# Joint Forum of Financial Market Regulators

## Forum conjoint des autorités de réglementation du marché financier

**NEWSLETTER** **SUMMER 2004**



**CANADIAN ASSOCIATION OF PENSION SUPERVISORY AUTHORITIES**

David Wild
Chair of the Joint Forum
Chair, Financial Services Commission, and
Superintendent of Pensions
Saskatchewan

Nancy MacNeill-Smith
Superintendent of Pensions
Nova Scotia

Dennis Gartner
Superintendent of Financial Institutions
Alberta Finance

Bryan Davies
CEO & Superintendent of Financial Services
Ontario

**CANADIAN SECURITIES ADMINISTRATORS**

Doug Hyndman
Chair
British Columbia Securities Commission

Stephen Murison
Vice Chair
Alberta securities Commission

Les O'Brien
Chair
Nova Scotia Securities Commission

Paul Moore
Vice Chair
Ontario Securities Commission

Jean St-Gelais
President & Chief Executive Officer
Autorité des marchés financiers
Québec

**CANADIAN COUNCIL OF INSURANCE REGULATORS**

Jim Hall
Superintendent of Insurance and Financial Institutions
Registrar of Credit Unions
Saskatchewan

James Scalena
Superintendent of Financial Institutions
Manitoba

Janet Cameron
Superintendent of Insurance
New Brunswick

Jacques Henrichon
Director, Regulatory Policy and External Affairs
Autorité des marchés financiers
Québec

**CANADIAN INSURANCE SERVICES REGULATORY ORGANIZATIONS**

Douglas Connolly
Director of Financial Services Regulation
Department of Government Services & Land
Newfoundland & Labrador


## What is the Joint Forum?

### Members

The Canadian Securities Administrators (CSA), the Canadian Council of Insurance Regulators (CCIR), and the Canadian Association of Pension Supervisory Authorities (CAPSA) established the Joint Forum of Financial Market Regulators (Joint Forum) in 1999. More recently, the membership of the Joint Forum has expanded to include participation by the Canadian Insurance Services Regulatory Organizations (CISRO). The Office of the Superintendent of Financial Institutions (OSFI) is involved through its membership in CCIR and CAPSA.

The current Chair of the Joint Forum is David Wild, Chair of the Saskatchewan Financial Services Commission.

### Purpose

The goal of the Joint Forum is to facilitate and coordinate the development of harmonized cross-sectoral and cross-jurisdictional solutions to financial services regulatory issues.

**Inside this issue:**


| | |
|---|---|
| What is the Joint Forum? | 1 |
| Update on Public Consultations: | |
| Guidelines for Capital Accumulation Plans | 2 |
| Regulatory Harmonization of IVICs and Mutual Funds | 3 |
| Intermediary Proficiency and Licensing Initiatives | 4 |
| Update on the Financial Services OmbudsNetwork | 6 |
| Changes to the Regulatory Structure in Québec | 8 |
| Jean St-Gelais Speaks to the Joint Forum – March 31, 2004 | 8 |
| Meeting Schedule and Contact Information | 9 |



5160 Yonge Street, Box 85, 17th Floor, North York ON M2N 6L9 Telephone: (416) 590-7054 Facsimile: (416) 590-7070
email: jointforum@fsco.gov.on.ca website: www.jointforum.ca

## Update on Public Consultations

### Joint Forum Releases *Guidelines for Capital Accumulation Plans* (CAPs)

On May 28, 2004, the Joint Forum released the final version of the guidelines for the operation of capital accumulation plans. The Joint Forum developed the guidelines for CAPs to outline and clarify the rights and responsibilities of CAP sponsors, members and service providers; and to ensure that CAP members have the information and assistance they need to make investment decisions.

The release of the guidelines for CAPs came on the heels of the conclusion of the review of stakeholder responses to the consultation paper titled *Proposed Guidelines for Capital Accumulation Plans*. The Working Committee on Capital Accumulation Plans had released the consultation paper in April 2003.

In response to the Joint Forum's call for comments, 29 stakeholder groups and individuals provided written submissions. You can view their comment letters on the websites of CAPSA (www.capsa-acor.org), CCIR (www.ccir-ccrra.org), and the Joint Forum (www.jointforum-forumconjoint.ca). Another 127 stakeholders participated in 12 focus group sessions across Canada. Through the consultation process, stakeholders asked us to do the following:

- Define CAPs more precisely and clarify what plans are covered by the guidelines.
- Clarify whether the guidelines are intended to be voluntary or mandatory.
- Crystallize parts of the guidelines that create uncertainty.
- Explain how service providers and investment options are to be effectively monitored.
- Edit the guidelines to reduce their length and avoid repetition.
- Clarify which investment rules apply where investment funds are offered in pension plans and whether investment funds are mutual funds or insurance products.
- Address the issue of differences in investment rules for pension funds, mutual funds, segregated funds and other pooled investment products.

After extensively reviewing these and other comments from the stakeholder consultation process, the Joint Forum Committee revised the guidelines to address the concerns raised. The Committee also reviewed the revised guidelines with the Task Force of industry representatives. This Task Force was formed at the beginning of the project and played a key role in the development of the guidelines over the past two years. This group expressed strong support for the proposals, as well as praise for the collaborative process.

Following approval by CCIR, CAPSA and CSA, the Joint Forum approved the publication of the *Guidelines for Capital Accumulation Plans* and a Summary of Comments and Responses. These documents were published on May 28, 2004, on the websites of CAPSA, CCIR, CSA, and the Joint Forum.

The guidelines will be implemented through the pensions, insurance and securities regulators' usual processes. The guidelines were adopted and approved for publication by CAPSA as *CAPSA Guideline No. 3, Guidelines for Capital Accumulation Plans*. It is the expectation of CAPSA that registered pension plans that have CAP components will operate in accordance with the guidelines by December 31, 2005.

The CSA published for comment a proposed registration and prospectus exemption for trades in mutual funds securities in plans that meet key elements of the guidelines. The Canadian Life and Health Insurance Association (CLHIA) is considering adopting the guidelines for its members. The Joint Forum will address the issue of harmonizing the investment rules for pension funds, mutual funds, segregated funds and other pooled investment funds as part of the implementation of the guidelines.

### *Regulatory Harmonization of IVICs and Mutual Funds*
### Regulatory Sub-committee on the Harmonization of IVICs and Mutual Funds

The Sub-committee has completed its review of submissions received in response to the consultation paper, *Rethinking Point of Sale Disclosure for Segregated Funds and Mutual Funds*, which was released for comment on February 13, 2003.

The Joint Forum issued a press release on July 31, 2003, to highlight the strong support expressed in the comments received on the consultation paper from all sectors and jurisdictions. The press release summarized and clarified the proposed "layered" approach to disclosure, which relies on making material available in components that are readily understood and delivered at the most appropriate time for the consumer. The four components of the system are:

(1) a foundation, or base disclosure document;
(2) a continuous disclosure record of the fund or funds;
(3) a fund summary document (a one- or two-page fund summary to communicate key information unique to the fund); and
(4) a consumers' guide that will include objective, educational information about segregated funds and mutual funds.

The press release also identified some of the major issues still under consideration. These include whether disclosure should be on an individual or family of fund basis, the method by which the information should be delivered to consumers, and whether rescission and withdrawal rights should be continued.

The press release, consultation document and submissions received can be found on the websites of CCIR, CAPSA, the Joint Forum and the OSC (www.osc.gov.on.ca). You can also find the press release on the CSA website.

The Summary of Comments and Responses for this initiative was published on April 30, 2004. The next steps for the Sub-committee will include the development of mock-up point of sale documents, and plain language and focus group testing.

***Intermediary Proficiency And Licensing Initiatives***
**Sub-committee on Practice Standards**

The regulation of intermediaries currently varies by jurisdiction, by type of intermediary, and by type of product or service. The purpose of the Joint Forum's Practice Standards Project is to establish standards of professionalism and fair conduct that Canadian consumers should be able to expect in their financial transactions, regardless of the product or service they are buying or the regulatory regime that applies.

A consultation paper entitled *Principles and Practices for the Sale of Products and Services in the Financial Sector,* was released in March 2003. The paper outlined a set of voluntary standards that would be endorsed by associations and individuals not otherwise attached to associations. The Joint Forum expects that this approach will result in benefits for consumers by setting minimum standards of conduct without imposing burdensome regulatory requirements on financial intermediaries. The end result will be a common set of best practices that should apply to the conduct of all financial intermediaries in their dealings with consumers of all financial products and services.

Response to the paper from the industry was generally supportive. The consultation package and the submissions received can be found on the websites of CCIR, OSC and the Joint Forum.

The final documents for the Practice Standards Project were published on February 13, 2004. You can find these documents on the Joint Forum website as well as the websites for CAPSA, CCIR and the CSA.

On May 17, 2004, the Joint Forum Sub-committee on Practice Standards met with the Industry Liaison Group. The representatives from various industry associations that make up the Industry Liaison Group expressed broad support for the final Principles and Practices.

Over the coming months the Joint Forum will focus on a communication program to raise awareness of the Principles and Practices among consumers, industry participants and regulators. The Joint Forum will also continue to work with the financial services industry to facilitate the adoption of the Principles and Practices by industry participants.

### *Approaches to Harmonized Licensing for Intermediaries in the Financial Sector*

Many initiatives are under way in the area of intermediary licensing. Some of these include:

Securities

- CSA Uniform Securities Legislation (USL)
- CSA National Registration System

Insurance

- CCIR Working Group on Agent and Broker Licensing
- Life Licence Qualification Program (LLQP).

When the Joint Forum was created in 1999, it was agreed to give high priority to developing a harmonized approach to licensing. Work began later that year with the project, described earlier in this newsletter, to develop practice standards for all financial services intermediaries. The original intention was to work on common competency principles and a harmonized licensing model for multi-licensed intermediaries at a later stage. However, given the number of initiatives currently under way across the sectors, the Joint Forum believes that it is not yet time to launch a formal project in this area.

However, since the Joint Forum will have to consider the current regulatory regime and the evolution of current sectoral initiatives in any future discussion on harmonizing licensing requirements, an informal Joint Forum working group is meeting periodically to discuss issues and provide input to the Joint Forum's deliberations. This working group is also developing a plan to do further research on issues in the competency and licensing area to understand the challenges ahead and be prepared to respond to them at the appropriate time.

## Update on the Financial Services OmbudsNetwork (FSON)

The Financial Services OmbudsNetwork (FSON), was announced on December 20, 2001, by the six trade associations representing banks, life and health insurers, property and casualty insurers, investment dealers and the mutual fund industry:

- Canadian Bankers Association
- Canadian Life and Health Insurance Association
- Insurance Bureau of Canada
- Investment Dealers Association of Canada
- Investment Funds Institute of Canada
- Mutual Fund Dealers Association of Canada

Representatives from the associations worked in cooperation with the Joint Forum Task Force on Consumer Dispute Resolution to develop the model for the FSON.

The four components of the FSON are:

- the Centre for the Financial Services OmbudsNetwork (CFSON), launched in November 2002;
- the Canadian Life and Health Insurance OmbudService (CLHIO), launched in the summer of 2002;
- the General Insurance OmbudService (GIO), also launched in the summer of 2002; and
- OBSI, which was created in 2002 when the Canadian Banking Ombudsman (CBO) merged with the ombudsman services under development by the associations representing 450 investment dealers, mutual fund dealers and investment fund companies.

The Joint Forum continues to maintain a keen interest in the operations of the Network to ensure that regulators can continue to have confidence in the new system. Toward this end, staff from the CFSON and the Joint Forum Project Office meet regularly to advance a joint work plan. As well, the Joint Forum Steering Committee and the CFSON Board endeavor to meet at least annually.

Pierre Gravelle, CEO of the CFSON, attended the most recent Joint Forum meeting in Québec City on March 31, 2004, to discuss recent developments. Among the areas of common interest are standards for the Network's operations, protocols to govern information sharing between regulators and the FSON, and initiatives to raise awareness across the country about the services that the Network provides.

*Standards*

As noted in the previous Joint Forum Newsletter, the CFSON Board has established a Committee on Standards, chaired by Independent Director Ted Hughes, with the general responsibility for recommending standards to the Board, and for overseeing and monitoring the standards adopted by the CFSON and the OmbudsNetwork.

An industry best practices resource kit is being finalized that, among other things, will help firms to create their own benchmarks.

*Information Sharing*

The Joint Forum Project Office has completed a comprehensive analysis and description of the complaint information that must currently be reported, by whom, to whom and under what legislative or regulatory provision. This research will provide a foundation for further discussions on information sharing between the FSON and regulators.

*Awareness*

The Centre continues to work to raise awareness of the CFSON across the country with a communications campaign to reach the financial services industry, consumer groups, all elected officials, the HR departments of Canada's 350 biggest companies, and other interested stakeholders. Staff of the Centre participated with staff of the Financial Consumer Agency of Canada (FCAC) in the Financial Forum shows in Toronto, Calgary, and Vancouver earlier this year. Investors, traders, business owners, business professionals, industry advisors, financial planners and shareholders attended these events.

The CFSON Board and staff have also visited regulators in several provinces to raise awareness of the Centre and its role.

The Chairs of the four FSON entities have recently created a coordinating committee to achieve more synergy and to streamline the operations of the four services.

Additional information on the FSON can be found at:

- CFSON (http://www.cfson-crcsf.ca)
- CLHIO (http://www.clhio.ca)
- GIO (http://www.gio-scad.org)
- OBSI (http://www.obsi.ca)

## Changes to the Regulatory Structure in Québec

As of February 1, 2004, the Autorité des marchés financiers (AMF) replaced the following five organizations:

- the Bureau des services financiers (BSF)
- the Commission des valeurs mobilières du Québec (CVMQ)
- the Fonds d'indemnisation des services financiers (FISF)
- the Inspecteur général des institutions financières (IGIF)
- the Régie de l'assurance-dépôts du Québec (RADQ).

The AMF's principal objectives are to:

- assist consumers of financial products and services;
- ensure that relevant compensation programs are in place to protect these consumers;
- oversee the securities markets, as well as the distribution of financial products and services; and
- ensure that financial participants meet applicable solvency standards.

In April 2003, M. Jean St-Gelais was appointed President and Director General of the AMF. He is assisted by seven directorates and branches: the Consumer Aid and Compensation Regulation Directorate; the Securities Markets Regulation Directorate; the Solvency Regulation Directorate; the Distribution Regulation Directorate; the Corporate Affairs Branch; the Secretariat and Legal Affairs Branch; and, the Administration and Industry Services Branch. Finally, a board of directors, a management advisory board, and an internal auditing body were added to this structure with the objective of supporting M. St-Gelais.

The AMF is headquartered in Québec City but also has offices in Montréal.

## Jean St-Gelais Speaks to the Joint Forum on March 31, 2004

The AMF hosted a luncheon for the Joint Forum and its guests on March 31, 2004 in Québec City. At this luncheon, M. St-Gelais spoke about the challenges facing the AMF, as well as the importance of harmonization.

M. St-Gelais outlined three broad challenges facing the AMF:

1. *Improving Consumer Protection in Québec*
This involves "restoring the credibility which is indispensable in a sector where confidence and transparency are the basis of business relationships. The essential element of every efficient financial market is confidence."

2. *Reducing the Administrative and Bureaucratic Burden on Industry*
"As a one-stop service outlet for consumers, the creation of a single point of entry for the industry should significantly improve dealings with the various clienteles and, consequently, improve regulatory efficiency."

3. *Market Evolution*
"The third challenge is to follow market evolution more closely so that we can be better equipped and provide better services. The AMF will put an end to the present separation of regulatory agencies, which have done their work well, but each within its own sphere of activity."

As members of an organization devoted to the development of harmonized cross-sectoral and cross-jurisdictional solutions to regulatory issues, Joint Forum members appreciated M. St-Gelais' views on harmonization:

"We live in an interrelated world, which requires that we establish solid and constructive links. In practical terms, this makes me a promoter of the concept of harmonization. Greater harmonization means greater efficiency for our regulatory organizations, greater protection for consumers in our respective jurisdictions and more services to industry. "

"Not only is harmonization the most practical solution for dealing with the new challenges we all face - I believe it is essential. That's why my position, and that of the AMF, is that harmonization throughout Canada is both desirable and necessary. Let me assure you that Québec intends to be a fully productive partner in this process and that the AMF is ready to play a major role in harmonizing the way things are done in Canada, while never losing sight of its priority: protecting consumers."

## Meeting Dates and Contact Information

### *Meeting Dates*

The Joint Forum meets four times a year - twice by conference call and twice in person. The Joint Forum met on March 31, 2004 in Québec City. The meeting schedule for the remainder of 2004 includes:

- July 9, 2004 (conference call)
- November 2, 2004 (Fredericton).

*Contact Information*

We prepare our newsletters to keep interested stakeholders abreast of the Joint Forum's initiatives and plans, and to foster dialogue among those with an interest in Canada's financial services sector.

We would be pleased to hear any views, comments or questions you might have about the role of the Joint Forum, and any suggestions you have for future initiatives. You can direct your comments to any Joint Forum member or to the email address of the can direct your comments to any Joint Forum member or to the email address of the Joint Forum Project Office:

jointforum@fsco.gov.on.ca
416-590-7054

To enhance communication with our stakeholders, we recently launched the Joint Forum website. The website offers continuously updated information about the Joint Forum, its projects and publications, including this newsletter. You can reach our website via several addresses: www.jointforum.ca, www.forumconjoint.ca and www.jointforum-forumconjoint.ca.

You can also get information about the Joint Forum or access to the Joint Forum website through the websites of our constituent groups - CCIR (www.ccir-ccrra.org), CAPSA (www.capsa-acor.org) and the CSA (www.csa-acvm.ca), - as well as the websites of several of their members.

We welcome your comments on our website. You may send them to any Joint Forum member or to Stephen Paglia at the Joint Forum Project Office (416) 590-7054, e-mail spaglia@fsco.gov.on.ca.

*Ce bulletin est aussi disponible en français.*