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Disgorgement – Proposed Amendments to the Mutual Fund Dealer (“MFD”) Rules [Disgorgement–Proposed Amendments to the Mutual Fund Dealer Rules](#)

Thank you very much for the opportunity to provide my comments on the proposal to bring MFDs into the disgorgement rebate regime.

Please feel free to post and / or circulate my comments in their entirety not any part thereof.

Specific disgorgement identification is a long overdue positive step forward in retail (main street) investor protection which I fully support, subject to additional operational modifications discussed below.

The proposal makes it clear that MFD Hearings (“MFDH”) will now make disgorgement sanctions visible insofar as the fines and the disgorgement amounts will be identified separately consistent with the disclosures that apply to Investment Dealers, that are both CIRO regulated. This hopefully will enable CIRO to disgorge ill-gotten gains from MFDs and their authorized sales representatives (“MFDSR”) and provide additional remuneration to all harmed main street investors.

However, there is a serious design flaw in the MFDH process with respect to the fact that the MFDH process proposal only involves the MFDSR insofar as the MFDH process only permits disgorgement from the MFDSRs during the MFDH. It appears for whatever reasons not specified as if the MFDs are immunized / shielded from the disgorgement process by design which makes no sense given that the MFDs and the MFDSR both received benefits (remuneration) from selling the mutual fund investments that were the subject of the MFDHs. This means that notwithstanding that MFDs management / supervision of the MFDSR failed to impede harm to main street investors, the MFDs can nonetheless retain all the fees / commissions / remuneration that they received from any / all rule breaking MFDSR transactions effected by those MFDSR that the MFDs were supposed to supervise. Most main street investors that I speak with are trying to understand what is the basis for shielding MFDs from disgorgement accountability.

Given that the MFDs and MFDSR share the remuneration according to an agreed upon percentage and the total remuneration was derived from harmed main street investors, with the MFDs getting my understanding a larger percentage of the remuneration than the MFDSR, the harmed main street investors under these proposals are only entitled to receive disgorgement funds earned by the MFDSR which is totally egregious and in fact provides absolutely no incentive whatsoever for the MFDs to manage their respective MFDSRs for the protection of main street investors.

Another problem is the actual collection of disgorged funds under Disgorgement Orders from MFDSR as the historical statistics point to very low recovery percentages whereas potentially collecting disgorgement funds from MFDs in addition to MFDSR would potentially yield a higher recovered percentage of funds for harmed main street investors.

How I wonder using any measurement scale is the foregoing fair and reasonable to harmed main street investors as it adds to harmed main street investor revictimization at the hands of the MFDs. My recommendations are that main street investors should immediately cease investing with any MFDs as the process is structured so that main street investors would only ever receive a percentage of their losses incurred, which is totally unreasonable.

A fundamental principle in all businesses, with it appears as the exception of the MFDs businesses, is that senior management of all businesses are held accountable for the actions, inactions, and negligence of those they have hired, educated, trained, incentivized, and supervised, which is why these MFDs share in the remuneration derived from their employee's actions. In addition, all empirical research has demonstrated that management can be conflicted when it has the ability of over-rides on the sales performance of the person(s) supervised.

Case in point, a recent OSC - CIRO study found that bank branches mutual fund representatives were under tremendous pressure by **management** to generate mutual fund sales. It further found that performance metrics established by **management** were used to create a culture of sales to the detriment of the best interests of clients. Why would anything be different with respect to MFDSR in relation to MFDs?

Consequently, I recommend that CIRO restructure its rules/ policies / procedures regarding MFDHs such that when a MFDSR has caused harm to any / all main street investors any / all ill-gotten gains be disgorged from both the MFDs accountable for managing the MFDSR and the specific MFDSRs recruited by the MFDs to effect the mutual fund sales.

This change will ensure that the entire losses as opposed to a portion thereof are potentially distributed to the harmed main street investors, and by extension will most probably cause MFDs to alter their respective compensation practices and most importantly enhance their management practices to come into conformance with well established Client Focused Reforms that are enacted to protect main street investors. An added important benefit not to be overlooked is that this will most probably increase main street and the public's confidence and trust in the industry self- regulator, CIRO.

In addition, I respectfully suggest that CIRO ramp up its process on the collection of Disgorgement Orders currently levelled against MFDSR to address historically low recovery percentages.

If you have any questions or wish to discuss further, please do not hesitate to contact me.

Rick Price