the simplified prospectus and the fund facts document, respectively, where the DSC option is available in Ontario.

- **No Consequential Amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (NI 81-101), including Form 81-101F1 *Contents of Simplified Prospectus* (Form 81-101F1) and Form 81-101F3 *Contents of Fund Facts Document* (Form 81-101F3)**

  We have not made consequential amendments to NI 81-101, including Form 81-101F1 and 81-101F3 as proposed in the Proposed Amendments as these provisions will continue to apply to Ontario. Once the Amendments come into effect, the provisions requiring disclosure of the DSC option will no longer be applicable to the Participating Jurisdictions as the DSC option will no longer be offered in the Participating Jurisdictions.

- **No Consequential Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103)**

  We have not made consequential amendments to NI 31-103 as proposed in the Proposed Amendments as these provisions will continue to apply to Ontario. Once the Amendments come into effect, the provisions requiring disclosure of the DSC option will no longer be applicable to the Participating Jurisdictions as the DSC option will no longer be offered in the Participating Jurisdictions.

Effective Date

The Amendments will take effect on June 1, 2022 (the **Effective Date**), which is approximately 27 months after the publication of this notice. As of the Effective Date, compliance with the new rules will immediately be expected.

Discontinuation of DSC option:

The Participating Jurisdictions anticipate that the extended period between the publication of this notice and the Effective Date will provide sufficient time for dealer firms and representatives who currently make use of the DSC option to transition their practices and operational systems and processes. For some dealer firms this may also require a reassessment of their internal compensation arrangements. We believe this should also give investment fund managers enough time to revise their mutual funds' simplified prospectuses and fund facts documents to reflect the discontinuation of the DSC option in the Participating Jurisdictions.

Mutual fund investments purchased under the DSC option prior to the Effective Date will not have to be converted to the front-end load option or other sales charge option. Instead, the redemption schedules on those existing DSC holdings as of the Effective Date will be allowed to run their course until their scheduled expiry. Fund organizations will therefore be allowed to charge redemption fees on those existing holdings that are redeemed prior to the expiry of the applicable redemption schedule. Any new mutual fund purchases made as of the Effective Date, however, will need to be made in compliance with the new rules.

Although some investment fund managers currently offer the DSC option as a stand-alone series, other investment fund managers offer the DSC option as one of multiple purchase options available under a single series. As the DSC option will no longer be permitted in the Participating Jurisdictions as of the Effective Date, investment fund managers that continue to offer the DSC option as one of multiple purchase options available under one series should provide disclosure in the simplified prospectus and fund facts documents to indicate that as of the Effective Date, the DSC option is no longer permitted in the Participating Jurisdictions and is only available in Ontario. Alternatively, such investment fund managers may opt to provide a separate series of mutual fund securities for the continued sale of the DSC option in Ontario as of the Effective Date.

For client name accounts, the Participating Jurisdictions expect that fund managers will be able to identify where the client resides so that they will not process the trade if the client resides outside of Ontario.

In the case of a prospectus that is receipted prior to the Effective Date and lapses after the Effective Date, staff in the Participating Jurisdictions take the view that the discontinuance of the DSC option, effective on the Effective Date, would constitute a material change as defined in National Instrument 81-106 *Investment Fund Continuous Disclosure*. Accordingly, amendments would be required to both the simplified prospectus and fund facts documents to remove the applicability of any references to the DSC option and any commissions associated with the DSC option in the Participating Jurisdictions. In lieu of such amendments, for prospectuses that are receipted prior to the Effective Date, the simplified prospectus and the fund facts documents may provide disclosure to state that the DSC option will not be available as of the Effective Date in the Participating Jurisdictions. Such disclosure can be provided under the heading, "Fees and Expenses" in the simplified prospectus, and in a textbox before the heading "Quick Facts" in the fund facts document.

Client Focused Reforms:

The elimination of the DSC option will take effect on June 1, 2022. During the period between the publication of this notice and the Effective Date, in order to allow for an orderly transition, the Participating Jurisdictions will grant relief to dealers, with respect to the DSC option, from the enhanced conflicts of interest requirements under the Client Focused Reforms. During that period, dealers will instead be required to comply with the conflicts of interest requirements that are currently in effect under NI 31-103, in relation to the use of the DSC option.

Local Matters

Annex E is being published in any local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

Contents of Annexes

The text of the Amendments is contained in the following annexes to this Notice and is available on the websites of members of the CSA:

Annex A: Summary of Comments and CSA Responses

Annex B: Amendments to National Instrument 81-105 *Mutual Fund Sales Practices*

Annex C: Changes to Companion Policy 81-105CP to National Instrument 81-105 *Mutual Fund Sales Practices*

Annex D: Changes to Companion Policy 81-101CP to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*

Annex E: Local Matters

Questions

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Annex A
Summary of Comments and CSA Responses

The following is a summary of comments and CSA responses in respect of proposed amendments to National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) and Companion Policy 81-105CP to National Instrument 81-105 *Mutual Fund Sales Practices* (**81-105CP**) published on September 13, 2018.

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Part 1 – Background

Summary of Comments

On September 13, 2018, the Canadian Securities Administrators (the **CSA** or **we**) published for comment proposed amendments to NI 81-105 and 81-105CP and proposed consequential amendments to National Instrument 81-*101 Mutual Fund Prospectus Disclosure* (**NI 81-101**), including Form 81-101F1 *Contents of Simplified Prospectus* (**Form 81-101F1**) and Form 81-101F3 *Contents of Fund Facts Document* (**Form 81-101F3**), and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), (collectively, the **Proposed Amendments**). The purpose of the Proposed Amendments is to implement the CSA's policy response to the investor protection and market efficiency issues arising from the prevailing practice of investment fund managers remunerating dealers and their representatives for mutual fund sales through commissions, including sales and trailing commissions (embedded commissions). The Proposed Amendments:

- prohibit investment fund managers from paying upfront commissions to dealers, which results in the discontinuation of the DSC option (the **DSC ban**), and

- prohibit the payment of trailing commissions to dealers who are not subject to a suitability requirement, such as dealers who do not provide investment recommendations, in connection with the distribution of prospectus qualified mutual fund securities (the **OEO trailing commission ban**).

We received 56 comment letters and the commenters are listed in Part 9. We thank everyone who took the time to prepare and submit comment letters. This document contains a summary of the comments we received in relation to the Proposed Amendments and the CSA's responses. We have considered the comments received and in response to the comments, we have made some amendments (the **Amendments**) to the Proposed Amendments.

This document contains a summary of the comments we received relating to the Proposed Amendments for a DSC ban and our responses to those comments. With respect to the Proposed Amendments for an OEO trailing commission ban, a summary of the comments we received and our responses to those comments will be provided in a subsequent CSA publication.

Part 2 – General Comments

Issue	Comments	Responses
DSC ban	**Investors and Investor Advocates** Investors and investor advocates overwhelmingly support the immediate implementation of a DSC ban and rebut many of the industry stakeholder comments. Their key comments are: • ***The DSC option is harmful to investors and should be eliminated:***	We appreciate the support from the commenters. We continue to be of the view that the upfront sales commission payable by mutual fund organizations to dealers for mutual fund sales under the DSC option gives rise to a conflict of interest that can incentivize dealers and their representatives to make self-interested investment

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	Many investors and investor advocates submit that the DSC option benefits only the interests of investment fund managers and dealers at the expense of investor interests. The upfront commission payable on mutual fund sales made under the DSC option incents advisors to place investors in funds not based on performance or "fit" but rather based on anticipated compensation needs of the dealer/representative. The DSC option also allows investment fund managers to increase and/or maintain assets on which to charge a management fee. This increases the revenues to both dealers/representatives and investment fund manager to the detriment of investor outcomes; • ***The current use of the DSC option is not driven by investor choice but by dealer preference:*** Investor advocates submit that the current use of the DSC option is not driven by investor choice but by dealer/representative preference or acquired dependency on the upfront commission payment that DSC sales provide to finance their operations and	recommendations to the detriment of investor interests.

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	grow a book of business. They submit that investors are generally not informed or not given a choice of several purchase options by their dealer/representative, but rather have these choices limited and determined by the dealer/representative based on their revenue requirements. The DSC is an inferior choice that allows for the exploitation of less informed, less advised consumers, and that needs to be eliminated to improve the quality of advice. More choice does not necessarily mean better choice; • ***Concerns that a DSC ban would limit access to advice are overstated:*** Investor advocates remark that the DSC option was never created for any reason related to making advice available to more people, but rather was created to benefit mutual fund sellers because of investor resistance to transparent front-end commissions on mutual fund sales. Moreover, investor advocates state that industry comments regarding an advice gap for smaller investors	

Part 2 – General Comments		
<u>**Issue**</u>	<u>**Comments**</u>	<u>**Responses**</u>
	- gloss over the fact that an advice gap already exists in Canada – i.e. many advisors are disinclined or unable to service small accounts, despite the current availability of the DSC option, and - disregard or downplay innovations that have opened significant new avenues for serving small investors (e.g. no-load funds offered by banks, low-cost/trailing commission-free funds offered by direct sellers, robo-advisors); ***Good investor discipline should be encouraged through quality advice rather than hardwired in a purchase option:*** Investors submit that the argument that the DSC should be maintained because it keeps investors invested when markets turn is not valid. It is the role of the representative to manage investor behavior. Good counselling and a well-constructed portfolio rather than a lock-in feature built into a purchase option, are the best defense against panic behavior.	
DSC ban	**Industry Stakeholders**	

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	The vast majority of industry stakeholders oppose the DSC ban for the following reasons:	
	• ***Concerns with the DSC can be addressed with existing tools and/or additional guidelines:*** Many industry stakeholders submit that the DSC option can be a viable and legitimate purchase option if used and regulated appropriately and that it has a role for certain investors, in particular those with smaller amounts to invest. They submit that regulatory concerns related to the DSC option arise from the suitability of the investment recommendation rather than the DSC option itself and that regulators must continue to enforce compliance with the suitability and disclosure obligations where registrants fail to comply.	We do not agree that the regulatory concerns related to the DSC option arise only from the suitability of the investment recommendation. For example, redemption fees can raise investor protection concerns even when a proper suitability evaluation has been conducted. We refer you to CSA Notice 81-330 published on June 21, 2018 for an overview of the problematic registrant practices and investor harms we have identified in connection with the use of the DSC option.
	• ***Chargeback model:*** In addition, some industry stakeholders suggest allowing the use of the DSC option only within established guidelines and to require dealers rather than investors to pay the redemption fee;	Requiring dealers, rather than investors, to pay redemption fees under the DSC option does not eliminate the conflict of interest which stems from the payment of an upfront commission. It also gives rise to a new conflict of interest as dealers may attempt to

Part 2 – General Comments		
Issue	**Comments**	**Responses**
		dissuade investors from making redemptions in order to avoid paying redemption fees.
	• ***Other market and regulatory changes are likely to impact the use of the DSC option:*** Many industry stakeholders remark that market forces and disrupters (e.g. robo-advisors, digital advisory solutions for dealers, ETFs, fee-based accounts) are driving changes independent of regulation and are prompting a steady decline in the use of the DSC option, which trend is expected to continue. Furthermore, the higher conduct standards proposed under the **Client Focused Reforms**, particularly the enhanced suitability requirement and expanded conflict of interest obligations as they relate to third-party compensation, are expected, if adopted, to further accelerate the decline in the use of the DSC option. Industry stakeholders recommend that the CSA provide guidance in the Client Focused Reforms establishing a set of best	We acknowledge that the use of the DSC option has been in steady decline.

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	practices for the continued use of the DSC option in appropriate circumstances; • ***DSC ban would give rise to unintended consequences:*** o ***Impact on investors:*** ▪ ***Reduce investor choice and access to advice:*** Many industry stakeholders submit that the DSC ban would limit choice for investors as to how they may acquire investment funds and pay for advice. Fewer choices of compensation models would limit access to financial advice, particularly for smaller investors, as it would encourage the growing tendency of dealer firms to focus on higher-net worth investors to maintain revenue levels;	Other forms of compensation, including other types of embedded commissions, will remain available to compensate dealers for advice. We also expect that dealers will adapt their business models to continue serving the needs of a wide range of investors. We also expect that the impact of the ban on investor choice and access to advice will be limited as the DSC option only represents approximatively 10.9% of total mutual funds assets at the end of 2018.
	▪ ***Reduce investor discipline:*** Several industry stakeholders submit that smaller mutual fund	We are of the view that redemption fees are not the only or most cost-effective way for investors to discipline themselves. Dealing

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	investors may be deterred from investing under the front-end option (due to the front-end commissions payable from the purchase amount), and that this may consequently reduce savings rates. They also submit that the elimination of redemption fees further to the DSC ban may reduce investors' motivation to invest for the long-term and may encourage "short-termism" and impulsive responses to market volatility;	representatives can use other effective ways to encourage investor discipline. We also believe that the front-end option, which is a direct fee, does not present the same investor protection concerns as the DSC option. The research we have gathered and reviewed suggests that investors are more sensitive to salient upfront fees like front-end loads and are more likely to control such visible and salient fees that they must pay directly.
	o ***Impact on mutual fund dealers/advisors – impede recruitment and succession planning:*** Many industry stakeholders submit that the DSC ban would make it more difficult for new advisors to establish a book of business and may consequently impede advisor recruitment and succession planning. This is because newer advisors often rely on the upfront commissions that investment fund managers pay on DSC sales to establish themselves	The concern is noted. However, we expect that the DSC ban will encourage dealers to adapt their business models, which may involve establishing alternative remuneration models for new advisors.

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	and afford the initial high cost of establishing a new business, whereas the more established advisors are often able to forego the upfront commission and instead live off of a steady flow of trailing commissions paid over several years; o ***Impact on competition – favouring the vertical/bank channel:*** Non-deposit taker mutual fund dealer firms and investment fund managers that utilize the DSC option submit that the DSC ban would further skew the competitive balance towards the larger, vertically-integrated firms that generally do not utilize the DSC. This could encourage further industry consolidation (i.e. banks' continued acquisition of independent dealers), further consolidating market power in bank-owned entities, which would reduce choice and competition for investors; • ***The DSC ban would not decrease management expense ratios:*** Several	We also expect that dealers who currently offer the DSC option will adapt their business models to continue serving the needs of a wide range of investors. We expect that, since fund organizations will no longer incur the cost of financing

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	investment fund managers disagree with the CSA's stated expectation that the elimination of the DSC option would reduce management fees for mutual funds.[1] They submit that there is not always a direct correlation between the upfront commission paid to dealers and the management fee charged by the investment fund manager. In their view, competitive pressures are a much greater factor in an investment fund manager's decision to reduce management fees.	upfront sales commissions to dealers on DSC mutual fund sales, the management fees charged to the mutual funds who previously offered the DSC option will be reduced in many cases.
	• ***Guidelines and restrictions on the sale of DSC:*** One industry commenter proposed the following guidelines and restrictions on the sale of DSC: (a) enhanced disclosure of the DSC schedule that is acknowledged by the client, (b) one commission policy so once a DSC schedule has been completed on an account, the amount invested is not put into a new DSC schedule at the same dealer, (c) limit the use of DSC at ages which are	We have considered a range of potential alternatives to a DSC ban, including adopting enhanced rules and/or guidance to better supervise the use of the DSC option. We believe that these alternatives do not adequately address the concerns we identified with the use of the DSC option.

[1] In the CSA Notice and Request for Comment for the Proposed Amendments, the CSA stated: "*We expect that, since fund organizations will no longer incur the cost of financing upfront sales commissions to dealers on DSC mutual fund sales, the management fees charged to the mutual funds who previously offered the DSC option will be correspondingly reduced.*"

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	appropriate to reduce the potential for these fees to be incurred, (d) limit the use of DSC to a client's time horizon, and (e) require advisors to ensure clients consider establishing an emergency fund that is not subject to a DSC charge. Given the Ontario government's opposition to the proposed DSC ban, one investor advocate proposed that the following interim measures that would reduce, but not eliminate, investor harm, until a full ban can be implemented: (a) require written policies by dealers to detect and prevent mis-selling and churning of DSC funds, (b) tighten up suitability guidance from MFDA and IIROC, (c) cap the DSC redemption fee rate and schedule and allow 10% free redemption annually, (d) DSC money market funds should have 0% redemption fees and no redemption fee schedule, (e) prohibit sales of DSC when using leverage, (f) prohibit DSC sales to vulnerable investors, (g) one commission policy, (h) prohibit DSC funds in RRIF accounts, (i) no	

Part 2 – General Comments		
Issue	**Comments**	**Responses**
	redemption fees in the event of fund mergers, (j) cap dealer switch fees for DSC funds, (k) waive DSC redemption fees in event of unitholder death, (l) separate Fund Facts for DSC funds, and (m) introduce standardized DSC acknowledgement form.	

Part 3 – Comments on the Definition of "Member of the Organization"			
Issue	**Sub-Issue**	**Comments**	**Responses**
1. Under the Proposed Amendments, we propose to expand the definition of "member of the organization" in NI 81-105 to capture an "associate", as defined under securities law, of the investment		Only one comment was received with respect to the expansion of the definition of “member of the organization”. The commenter did not raise any objections.	We do not propose to change the definition of “member of the organization” in NI 81-105 in the Amendments.

Part 3 – Comments on the Definition of "Member of the Organization"			
Issue	**Sub-Issue**	**Comments**	**Responses**
fund manager, of the principal distributor or the portfolio advisor of the mutual fund.			
	(a) Aside from potential future modernization amendments contemplated further below, are there additional immediate changes or updates we should consider making to the definition? For example, would paragraph (e) of the definition still be relevant further to the elimination of the DSC option?	One industry commenter commented that until the decision to eliminate the DSC option has been finalized, any changes would not be recommended. The commenter did point out that paragraph (e) may be relevant should a dealer choose to pay the fund company the gross proceeds of an investor's purchase and the fund company would deduct and send back to the dealer their sales commission as directed by the dealer. Another commenter noted that with the repeal of s.3.1 of NI 81-105, it would not make sense to maintain paragraph (e) of the definition of "member of the organization" and therefore paragraph (e) should be repealed. The commenter did not find any other changes to the definition to be necessary.	We have decided not to make any changes to the definition of "member of the organization" since the DSC option may continue to be offered in Ontario.

Part 4 – Comments on Repeal of Section 3.1 of NI 81-105			
Issue	**Sub-Issue**	**Comments**	**Responses**
2. Would the proposed repeal of section 3.1 of NI 81-105 have the expected effect of eliminating all forms of the DSC option? If not, what other measures should be taken to ensure that all forms of the DSC option are eliminated?		One commenter was of the opinion that no additional changes would be required to eliminate DSC. As section 3.1 authorized payments of commissions from fund companies to dealers, the conflicting element of the DSC would be eliminated. One investor advocate recommended specifically adding: "For greater clarity, the regulatory intent of these provisions is to prohibit any form of a deferred sales charge option for a mutual fund" in the final version of the Amendments.	We are of the view that the Amendments which will prohibit investment fund managers from paying upfront commissions to dealers, will result in the discontinuation of the DSC option.

Part 4 – Comments on Repeal of Section 3.1 of NI 81-105			
Issue	**Sub-Issue**	**Comments**	**Responses**
3. Would there be any sales practices and/or compensation arrangements with a redemption fee schedule and redemption fee that could exist despite the repeal of section 3.1 of NI 81-105? **If so, are rule changes required to specifically prohibit redemption fees that are charged for purposes other than to deter excessive or short-term**		One industry commenter was of the view that a compensation arrangement could not continue to exist once the upfront commission was eliminated. Another commenter wrote that segregated funds would still exist with a DSC option as a compensation arrangement with a redemption fee schedule and redemption fee, despite the repeal of section 3.1 of NI 81-105. Further, regulatory arbitrage towards insurance registration is a significant risk that will negatively impact CSA registrant AUA/AUM, and financial stability.	We are of the view that the Amendments which will prohibit investment fund managers from paying upfront commissions to dealers, will result in the discontinuation of the DSC option.

Part 4 – Comments on Repeal of Section 3.1 of NI 81-105			
Issue	**Sub-Issue**	**Comments**	**Responses**
trading in funds?			

Part 4 – Comments on Repeal of Section 3.1 of NI 81-105			
Issue	**Sub-Issue**	**Comments**	**Responses**
4. We do not expect that the repeal of section 3.1 of NI 81-105 will have any impact on the availability and use of other sales charge options, including the front-end load option as it currently exists today.	**(a) Are there any unintended consequences on the front-end load option with the repeal of section 3.1 that we should consider?**	One industry commenter commented that if dealers are not able to access the DSC option, they may be forced to increase their use of front-end sales charges in order to be adequately compensated for the advice and services they provide to their clients. Front-end sales charges reduce the amount of initial investment into a mutual fund, which could have long-term consequences for investors in the form of less savings. DSC was originally created so that investors would not have to pay an upfront sales charge and was the main reason that front-end sales charges declined in popularity. Prohibiting DSC would be a step backwards. Another commenter could not foresee any unintended consequences given that there is no payment from the fund company to the dealer but effectively a facilitation of a payment from the client to the dealer, which is specifically contemplated in the proposed s.4.1.2 of 81-105CP. One industry commenter wrote that the use of the DSC Option in an RDSP account allows the investor's funds to be fully invested from day one without incurring a direct sales charge, and since the grants and	We added section 4.1.2 of 81-105CP to provide clarification that the front-end load option is not impacted by the Amendments. We consider that the front-end load option to be a sales commission paid directly by the investor and not by the fund organization, and thus is not within the scope of NI 81-105. The research we have gathered and reviewed suggests that investors are more sensitive to salient upfront fees like front-end loads and are more likely to control such visible and salient fees that they must pay directly.

Part 4 – Comments on Repeal of Section 3.1 of NI 81-105			
Issue	**Sub-Issue**	**Comments**	**Responses**
		bonds are based on contributions to the account, this in turn can maximize grants and bonds that can be provided to the investor. In the absence of the DSC Option, the costs of servicing these types of accounts may rise, which will directly impact the investors who make use of this account. Another commenter wrote that an unintended consequence on the front-end load option would be an increasing shift to the use of funds with a higher front-end load, including those with a maximum charge of 5%. An industry commenter wrote that there are three significant unintended consequences. First, it will drive customers away from the independent advice distribution channel. Eliminating this option is not in the best interest of investors. Second, overall costs to investors will increase. Rather than have the possibility of incurring a sales charge under the DSC option, investors are likely to incur such a cost where some up-front compensation is needed for the investor to receive personal financial advice. Third, the front-end load option reduces the amount available to be invested by the customer.	

Part 4 – Comments on Repeal of Section 3.1 of NI 81-105

Issue	Sub-Issue	Comments	Responses
	(b) Are there any other types of sales charge options that will be impacted by repealing section 3.1?	Only one comment was received. The commenter could not foresee any other types of sales charge options being impacted.	We thank the commenter for their feedback.

Part 5 – Comments on Transition Period

Issue	Sub-Issue	Comments	Responses
5. A transition period of 1 year from the date of publication of the final amendments is sufficient time for registrants to operationalize		***DSC Ban* –** Many industry stakeholders submit that the 1-year transition period proposed for the implementation of the DSC ban should be extended to a minimum of 2 years, with some stakeholders proposing a transition of up to 3 years. The extra time is required to allow impacted dealers/advisors to change their business models to accommodate alternative compensation arrangements, including new internal compensation arrangements.[2]	We agree with industry stakeholders that a transition period of 2 years is required to provide sufficient time for dealer firms and representatives who currently make use of the DSC option to transition their practices and operational systems and processes.

[2] Independent mutual fund dealers that participated in in-person consultations held in Québec submitted that the DSC ban may lead them to change the current compensation arrangements with their senior advisors to reduce their payouts (generally around 80% of the commissions paid by the investment fund manager)

Part 5 – Comments on Transition Period			
<u>Issue</u>	**<u>Sub-Issue</u>**	**<u>Comments</u>**	**<u>Responses</u>**
the Proposed Amendments. Are there any transitional issues for fund organizations and participating dealers with implementing the Proposed Amendments within the proposed 1-year transition period? If so, please provide details of the relevant operational, technological, systems, compensation arrangements or other			

in order to increase the compensation of new advisors. This would take time as it would require an important change in culture, a new way to work in a team (senior advisors and new advisors) and negotiations with the impacted senior advisors.

Part 5 – Comments on Transition Period			
Issue	**Sub-Issue**	**Comments**	**Responses**
significant business changes required, and the minimum amount of time reasonably required to operationalize those changes and comply with the Proposed Amendments.			
6. With the implementatio n of the Proposed Amendments, would the required changes to the disclosure in the simplified prospectus and fund facts documents within the		One commenter expressed that the Proposed Amendments would constitute a material change for the mutual fund depending upon the specific facts applicable to each fund organization. For example, if the final rule results in the capping of, or the ceasing to offer, a specific series, it may constitute a material change. As a result, the final rule should provide a mechanism to permit revised disclosure to be included in the next prospectus renewal with a future effective date indicated.	As discussed in the accompanying Multilateral CSA Notice, we take the view that the discontinuance of the DSC option would be a material change as defined in National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**). Accordingly, amendments to both the simplified prospectus and fund facts documents would be required to indicate that the DSC option is no longer available. In lieu of such amendments, prospectuses and fund facts documents receipted prior to the Effective Date may provide disclosure

Part 5 – Comments on Transition Period			
Issue	**Sub-Issue**	**Comments**	**Responses**
proposed 1-year transition period necessitate amendments outside of a mutual fund's prospectus renewal period? Would these changes be considered to be material changes under NI 81-106?		Finally, disclosure of the DSC option would have to be included in fund offering documents until the final redemption schedule runs out to address disclosure for those investors who purchased under the DSC option and switch to another fund within the same fund family. The fund offering documents would have to indicate that the DSC option is not available for new purchases. Other commenters agreed that this would necessitate amendments outside of a mutual fund's prospectus renewal period and that these changes would be considered material under NI 81-106. Making amendments outside of the prospectus renewal schedule will be expensive, with unitholders ultimately bearing that expense. Another commenter noted that there may be diverging practices in the context of the NI 81-105 amendments and it would be in the best interests of clients if the regulators state whether an amendment is required. The commenter felt that amendments should not be required and that one year would generally be sufficient to change the prospectus and Fund Facts documents.	indicating that the DSC option will not be available as of the Effective Date. The simplified prospectus form requirements require disclosure of sales options available for purchase. While fund managers may opt to continue to include disclosure about the DSC option in fund offering documents until the final redemption schedule runs out, it is not a simplified prospectus form requirement. However, fund managers may choose to include this information on their website for the benefit of investors who have previously purchased the funds under this option.

Part 5 – Comments on Transition Period			
Issue	**Sub-Issue**	**Comments**	**Responses**
7.At this time, the CSA is allowing redemption schedules on existing DSC holdings as of the effective date of the Proposed Amendments to run their course until their scheduled expiry, and fund organizations to continue charging redemption fees on those existing holdings that are redeemed prior to the expiry of the applicable		Several commenters did not support requiring existing DSC holdings to be converted to the front-end load option or sales charge option and requested that the DSC schedules of existing holdings should be allowed to run to maturity. By proposing amendments to convert DSC holdings earlier than their normal redemption schedule, the CSA would be interfering with the commercial arrangement that was established between investment fund managers, dealers and investors at the time the mutual fund units were purchased by the investor. Other commenters supported allowing redemption schedules to run their course and indicated that redemption charges should still apply even if regulations require a quicker transition out of DSC fund units. They noted that the economics of the compensation arrangement have already been agreed to and should not be changed by regulatory intervention. This would be consistent with the approach taken by the UK Financial Conduct Authority as part of its Retail Distribution Review.	We agree with commenters that mutual fund investments purchased under the DSC option prior to the Effective Date will not have to be converted to the front-end load option or other sales charge option. Instead, the redemption schedules on those existing DSC holdings as of the Effective Date would be allowed to run their course until their scheduled expiry. Fund organizations would therefore be allowed to charge redemption fees on those existing holdings that are redeemed prior to the expiry of the applicable redemption schedule.

Part 5 – Comments on Transition Period			
Issue	**Sub-Issue**	**Comments**	**Responses**
redemption schedule. **Should the CSA propose amendments to require existing DSC holdings as of the effective date of the Proposed Amendments to be converted to the front-end load option or other sales charge option?** **If so, are there any transitional issues for fund organizations and participating dealers with converting existing DSC**		One commenter stated that for clients that are invested in a mutual fund with a DSC, additional time may be required for clients to complete the redemption schedule without paying the DSC charge if they were forced to switch to another purchase option due to the Proposed Amendments. The commenter felt that there should also be guidance regarding transfers-in of holdings from other dealers in the Proposed Amendments for clarity. One commenter indicated that if a switch to front-end is required immediately, it would be unfair to not permit the fund manager to charge any redemption fee. One investor advocate wrote that switching to F class (or equivalent) should take place on a no cost, tax-free basis no later than the effective date. Switching should actually take place now given the financial harm that investors are enduring. The downside of a conversion is that the fund assets would be subject to higher trailing commission after conversion, unless offset by a reduced MER.	

Part 5 – Comments on Transition Period

Issue	Sub-Issue	Comments	Responses
holdings to another sales charge option? **What would be an appropriate transition period?**			

Part 6 – Comments on Regulatory Arbitrage

Issue	Comments	Responses
8. We understand that the elimination of the DSC option may give rise to the risk of regulatory arbitrage to similar non-securities financial products, such as segregated funds, where such purchase option and its associated dealer compensation are still available. Please provide your thoughts on controls and processes that registrants may consider using, and on specific measures or initiatives that the relevant regulators should undertake, to mitigate this risk.	Many industry stakeholders commented that the DSC ban would encourage regulatory arbitrage to similar non-securities financial products, such as segregated funds, where the DSC option is still available, and that the CSA should liaise with other financial regulators before proceeding with any policy initiative that will cause a difference in treatment among similar retail investors.	We did not receive any comments on controls and processes that registrants may consider using, or on specific measures or initiatives that the relevant regulators should undertake, to mitigate the risk of regulatory arbitrage. Accordingly, the Amendments do not propose any specific measures or initiatives in this respect.

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
9. CSA may consider future amendments to modernize NI 81-105, an instrument that has been in place since May 1998. Given that NI 81-105 aims to restrict compensation arrangements that can conflict with registrants' fundamental obligations to their investor clients, and given that the proposed Client Focused Reforms introduce the requirement for registrants to address conflicts of interests, including conflicts arising from third-party compensation, in the best interests of clients or avoid them, should the modernization of NI 81-105 entail a consolidation of its requirements into the registrant conduct obligations of NI 31-103?	Several commenters were of the view that although NI 81-105 should be modernized and updated, it is not necessary to consolidate it into the registrant conduct obligations of NI 31-103, as it would be potentially confusing. Some industry commenters recommended that the CSA finalize their amendments to NI 31-103 and allow this NI 81-105 consultation to run its course before entertaining any ideas of consolidation of, or further change to, the National Instruments. Industry will require time and resources to implement the final amendments and the CSA will require time to assess the efficacy of the amendments prior to undertaking another consultation of these National Instruments. A few commenters opposed the consolidation of NI 81-105 requirements into NI 31-103. One commenter indicated that NI 81-105 is designated specifically for retail-oriented mutual funds and provides simplicity by having the requirements contained in one National Instrument focused on this specific product. Given the detail and length of NI 31-103 and 31-	We thank commenters for their feedback. These comments will be taken in consideration should the CSA decide to modernize NI 81-105 at a future date.

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	103CP, including NI 81-105 would create undue complexity and confusion for industry participants. One commenter expressed that although the current Proposed Amendments do not affect Section 5.4, the CSA should revisit these restrictions and move away from naming specific providers (i.e., IFIC and the IDA), and requiring exemptive relief. Other commenters indicated that NI 81-105 should represent a comprehensive code for compensation arrangements, even if there is duplication of other National Instruments. Payments that are substantively similar to those that are proposed to be discontinued should also be terminated to ensure consistent and fair competitive dynamics and investor choice. In addition, the CSA should work with their insurance and other counterparts to view segregated funds and the universal life portion of insurance policies. Regulators may also wish to examine in more detail the compensation practices and benefits provided to scholarship plan dealers.	

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	One investor advocate expressed that NI 31-103 and NI 81-105 are intertwined so a consolidation into NI 31-103 makes sense. Without consolidation, if there is a conflict between the NI 31-103 and NI 81-105, then NI 31-103 should have precedence.	
10. NI 81-105 currently applies only to the distribution of prospectus qualified mutual funds. In our view, the conflicts arising from sales practices and compensation arrangements that are addressed by the provisions in NI 81-105 are not unique to the distribution of prospectus qualified mutual funds and also arise in the distribution of other investment products, either sold under a prospectus or a prospectus exemption. Are there other types of investment products that are not currently subject to NI 81-105, such as non-redeemable investment funds, certain labour-sponsored investment funds, structured notes and pooled funds that should also be subject to NI 81-105? If not, why should these investment	One commenter was of the view that the scope of NI 81-105 should not be extended to include alternative investment products. The types of investors who purchase non-prospectus offered alternative investment products, including non-redeemable investment funds, are sophisticated investors who understand the terms of their investments and are given the opportunity to negotiate the terms of the offering. Also, alternative investment funds typically rely on relationship-based investing with their clients and distribute their own investment product. If the CSA were to extend the scope of NI 81-105 to include non-prospectus offered alternative investment products, it would be departing from the approach that it has historically taken even though the rationale for regulating them differently than mutual fund securities distributed pursuant to a prospectus or simplified prospectus will not have changed.	We thank commenters for their feedback. These comments will be taken in consideration should the CSA decide to modernize NI 81-105 at a future date.

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
products, their investment fund managers and the dealers that distribute them, remain outside the scope of NI 81-105?	Another industry commenter also agreed that exempt products should remain outside the scope of NI 81-105, as the industry needs to maintain some sort of compensation structure for those selling these higher-risk products. Private capital raises for new and existing businesses that drive employment, technology and innovation are needed for these firms to succeed. The elimination of up-front compensation for exempt market product sales would effectively eliminate this form of capital raising. Two industry commenters wrote that pooled funds should not be subject to NI 81-105. These types of products are sold pursuant to prospectus exemption and are not subject to other mutual fund rules such as National Instrument 81-101 – *Mutual Fund Prospectus Disclosure*, National Instrument 81-102 – *Investment Funds* or National Instrument 81-107 – *Independent Review Committee for Investment Funds*. Further, Client Focused Reforms seem to enhance the existing conflict of interest obligations in a manner which would capture any concerns	

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	associated with the sale of other types of investment products. Some industry commenters were of the view that it is unnecessary to have products such as structured notes and pooled funds included in NI 81-105. For IIROC firms, most of these products are portfolio managed, discretionary solutions predominantly aimed at higher net worth clients. As such, these portfolio managed services and products are not usually purchased by middle income Canadians, the key investors that both the Client Focused Reforms and the Proposed Amendments are designed to protect. Furthermore, costs of offering these products will likely increase if more regulatory requirements are placed upon them. Another commenter noted that it may be useful to consider expanding the scope to other public funds, but only after consultation and research into industry practice in conjunction with a complete review and modernization of NI 81-105. It should not be expanded to private pool funds at this time, unless the CSA determine that, after carrying out research and	

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	consultation, the same concerns about sales practices exist in respect of pooled funds, as for public mutual funds. One industry commenter wrote that the CSA should consider separately managed accounts (**SMAs**) and unified managed accounts (**UMAs**) as they are considered fee-based accounts and are becoming increasingly popular, particularly among the banks. They are not subject to the same disclosure requirements as mutual funds and there is little disclosure of the performance of these accounts, although investors do receive reporting after they buy these products. There is also no publicly available price information about these products. Investors may not be aware that a higher portion of the fee goes towards advisor compensation than the commissions on a mutual fund. Rather, SMAs and UMAs are typically pitched as cheaper and superior alternatives to mutual funds, but in many cases, they are not. Another commenter indicated that the goal should be to regulate products that are either mutual-fund-like or that are sold alongside	

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	mutual funds by the same representatives in the same manner as mutual funds. Another commenter suggested that NI 81-105 should apply more broadly to include other investment products, not just prospectus qualified mutual funds. New types of investment products have been developed since NI 81-105 was adopted in 1998, and they should be subject to similar controls on sales practices and other arrangements if they are not captured elsewhere. However, this should be part of an overall review that would seek to modernize the instrument and reduce the burden of overly prescriptive requirements. One industry commenter suggested that ETFs should be brought within the scope of NI 81-105.	
11. We seek feedback on whether we should change the term "trailing commission" to a plain language term that investors would better understand and would better describe what a trailing commission is. If so, what are some suggested terms?	One industry commenter opposed changing the term “trailing commission” because the current term is appropriate because a trailing commission trails after the advisor after the sale. Other commenters also opposed changing the term “trailing commission” and pointed out that term is used in a number of	We thank commenters for their feedback. These comments will be taken in consideration should the CSA decide to modernize NI 81-105 at a future date.

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	documents including compliance manuals, in prospectuses, Fund Facts documents and CRM2 reporting. Changing the term would result in unnecessary costs to revise the disclosure and reporting documents with no demonstrable benefit. Introducing a new term may only increase client confusion as it may raise questions as to whether it is a new fee. Consistency and continuity of the term helps to provide clarity. One commenter indicated that there has been much discussion of trailing commissions in the media so it is a fair assumption that investors understand the term generally. Another commenter strongly opposed the proposed definition for NI 81-105 in section 1.1. The commenter suggested that the definition of trailing commission should capture what the investor is specifically paying for and should not justify payments by an investor for continuing to hold the fund but not receiving any services or advice in respect of continuing to own the fund. One commenter suggested that an explanation be provided alongside the term	

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	"trailing commission", and/or redirect investors to where more explicit information is available. Broadening the definition to include any services provided to the client, not limited to advice, will require clear language so firms and advisors understand what "services" are (or are not) captured as a trailing commission. Some commenters were open to the CSA's efforts to improve consumer understanding of fees. One commenter suggested the term "ongoing annual commission" – or something similar. Another commenter suggested "service fee" or "advice fee" and another suggested "perpetual sales charge" or "ongoing sales charge" to help investors understand that the size of the fee grows at a compound rate. One investor advocate suggested the terms "distribution commission" or "service charge" but noted that any terminology employed would require investor testing. The commenter also suggested amending the definition to: A trailing commission is any payment by a mutual fund company to an investment dealer that is part of a continuing series of payments directly	

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	related to a client's ownership of a mutual fund.	
12. The definition of "participating dealer" in NI 81-102 carves out a principal distributor. As a result, principal distributors are not subject to the provisions of NI 81-105 that apply to participating dealers. Should the modernization of NI 81-105 contemplate the inclusion of principal distributors in the application of all the provisions of NI 81-105? Alternatively, are there specific provisions in NI 81-105 that should also apply to principal distributors? Please explain.	Two industry commenters commented that the conflicts around payments by fund managers to participating dealers that NI 81-105 is designed to moderate are not as apparent in connection with principal distributors. Any decisions to expand or change NI 81- 105 should only be done in conjunction with a complete review of its terms and provisions with a view to modernizing it. One commenter wrote that the prohibition on the payment of trailing commissions where no suitability determination is made should apply to principal distributors as well as participating dealers; otherwise, dealers that are principal distributors would have an unfair advantage over participating dealers. Also, OEO dealers could become principal distributors of mutual funds offered by an affiliated investment fund manager in order to receive trailing commissions. Two industry commenters supported expanding the scope of NI 81-105 to include principal distributors to ensure a level playing field as dealers engaging in similar	We thank commenters for their feedback. These comments will be taken in consideration should the CSA decide to modernize NI 81-105 at a future date.

Part 7 – Comments on Modernization of NI 81-105		
Issue	**Comments**	**Responses**
	forms of activities should fall under similar regulations. Integrated financial institutions involved in both the manufacturing and distribution of a mutual fund product should not be exempt from the requirements applicable to third party dealers.	

Part 8 – List of Commenters

Commenters

- Advocis, The Financial Advisors Association of Canada
- AGF Investments Inc.
- Alternative Management Association
- Association Professionnelle des Conseillers en Services Financiers
- Blanes, Alan
- Boom, Mary
- Borden Ladner Gervais LLP
- CARP
- Clark, Keir
- Durnin, James S.
- Dusmet, Tom
- Elford, Larry
- Elliot, Ruth
- FAIR Canada
- Federation of Mutual Fund Dealers
- Fidelity Investment Canada

- Fieldstone, David
- Financial Planning Standards Council
- Finandicap Inc.
- Franklin Templeton Investments Corp.
- Glick, Isaac
- Gosselin, Eric F.
- Groupe Cloutier Investissements
- HighView Asset Management Ltd.
- Independent Financial Brokers of Canada
- Invesco Canada Ltd.
- Investment Industry Association of Canada
- Jagdeo, Millie
- Kenmar Associates
- Kivenko, Ken
- Le Groupe financier PEAK
- Loeppky, Bruce
- MacDonald, James Richard
- Mackenzie Financial Corporation
- McFadden, D.
- Merici Services Financiers Inc.
- MICA Capital Inc.
- Mouvement Desjardins
- Naglie, Harvey
- National Bank of Canada
- OSC Investor Advisory Panel
- Portelance, Eric
- Portfolio Strategies Corporation
- Pozgaj, Steve
- Primerica Financial Services (Canada) Ltd.
- RBC Entities
- Rosen, Yegal

- Ross, Art
- Stenzler, Gary
- TD Wealth
- The Canadian Advocacy Council for Canadian CFA Institute Societies
- The Investment Fund Institute of Canada
- The Portfolio Management Association of Canada
- The Small Investor Protection Association
- Whitehouse, Peter

ANNEX B

THE MANITOBA SECURITIES COMMISSION
MSC Rule 2020-1
(Section 149.1, *The Securities Act*)

AMENDMENTS TO
NATIONAL INSTRUMENT 81-105 *MUTUAL FUND SALES PRACTICES*

1. National Instrument 81-105 Mutual Fund Sales Practices is amended by this Instrument.

*2. Section 1.1 is amended in paragraph (d) of the definition of "*member of the organization*" by adding "*associate or*" before "*affiliate*".*

3. Section 3.1 is amended

(a) by renumbering section 3.1 as subsection 3.1(1), and

(b) by adding the following subsection:

3.1(2) Subsection (1) does not apply to a distribution of a security of a mutual fund to a client resident in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, Northwest Territories, Nunavut and Yukon.**.**

4. This Instrument comes into force on June 1, 2022.

5. This Instrument may be cited as MSC Rule 2020-1.

ANNEX C

CHANGES TO
COMPANION POLICY 81-105CP TO NATIONAL INSTRUMENT 81-105
MUTUAL FUND SALES PRACTICES

1. Companion Policy 81-105CP to National Instrument 81-105 Mutual Fund Sales Practices is changed by this Document.

2. Part 4 of the Companion Policy is changed by adding the following sections:

4.1.1 Front-end load sales option – The Canadian securities regulatory authorities are of the view that the Instrument does not preclude members of the organization of a mutual fund from facilitating the payment by a mutual fund investor to a participating dealer of a sales commission in connection with the purchase of mutual fund securities that is negotiated and agreed to exclusively between those two parties. For example, the participating dealer may remit to the member the gross proceeds of an investor's purchase of mutual fund securities from which the member may then deduct and remit the sales commission to the participating dealer on the investor's behalf pursuant to instructions received from the dealer.

4.1.2 Disclosure of deferred sales charge option – Some investment fund managers offer the deferred sales charge option as one of multiple purchase options available under a single series or class of mutual fund securities. As the deferred sales charge option is prohibited in certain jurisdictions, the simplified prospectus and the fund facts document should provide disclosure to clearly indicate the jurisdictions where the deferred sales charge option is prohibited and where it is available. Investment fund managers may opt to provide a separate series or class of mutual fund securities for the sale of the deferred sales charge option in the jurisdictions where it is available..

3. These changes become effective on June 1, 2022.

ANNEX D

CHANGES TO
COMPANION POLICY 81-101CP TO NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE

1. Companion Policy 81-101CP to National Instrument 81-101 Mutual Fund Prospectus Disclosure is changed by this Document.

2. Part 4.1 of the Companion Policy is changed by adding the following section:

4.1.6 Disclosure of Deferred Sales Charge Option – Some investment fund managers offer the deferred sales charge option as one of multiple purchase options available under a single series or class of mutual fund securities. As the deferred sales charge option is prohibited in certain jurisdictions, the fund facts document should provide disclosure to clearly indicate the jurisdictions where the deferred sales charge option is prohibited and where it is available.**.**

3. Part 5 of the Companion Policy is changed by adding the following section:

5.6 Disclosure of Deferred Sales Charge Option – Some investment fund managers offer the deferred sales charge option as one of multiple purchase options available under a single series or class of mutual fund securities. As the deferred sales charge option is prohibited in certain jurisdictions, the simplified prospectus should provide disclosure to clearly indicate the jurisdictions where the deferred sales charge option is prohibited and where it is available. Investment fund managers may opt to provide a separate series or class of mutual fund securities for the sale of the deferred sales charge option in the jurisdiction where it is available.**.**

4. These changes become effective on June 1, 2022.