Investment Funds Innovation: A Website!

Why Read This?

A recent proposal to reduce regulatory burden in investment funds comes with an important requirement: websites! We explain why this is less odd than it appears.

Coming Soon: Websites!

When we read that the Canadian Securities Administrators are proposing to require investment funds to operate a "designated website" the initial reaction was an eye-roll as well as a cursory check that the date isn't April 1st. In this day and age, the website is the first place investors look for information about a fund, and we can't think of an investment fund manager that doesn't operate on the internet.

On further reflection, this idea isn't as comical as it may appear to be. If we want to live in a world where trees don't have to die for the purpose of mailing documents that aren't read, the framework for other forms of delivery has to be in place. The current approach to electronic delivery is generally opt-in: there is no requirement that a customer must accept electronic delivery, and dead trees are the default option.

Under the proposal (out for comment until December 11, 2019 for those wishing to go back to the good ole days of faxing documents), investment funds will be required to designate a website ("a set of webpages on the internet containing links to each other") that would make available the regulatory documents that are otherwise required. The proposal also contemplates that an individual with a "reasonable level of technological skill and knowledge" must be able to easily find what they need, and print it (i.e. convert to dead trees) if necessary. We are not sure what "reasonable level of technological skill and knowledge" means, though we expect that the investment industry already has a decent grasp of the concept of user experience and accessibility to individuals.

Why Bother?

It may seem odd to require in regulation something that, today, is commercially expedient for any investment fund manager to operate. It is also odd to introduce a new requirement under the theme of "burden reduction". However, the real burden underlying this is the current regime of requiring documents that are otherwise made available on a website to also be mailed or e-delivered separately. There is a true duplication of activity, with the costly one (mail) required unless opted-out, while the cheap one (web access) is a voluntary action.

If the underlying burden is to be addressed, the framework has to support an alternative. If the regulations don't require a website to exist, then regulations can't also require that investment funds provide access to (but not require delivery of) certain documents. In that sense, an uncontroversial requirement that something that is already being done continues to be done is an important step in the right direction.

One area of relief in the ETF space could be in the manner ETF Facts documents are delivered. As background, the CSA introduced the requirement to deliver a concise summary disclosure document within two days of purchase of an ETF, in lieu of delivering a prospectus (i.e. more and larger dead trees). The developments that led to this requirement are beyond the scope of this note – but suffice it to say that it was clear that access to the summary document was not seen as a suitable substitute for outright delivery. Perhaps, now that investment funds will be required to have websites, the regulatory framework can re-think the requirements for delivery in light of the typical workflow. If an investor uses an online brokerage platform to buy an ETF, and they have been referred to the appropriate Designated Website, then maybe there is no need to also print & mail an ETF Facts document to the same investor after the purchase is made?

This is just one example, but others abound. Requiring a website to exist is an important step towards using it. There is also real money to be saved: an entire sub-industry exists around the delivery of documents to investors, an unglamorous but necessary task that is painful enough that investment dealers generally outsource it. The industry players doing that job make typical oligopolies look like a fiercely competitive free-for-all. The costs of introducing for-profit providers of these humdrum functions are ultimately borne by investors – including through less industry flexibility to adapt to change. A regulatory framework that can reduce the industry's overall reliance on traditional means in favour of newer technology (like the internet!) is ultimately a positive step for investors.

Word of the Day

Website (n.): a group of World Wide Web pages usually containing hyperlinks to each other and made available online by an individual, company, educational institution, government, or organization.

Please do not hesitate to contact us if you have further questions.

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