



RE: PROPOSED AMENDMENTS RESPECTING THE PRINCIPAL DISTRIBUTOR MODEL

April 28, 2025



CONTENTS

Executive Summary..... 4

I. A Competitive Market With Investor Choice – A Wanting Cost Benefit Analysis..... 4

II. The Current Obligations Of A Principal Distributor 4

III. Current Disclosures Of Principal Distributor Compensation 6

V. Deferred Sales Charge Consideration 8

VI. Other Matters: Commission Rebate 8

Conclusion..... 8

Appendix “A” 9

Appendix “B” 11

April 28, 2025

Submitted via Email

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Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick Superintendent of Securities
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Dear CSA:

RE: Proposed Amendments Respecting the Principal Distributor Model

We write with respect to the Canadian Securities Administrators' request for comments (the "**Request for Comments**") on its proposed amendments to various national instruments and companion policies impacting the principal distributor model (the "**Proposed Amendments**").¹

¹ The Proposed Amendments impact the following national instruments and companion policies: National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ["**NI 31-103**"]; Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ["**31-103CP**"]; National Instrument 81-101 *Mutual Fund Prospectus Disclosure* ["**NI 81-101**"]; National Instrument 81-102 *Investment Funds* ["**NI 81-102**"]; Companion Policy 81-102 *Investment Funds* ["**81-102CP**"]; National Instrument 81-105 *Mutual Fund Sales Practices* ["**NI 81-105**"]; and Companion Policy 81-105 *Mutual Fund Sales Practices* ["**81-105CP**"].

EXECUTIVE SUMMARY

No data has been produced, generally, or to support a net benefit from the Proposed Amendments.

The principal distributor model adds to the business models available to dealers and therefore adds to a competitive marketplace. Its definition may be updated to better reflect the underlying commercial contract.

A principal distributor model that offers more than one fund family adds to the options available to investors.

To the extent that this model could give rise to potential conflicts of interests, those conflicts are effectively addressed by the existing rules and regulations that apply to participating dealers.

The Proposed Amendments' effort to avoid regulatory arbitrage with respect to its deferred sales charge ban are understood. The balance of the Proposed Amendments is not necessary or prudent.

I. A COMPETITIVE MARKET WITH INVESTOR CHOICE – A WANTING COST BENEFIT ANALYSIS

According to s. 143.2(2) (7) of the [Ontario Securities Act](#), the Ontario Securities Commission (OSC) must publish in its Bulletin, notice of every rule that it proposes to make “a qualitative and quantitative analysis of the anticipated costs and benefits of the proposed rule”. The OSC’s cost benefit analysis is found at Annex I of the Proposed Amendments. No other member of the CSA has produced a cost benefit analysis.

According to Annex I, the impact on principal distributors for more than one fund family is unknown. The impact on, or inconvenience to their clients, beyond cost, is not addressed.

Annex I also does not account for the:

- Loss of opportunity to other principal distributors to expand to beyond one fund family.
- Discouragement of new entrants to the principal distributor model.
- Limitation on investor choice.

No data has been produced in Annex I to support a net benefit from the Proposed Amendments.

II. THE CURRENT OBLIGATIONS OF A PRINCIPAL DISTRIBUTOR - GENERALLY

According to National Instrument 81-102 *Investment Funds* [“NI 81-102”], the principal distributor model refers to an arrangement between dealer and mutual fund or its manager pursuant to which the

dealer obtains exclusive rights or a material competitive advantage to distribute securities of the mutual fund.² In exchange, the principal distributor:

“... might have ongoing participation in the design, selection as well as ongoing training and monitoring in respect of the mutual fund products that it distributes. Such an arrangement would allow a principal distributor to customize the range of mutual fund products that are offered to clients. This participation in the product development process is recognized by the fact that principal distributors are required to review and certify the prospectus. As a result, they share liability with managers for the disclosure provided in the mutual fund offering documents with managers.”

As the principal distributor has additional obligations and liabilities, a ‘material competitive advantage’ may not occur.

Rather, the terms of a principal distributor arrangement, including the dealer’s obligations and compensation, are generally a matter of commercial negotiation, will vary from agreement to agreement and are premised on a form of exclusive or preferred distribution rights.

As a result, the definition of a principal distributor in NI 81-102 may be updated to better reflect its attributes. The suggested update for consideration is as follows:

“Principal distributor” means a person or company through whom securities of a mutual fund are distributed under an arrangement with the mutual fund or its manager that provides an exclusive or preferred right to distribute the securities of the mutual fund in a particular area, in exchange for services provided by the principal distributor.

All dealers acting as principal distributors for mutual funds are subject to the general standards of conduct,³ conflict of interest⁴, and disclosure⁵ rules in the *Mutual Fund Dealer Rules* and NI 31-103. This includes the requirements that were introduced through the client focused reforms and the total cost reporting amendments⁶. Principal distributors are required to, for example, put their client’s interests first when making suitability determinations⁷ and resolve all conflicts of interest in their client’s best interest⁸. Principal distributors are also required to disclose the payments that they receive from fund managers to investors.⁹

The stated purpose of these rules is to address investor protection concerns including any real or potential conflicts of interest that may arise in the principal distributor model.

² "Principal Distributor" means a person or company through whom securities of a mutual fund are distributed under an arrangement with the mutual fund or its manager that provides (a) an exclusive right to distribute the securities of the mutual fund in a particular area, or (b) a feature that gives or is intended to give the person or company a material competitive advantage over others in the distribution of the securities of the mutual fund. NI 81-102, *supra* at s. 1.1.

³ Mutual Fund Dealer Rules [the “MFD Rules”] at s. 2.1.1.

⁴ NI 31-103, *supra* at s. 13.4 and 13.4.1; and MFD Rules, *supra* at s. 2.1.4(1) and 2.1.4(2). 0

⁵ NI 31-103, s. 14.17.

⁶ On April 20, 2023, the CSA published its final “total cost reporting” amendments to NI 81-101 [the “TCR Amendments”], which include enhanced disclosure obligations for ongoing investment fund expenses and charges incurred by investor clients.

⁷ NI 31-103, *supra* at s. 13.3(1)(b); and MFD Rules, *supra* at s. 2.2.6(b).

⁸ NI 31-103, *supra* at s. 13.4(2); and MFD Rules, *supra* at s. 2.1.4(1)(b).

⁹ *Supra*, note 6.

III. CURRENT DISCLOSURES OF PRINCIPAL DISTRIBUTOR COMPENSATION

The Proposed Amendments to NI 31-103 and NI 81-101 are described as intended to further align with the TCR Amendments by requiring dealers to disclose any payments that the dealer receives from a mutual fund for providing services under a principal distributor arrangement. In review of the existing provision of NI 31-103 and the TCR Amendments, the Proposed Amendments to NI 31-103 and NI 81-101 appear unnecessary:

- **Proposed Amendments to NI 31-103:** It is not necessary to amend NI 31-103 by adding the proposed paragraph to subsection 14.17(1). Subsection 14.17(1)(g) and (h) of NI 31-103 already capture the payments that principal distributors receive from mutual funds. The Proposed Amendments do not add value these existing disclosure obligations.
- **Proposed Amendments to Form 81-101F1 and Form 81-101F3:** It is not necessary to amend Item 10 of Form 81-101F1/F3 by adding additional disclosure requirements for principal distributors. Item 10 of Form 81-101F1/F3 already requires the disclosure of sales practices under s. 8.1 of NI 81-105, which includes “all compensation payable by members of the organization of the mutual fund to all principal distributors [...] of the mutual fund”. This could be interpreted to include compensation paid through principal distributor arrangements.

In light of the foregoing, we recommend that the CSA refrain from introducing its Proposed Amendments to NI 31-103, Form 81-101F1, and Form 81-101F3, which include largely redundant disclosure obligations. However, if the CSA determines that additional disclosure is needed, we ask that the CSA consider proposed revisions to the Proposed Amendment included at **Appendix “B.”**

IV. MULTIPLE PRINCIPAL DISTRIBUTOR ARRANGEMENTS

a) Interpretation

NI 81-105 should not be “based” or premised on an understanding that principal distributors can only act as principal distributors for a single mutual fund family. That premise is not supported by the definition of “principal distributor”, the wording of NI 81-105, or Companion Policy 81-105, which place no limitations on the number of mutual funds with which a dealer may form a principal distributor relationship. If CSA members had intended to limit the principal distributor as described in the Request for Comments, this intention would have been reflected in NI 81-102, NI 81-105, and the corresponding companion policies.

The only source that the CSA references in support of its narrower interpretation of the principal distributor model is the following paragraph from the summary of comments section in the Notice of Proposal for NI 81-105 that published in 1997. In response to the question of whether the internal compensation practices of principal distributors should be regulated by NI 81-105, this paragraph states:

The Ontario Commission noted that except as set out in Part 4 of the Ontario Draft Rule, the Ontario Draft Rule does not (and the IFIC Code does not) deal with the compensation paid by principal distributors to their representatives, that is, compensation paid by fund organizations to their sales forces employed to sell only funds within that fund organization's mutual fund family. With the exception of one commenter, who provided a detailed discussion on why internal compensation practices vis a vis “tied sales forces”

should be regulated, all commenters on this question suggested that the Ontario Draft Rule not be expanded to cover this issue. IFIC noted that an ordinary investor purchasing a product in an environment in which the only product offered is an in-house brand knows, just as the ordinary car purchaser knows, that their choice in that environment is limited.

*The CSA do not propose to expand the ambit of the Instrument at this time to regulate internal compensation practices. [emphasis added]*¹⁰

The purpose and intent of NI 81-105, and the CSA's purported limitation of the principal distributor model, cannot credibly be derived from the above paragraph. This paragraph refers to compensation paid to sales forces. The dated analogy:

- Is attributable to the commentator rather a reasoned conclusion of the CSA.
- Applies equally to a proprietary distribution model of a participating dealer.
- Has since been addressed through client focused reforms.

b) Lack of Supporting Data

The Request for Comments does not include any data or evidence to support that allowing dealers to act as principal distributors for multiple mutual fund families presents any risks to investors that cannot be addressed through current regulation. Rather, the offering of more than one fund family, has the benefit of greater investor choice.

c) Distinctions Without Import

Principal distributors are expressly permitted to engage with multiple fund families as “participating dealers” and, as contemplated in the Proposed Amendments, are permitted to act as principal distributors for more than one fund within the same mutual fund family. Dealers are generally permitted to offer a mix of proprietary and non-proprietary products to investors. There is no reasonable basis to distinguish these accepted business practices from the practice of engaging with multiple fund families as a principal distributor. Under any of these structures, principal distributors and their representatives are permitted to offer products from different mutual funds with the potential for any conflict of interests being addressed through existing regulatory requirements and controls.

In light of the above, the CSA's proposal to amend s. 2.4 of NI 81-105 to prohibit dealers from engaging with more than one mutual fund family as a principal distributor is not sustained. To the extent that the CSA has concerns with respect to the internal incentive practices of dealers that serve as principal distributor for multiple fund families, they are addressed by current regulation.

Suggested revisions to the Proposed Amendments are included at **Appendix “B.”**

¹⁰ Notice of Proposed Changes to Proposed Rule 81-503 and Companion Policy 81-503CP Sales Practices Applicable to the Sale of Mutual Fund Securities and Notice of Proposed National Instrument 81-105 and Companion Policy 81-105CP Mutual Fund Sales Practices published on July 25, 1997 at (1997), [20 OSCB 3979](#) [the “1997 Consultation”].

V. DEFERRED SALES CHARGE CONSIDERATIONS

It is agreed that the amendments that were previously made to NI 81-105 to ban the deferred sales charge option (the “DSC Option”) did not include principal distributors.¹¹ The CSA’s desire to ensure a level playing field between participating dealers and principal distributors in this regard, as was done by including principal distributors with participating dealers in client focused reforms and total cost reporting amendments, is understood.

VI. OTHER MATTERS: COMMISSION REBATES

Commission rebates should also be accommodated for the sale of mutual funds purchased prior to June 1, 2022 for as long as such securities are subject to a redemption fee.

CONCLUSION

The CSA is encouraged to avoid imposing regulations that restricts market opportunities and investor choice.

Respectfully submitted,

Investment Industry Association of Canada

¹¹ Critics of this ban noted that DSC Options facilitated access to investment advice, permitted investors with option of investing their total capital without front end fees and aligned with the long-term objectives typical among mutual fund investors. It is noted that DSC Option is not banned in the United States, where competition among funds has driven sales charges down.

Appendix "A"

RESPONSES TO CONSULTATION QUESTIONS

Question No. 1:

The Proposed Amendments clarify that a principal distributor cannot have multiple principal distributor relationships except where it acts as principal distributor for mutual funds in the same mutual fund family. Are there any circumstances under which a dealer should be permitted to act as a principal distributor for more than one mutual fund family? In responding, please explain the advantages and disadvantages of such a model as compared to a participating dealer model for both investors and market participants. In particular, please outline the specific benefits for investors as they pertain to competition, cost and investor choice. Please provide quantitative data, where relevant, to support your answer.

Please see above comments.

Question No. 2:

If your answer to question #1 was yes, please also comment on the following:

- (i) What are the specific circumstances under which a principal distributor should be allowed to act for more than one mutual fund family?*
- (ii) If a principal distributor could act for more than one mutual fund family, should the compensation arrangements between the principal distributor be required to be the same or substantially similar in respect of each mutual fund family? If not, how could we ensure that any compensation arrangement differences would not influence a principal distributor to favour the mutual fund family with the most favourable compensation structure?*
- (iii) What factors and considerations would be relevant to determining the appropriate number of mutual fund families for which a dealer should act as principal distributor? Explain how the distinction between principal distributors and participating dealers does not become blurred as the number of mutual fund families distributed by the same principal distributor increase.*
- (iv) Should there be minimum duties and obligations owed by the principal distributor in respect of each principal distributor relationship? Should those obligations be the same across all mutual fund families for which the dealer acts as principal distributor?*
- (v) Should mutual funds that have a principal distributor be exclusively distributed by the principal distributor and not be distributed by other principal distributors or participating dealers?*

Please see above comments.

It is unclear as to why a 'blur' of the distinction between principal distributors and participating dealers engaging with multiple funds is of material concern.

Question No. 3:

Do the Proposed Amendments fully address potential investor protection concerns for existing principal distributor business models and any foreseeable new mutual fund distribution business models? Are there any other considerations, limits or factors about a principal distributor arrangement that we should consider?

Please see above comments.

Question No. 4:

The Proposed Amendments to NI 81-105 will come into force 18 months after the final publication date. Does this provide sufficient time for dealers that act as a principal distributor for more than one unaffiliated manager to transition their practice, operational model and compensation arrangements? Does this provide sufficient time for impacted investment fund managers to make alternate distribution arrangements for their mutual fund securities prior to the effective date? If not, please explain.

Should a transition period apply, it should be informed by the impacted principal distributors and their clients.

Question No. 5:

Some principal distributors may currently use chargebacks. Chargebacks involve a compensation practice where a representative is paid upfront commissions and/or fees from the dealer when their client purchases securities. Chargebacks occur when investors redeem their securities before a fixed schedule as determined by the dealer, and the dealing representative is required to pay back all or part of the upfront commission/fees to the dealer. In June 2023, the CSA announced that it would be reviewing the use of chargebacks in the mutual fund industry due to concerns about potential conflicts of interest associated with this practice. The CSA is of the view that the use of chargebacks raises a significant conflict of interest for principal distributors in the distribution of mutual fund securities and we are considering the appropriate regulatory steps. We are requesting additional feedback on this practice.

Dealing representatives are subject to similar regulatory obligations as dealers and as described in this correspondence.

The concern over chargebacks assumes that a dealing representative will ignore regulatory obligations and prefer their own interest over that of a client to avoid a chargeback on mutual fund the dealing representative believes to be unsuitable. The concern is speculative and can be addressed through enforcement of current obligations.

APPENDIX "B"

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-102 INVESTMENT FUNDS

Part 10 is amended by adding the following section:

10.2.1 Prohibition of Fees for Redemptions

A manager must not charge a fee to a securityholder of a mutual fund for a redemption by the securityholder of securities of the mutual fund that is based on a sales charge option.

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATION

Subsection 14.17(1) is amended by adding the following paragraph after paragraph (u):

~~(v) — the following notification, or a notification that is substantially similar, either of which must be located in a footnote, if during the period covered by the report~~

~~(i) — the client owned securities of a mutual fund that is a reporting issuer,~~

~~(ii) — the registered firm was a principal distributor, as defined in section 1.1 of National Instrument 81-102 Investment Funds of those securities, and~~

~~(ii) — the registered firm received a payment, other than a payment reported under paragraphs (g) or (h), in connection with services that the registered firm provided to the manager or to the mutual fund as a principal distributor:~~

~~"We have an exclusive right to distribute or a material competitive advantage over others in distributing the securities of [insert name of the fund]. [Insert name of fund manager] paid us up to a maximum of [insert percentage of the management fee] % of the fund's management fee for providing services as a principal distributor."~~

(v) If the client owned investment fund securities during the period covered by the report and the registered firm received payment other than trailing commission in connection with services that the registered firm provided to the manager or the mutual fund as a principal distributor as defined in National Instrument 81-102 *Investment Funds*, the following notification or a notification that is substantially similar:

"We are a principal distributor for [insert name of fund] as defined in National Instrument 81-102 *Investment Funds* and, in that capacity, we are entitled to receive up to a maximum of [insert %] of the fund's management fee in exchange for providing services to the fund as a principal distributor."

**PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE**

Form 81-101F1, Part A, Contents of Simplified Prospectus, is amended by renumbering the disclosure requirements under item 10 as subsection 10(1) and by adding the following subsection:

(2) — If a mutual fund has a principal distributor, state in substantially the following words:

“~~[Insert name of principal distributor] has an exclusive right to distribute or has a material competitive advantage over others in distributing the securities of the mutual fund(s). Please see “Dealer Compensation” for more information, including a description of the services provided by [insert name of principal distributor] to the fund(s) or [insert name of manager of the mutual fund].”~~”

(3) — ~~If a mutual fund has a principal distributor that receives a payment, other than a payment that is a trailing commission, in connection with services provided by the principal distributor to the manager of the mutual fund or the mutual fund, state in substantially the following words: “[Insert name of manager of the mutual fund] pays up to a maximum of [insert percentage of the management fee payable to principal distributor] % of the management fee to [insert name of principal distributor] for providing services to [insert name of manager of the mutual fund] or the mutual fund(s) as the principal distributor.”~~

(4) — ~~If the fee payable to a principal distributor varies under an agreement between the principal distributor and the manager of the mutual fund, describe the variables that are used in the determination of the fee and how that fee is calculated.~~

(2) — If a mutual fund has a principal distributor and the principal distributor receives payment, other than a trailing commission, in connection with services that the principal distributor provides to the mutual fund, the following notification or a notification that is substantially similar:

“[Insert name of principal distributor] is a principal distributor of [insert name of fund] as defined in National Instrument 81-102 *Investment Funds* and, in that capacity, is entitled to receive up to a maximum of [insert %] of the fund’s management fee in exchange for providing services to the fund as a principal distributor.”

Form 81-101F3, Part II, Contents of Fund Facts Document is amended by adding the following subsections to item 1.3:

(4.1) — ~~If a mutual fund has a principal distributor, include a statement substantially similar to the following: [Insert name of principal distributor] has an exclusive right to distribute or has a material competitive advantage over others in distributing the securities of this fund.~~

(4.2) — ~~If a mutual fund has a principal distributor that receives a payment, other than a payment that is a trailing commission, in connection with services provided by the principal distributor to the manager of the mutual fund or the mutual funds, state in substantially the following words: [Insert name of manager of the mutual fund] pays up to a maximum of [insert percentage of the management fee payable to principal distributor] % of the~~

management fee to [insert name of principal distributor] for providing services to [insert name of manager of the mutual fund] or the fund as the principal distributor.

~~(4.3) If the fee payable to a principal distributor varies under an agreement between the principal distributor and the manager of the mutual fund, describe the variables that are used in the determination of the fee and how that fee is calculated.~~

(4.1) If a mutual fund has a principal distributor and the principal distributor receives payment, other than a trailing commission, in connection with services that the principal distributor provides to the mutual fund, the following notification or a notification that is substantially similar:

“[Insert name of principal distributor] is a principal distributor of [insert name of fund] as defined in National Instrument 81-102 *Investment Funds* and, in that capacity, is entitled to receive up to a maximum of [insert %] of the fund’s management fee in exchange for providing services to the fund as a principal distributor.”

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

Part 2 is amended by adding the following section:

~~2.4~~ Principal Distributors

~~A principal distributor of a mutual fund shall not be a principal distributor of another mutual fund unless the other mutual fund is a member of the same mutual fund family.~~

Section 4.2 is amended by adding the following subsection:

(0.1) A principal distributor of a mutual fund that is also a principal distributor of another mutual fund that is in the same mutual fund family as the first-mentioned mutual fund shall not provide an incentive for any of its representatives to recommend a mutual fund of which it is a principal distributor over another mutual fund of which it is a principal distributor.