

What the heck is going on? The British Columbia Court of Appeal has handed down a decision upholding the Investment Dealers Association of Canada's (now IIROC) jurisdiction over former members, a decision that contradicts an earlier decision by an Ontario court, which found that the self-regulatory organization couldn't claim continuing jurisdiction. B.C. Court Decision <http://www.courts.gov.bc.ca/Jdb-txt/CA/08/04/2008BCCA0413.htm>

"In good or bad times, investors should resist the temptation to make quick decisions about their investments. Taking the time to get more information is always a good idea." - Jean St-Gelais, CSA Chair and President and Chief Executive Officer of the Autorité des marchés financiers (Québec).

http://www.osc.gov.on.ca/Media/NewsReleases/2008/nr_20081008_csa-caut-invest-decisions.jsp Read up on [investment fraud](#) and red flags and learn about suspicious activity in your marketplace.

Interesting article on mutual funds by Vanguard founder John C. Bogle from Keith Ambachtsheer's new pension magazine

<http://utpjournals.metapress.com/content/a77v2j0737j61g60/?p=b77355b17437428689e114535c66f1c0&pi=9>

Bringing Mutuality to Mutual Funds

This article is a condensed version of a lecture presented February 2008 at the 27th Annual Manuel F. Cohen Memorial Lecture at the George Washington University Law School in the United States.

9 Signs You Need to Fire Your Financial Planner

1. They never asked you about your personal goals and time frames before recommending investments.
2. Only one company's [products](#) are recommended.
3. You received no written financial plan, prospectus, or documentation.
4. You are pressured into making investments
5. Your planner's recommendations don't match your financial goals
6. You can never reach your advisor when you want to, and they don't return your phone calls.
7. They constantly change your investments
8. The plan given to you seems too good to be true
9. They tell you they can time the market.

Source: <http://www.wisebread.com/9-signs-you-need-to-fire-your-financial-planner>

Employee Financial Literacy Programs (GEL™)

Financial literacy is more important than ever .A number of firms offer in-house employee training to assist employees with day-to day financial matters. Here's one example: <http://www.secondopinions.ca/services/GEL.aspx> The GEL™ program offers 'financial literacy' for employees with a money -back guarantee i.e. upon completion of

the 10 week program employees will be able to pass a financial literacy test administrated by company officials. The company only pays for the financial education of those employees who pass the test. The basic program consists of a series of 10 one-hour seminars. In each seminar two financial concepts are explained. In the whole program 20 financial concepts will be explained to employees with the use of practical examples. Employees are given a workbook with exercises, examples, notes and illustrations and they also receive two books written by Warren MacKenzie (The Unbiased Advisor and The New Rules for Retirement).

Email from a reader: “ Good summary of new POS fund disclosure regime in last issue. It won't accomplish anything, it's PR! Actually, regulators have been reducing disclosure for years. Annual reports no longer must be manadatorily delivered to clients. The MRFP must be requested. The very useful Statement of Portfolio Transactions is no longer available to retail investors even upon request. Hail to almighty IFIC –George, Calgary ”

Rules change fast for industry participants: move glacially when retail investors need rule changes

The Office of the Superintendent of Financial Institutions http://www.osfi-bsif.gc.ca/osfi/index_e.aspx?ArticleID=3 is considering giving insurers some breathing room because plunging stock markets are putting pressure on their capital levels. OSFI, which watches over Canadian banks and insurers, is reviewing the capital rules that apply to insurers' segregated funds business. Seg funds are investment products that act like a personal pension plan, where the insurer invests the client's money into a number of funds and offers guaranteed return of capital down the road plus some potential market upside if held to maturity Fees generally are steep. [OSFI is quite cozy with the banks/insurers. It made what amounts to a cozy club deal with Canadian banks when it allowed the banks to use a variation of the market disruption clause that is recognized internationally, in their ABCP structures. This caused retail investors, corporations and pension plans much grief as ABCP liquidity froze in Aug. 2007. The fine legal question is whether that amounted to regulatory negligence, which expose it to legal action. . And if it does, did OSFI's duty extend only to the regulated institutions or the wider market? OSFI chief Julie Dickson may have been trying to discourage potential plaintiffs when, with a straight face, she told an insurance industry gathering some time ago that the ABCP crisis was a market failure, not a regulatory failure. <http://network.nationalpost.com/np/blogs/legalpost/archive/2008/04/08/osfi-on-abcp-hook.aspx>]

The risks in a “safe” investment

Principal-protected notes offer a way for people to invest in stocks, mutual funds, hedge funds or commodities without danger of losing any of the money they started out with. But there are still risks associated with PPNs. Here are some:

Dead money risk: If the investments in a PPN go sour, investors get their principal back but cannot make any gains even if there are years until maturity. [The worst news for PPN holders in Canada lately is that some notes issuers have declared what's known as a

"protection event." These PPNs are dead money - their guarantees will apply, but the opportunity to make any profit is gone.]

Loss of opportunity risk: Safe GICs pay a fixed rate of return, whereas PPNs can provide zero returns.

Tax risk: The Canada Revenue Agency is reviewing how it taxes PPNs.

Solidity risk: Capital guarantees depend on the financial health of the bank or insurance company providing them. [U.S. investors learned first hand when PPNs issued by now defunct Lehman Bros., are now worthless]

Safety net risk: PPNs are not insured by Canada Deposit Insurance Corp., and one PPN issuer says there is no assurance that these products would be covered by the Canada Investor Protection Fund (applies to losses due to brokerage insolvency).

Early exit risk: The principal guarantee works if you hold to maturity, not if you sell early; also, redemption fees may apply.

Source: R. Carrick, *'Tax event' may be next for bruised PPNs*, Globe and Mail, Oct. 30, 2008

Is this man delusional?

"If you look at the whole credit crisis, Canada has actually come off better than pretty much any country in the Western world"
-British Columbia Securities Commission chairman Doug Hyndman Source: J. McFarland, *BCSC chairman hits out at single regulator plan*, Globe and Mail, Oct 30, 2008



Here's what actually happened:

- ABCP investors are in financial and emotional distress
- RRSP's have been decimated
- OSFI has waived reserve accounting rules for troubled insurers and their seg funds
- the Bank of Canada has had to act to protect the financial system
- New point-of-sale fund disclosure rules won't protect investors
- there's no one in charge of enforcement at the OSC
- National Bank had to bail out its money market funds but common shareholders took a big hit

- PPN's have undergone a "protection event", which means investors will earn - 3% per annum for the life of the Notes
- Mutual fund investors have seen their accounts implode as their high cost, unsuitable investments reared their ugly heads
- No one has been held accountable for anything

[Contact us if you want the full list of how *we've come off better*]

Good News -OBSI revises Terms of Reference

Following a consultation process that began last year, OBSI's board of directors has approved a revised Terms of Reference to guide their dispute resolution service. The target implementation date of the revised Terms is April 1, 2009. Two of the more notable changes are in systemic issues and new complaint-handling procedures.

On systemic issues, the Terms now have a provision under which OBSI will be following up on potential systemic issues that arise out of individual complaint files by contacting the firm and asking it to undertake an investigation. Should a systemic issue be found, OBSI will offer to work with the firm to arrange compensation for affected clients and to fix the problem. If there is disagreement between OBSI and the firm on the nature of the problem, or the remedy, the file will be referred to the appropriate regulator for review. On new complaint-handling procedures, complainants will have the option of bringing their complaint to OBSI 90 days after they start the firm's internal complaints process. Previously, there was no time limit and OBSI wouldn't take on the case until the firm had exhausted every block and stall tactic. Coincidentally, RBC pulled out of OBSI for its banking clients.

Visit <http://michaeljamesmoney.blogspot.com/2008/10/new-rules-for-mutual-fund-disclosure.html> for the authors take on new POS fund disclosure rules. *"A problem with the fact sheets [Fund Facts] is that they are disconnected from the purchase of units in a fund. Whenever an investor buys units of a mutual fund, there is some piece of paper or browser screen that shows how much the investor pays for the units in the fund. I'd like to see two additional numbers related to fees written beside the transaction information: assuming that the units are held for 10 years, what will be the total amount charged in fees, and how much of this goes to the advisor."*

Wanna better understand mutual fund fees? Visit http://www.osc.gov.on.ca/Investor/Alert/ia_20051024_mutal-fund-fees.jsp

BMO Nesbitt Burns wrist-slapped for using improper sales literature

A hearing panel of the Investment Industry Regulatory Organization of Canada has fined BMO Nesbitt Burns Inc. \$300,000 for using improper and misleading sales literature. Nesbitt Burns admitted that:

(1) from March 2003 to May 2005, it participated in the production of sales literature that failed to fairly present the potential risks of Olympus United Uninvest II to a client (Uninvest II was a hedge "fund of funds" that was recommended by BMO to certain of its

retail clients. It was part of the Norshield Asset Management fund fiasco. On or about May 2, 2005, Olympus announced the deferral of redemptions in a number of its funds. In late May 2005, the OSC suspended the registrations of NAM and Olympus. NAM and other related entities were placed into court ordered receivership on June 29, 2005.);

(2) from March 2003 to July 2004, Nesbitt Burns issued and/or used sales literature that was not first approved by a partner, director, officer or branch manager; and

(3) from August 2004 to May 2005, Nesbitt failed to develop appropriate written policies and procedures for the review and supervision of sales literature.

The hearing panel imposed fines totaling \$ 300,000 and ordered Nesbitt Burns to pay costs in the amount of \$20,000 for the costs of the investigation and prosecution.

[http://docs.iiroc.ca/DisplayDocument.aspx?](http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=022AFDDEB94A4C2A993DA426EDA0D0FA&Language=en)

[DocumentID=022AFDDEB94A4C2A993DA426EDA0D0FA&Language=en](http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=022AFDDEB94A4C2A993DA426EDA0D0FA&Language=en) Norshield Financial Group, collapsed in 2005, leaving individual and institutional investors facing about \$400 million in losses. BMO was also involved in the infamous FMF fiasco. FMF Capital Group debacle, a U.S. sub-prime mortgage lender that came to Canada, raised \$197.5-million from retail investors and less than 8 months later in Nov. 2005 suspended distributions. FMF was subsequently delisted; retail investors lost all \$200 million.

[OSC asks court to appoint receiver for ASL Direct](#)

The Ontario Securities Commission has filed an application with the Superior Court of Justice (Ont.) seeking an order appointing a receiver and manager of all the property and assets of MFDA member mutual fund dealer ASL Direct Inc. The matter will be heard before the Superior Court of Justice in Toronto on Nov. 4th. The application follows a full statement of allegations against ASL that the OSC released in May. In the statement, the OSC alleged that ASL and its principal Adrian Leemhuis distributed the Future Growth Group of Funds without a receipted prospectus and without an exemption from the requirement for one. It also alleged that the Future Growth Group of Funds have traded their securities without a prospectus and without an exemption from the requirement for one. http://www.osc.gov.on.ca/Media/NewsReleases/2008/nr_20081031_osc-asl-direct.jsp

Norshield deceived investors –OSC

The Ontario Securities Commission has alleged that the three principals behind the collapse of Norshield Asset Management Ltd. orchestrated a complex scheme involving investments in Barbados and the Bahamas, and carted away documents to be destroyed at a Minnesota hunting club. Toronto-based Norshield, which sold funds-of-funds based on hedge-fund strategies, abruptly stopped redeeming units in May, 2005. At that time, regulators in Ontario and Quebec began investigating Northshield's operations. The following month, an Ontario judge put Northshield into receivership, thwarting a deal to sell the embattled hedge fund manager to a Calgary company. Nearly \$160-million was lost by 1,900 retail investors of Norshield.

Mutual fund performance observations

The Standard & Poor's Mutual Fund Performance Persistence Scorecard periodically semi-annual results on the persistence of top performing funds in the current market. These reports show performances of actively- managed mutual funds within their capitalization peer groups and monitor the consistency of their performance results. Three key findings:

1. Very few funds manage to consistently repeat top half or top quartile performance. Over five years ending 2006, only 71 (13.2%) large-cap funds, 16 (9.9%) mid-cap funds, and 24 (10.0%) of small-cap funds maintained a top half ranking over five consecutive 12-month periods. A total of eight large cap funds (3.0%), two mid-cap funds (2.5%) and zero small-cap funds maintained a top-quartile ranking over the same period.
2. The research suggests screening for top quartile funds may be inappropriate. A healthy percent, in most cases a majority, of top quartile funds in the future come from ranks of prior period second and third quartiles. Furthermore, the low absolute counts of repeat top performers suggest that past performance cannot be the sole or the most important criteria in fund selection.
3. Comparing characteristics of these consistent performers with their peers, S&P observed that manager tenure and expense ratios stand out as key differentiators. In general, consistently top performing funds have lower expense ratios and have managers who been at the helm longer.

Full report available at

http://www2.standardandpoors.com/portal/site/sp/en/eu/page.hottopic/indices_persistence/3,1,1,0,0,0,0,0,0,0,0,0,0,0,0,0,0,0,0,0,0,0.html

The rogue clients are coming, the rogue clients are coming

“In these times of stress, Jonathan Chevreau tells [“Advisors: prepare for trouble from rogue clients if bear market worsens”](#) In his Financial Post blog, Jon quotes lawyer Ellen Bessner “that “rogue clients” are more likely to turn litigious when they start losing money”. The key element of protection for advisers is the Investment Policy Statement (IPS). (The IPS, by the way, is a key protection for the client investor as well. For those who forgot what an IPS is you can look at the [Asset Allocation](#) section at this website. For those who don’t have an IPS, perhaps you should be looking for a new advisor.) Ms. Bessner also warns advisers against using expressions such as “guarantee”, market “will come back”, challenge of finding the fine balance between discouraging clients who want to go into all cash (at what may turn out to be or not to be the bottom) or encouraging clients to crystallize losses and miss a significant rebound (especially if they cashed out of the market at the bottom)”. Source: <http://retirementaction.com/blog26oct2008.aspx>

Unplanned capital gains distributions can bite into cash even if you’ve lost money

“Tom Herman writes in the WSJ’s [“Fund investors face the risk of tax hit despite losses”](#) that many investors who are holding their losing mutual funds in taxable accounts may still end up having to pay tax on capital gains distributions. He suggests that this

may be a good time to sell some of your losing funds “before they make the tax distributions”. (It may also make sense to replace them with an ETF covering similar asset class, if that’s what your asset allocation demands.)” Source:

<http://retirementaction.com/blog26oct2008.aspx> [For most mutual-fund investors, it's been an abysmal year-the average Canadian equity fund is down about 30%; U.S. equity funds fared worse. Foreign stock funds have also posted steep declines, as have funds in most other categories. But some investors may have to pay hefty 2008 income tax bills on their losing funds anyway if the fund took some capital gains during the year. Funds with high redemptions must also sell off stock thus potentially incurring capital gains. Mutual funds must distribute net capital gains to unitholders and usually do so around the end of the year. These distributions are taxable if the investments are held in a taxable account, rather than in a RRSP or other tax-deferred account. So get your chequebook out.]

WARNING: SPAC’s still breathing

"We view it as something that will be bolted onto the retail structured product market and those [like investment banks] with the more developed distribution channels are going to be successful bringing these to market. What is clear is if you bring the right management team to market, even in these markets you can get a deal done. It would depend on what story the SPAC is selling."- Jeff Glass, Blake Cassels & Graydon
Source: K.Leger, *Dead markets bode poorly for SPAC’s*, National Post, Oct. 29, 2008a

Investor advocates have tried to convince securities regulators that SPAC’s are unsuitable for retail investors. We had thought we had succeeded until we read an Oct. 29th article in the National Post that suggested they may still be ready to pounce on retail investors. Despite a harsh market environment some industry participants seem to believe regulators will approve this product for sale to unsophisticated investors and that with the right sales pitch, sales will be made. Is it not enough that retail investors have suffered through Bre-X, Nortel, FFMF and other business income trusts, Norshield, Portus, the mutual fund market timing scandal and PPN’s? . The middle class is being decimated and regulators are letting it happen. ENOUGH. [SPACs (special-purpose acquisition companies) are publicly traded shell companies typically founded by executives of an industry or investors with a track record who bring some seed money to the table and have up to a 20% initial stake. Money raised during the IPO for an eventual qualifying acquisition to be approved by all shareholders, must be invested within a specific time frame, usually 18 to 36 months. Otherwise, the SPAC is dissolved and what’s left of the money is returned to investors. Critics refer to SPAC’s as blank –cheque investments]

New POS disclosure regime increases risks for retail investors

The Fund Facts concept was developed by the Joint Forum of Financial Market Regulators <http://www.jointforum.ca/JF-WWWSite/attachment/final%20docs/Final-Framework-for-Publication-22Oct2008.pdf>, which represents both securities and insurance regulators to enhance POS disclosure for retail fund investors. After consultations with industry participants, regulators are now drafting the rules and regulations. The regulators' stated priority in Fund Facts was to keep things basic. Despite our protestations, there are still no performance comparisons to index benchmarks and a

fundco is still allowed to rate the relative riskiness of its fund on a sliding scale that will leave investors in the dark about the fund's true risks. However, perhaps the most controversial aspect of Fund Facts has to do with the different delivery rules for adviser-initiated orders and those initiated by investors.

For adviser-recommended initial purchases of funds, other than money market funds, Fund Facts will need to be delivered before or at the point of sale [An IFIC Investor survey revealed that 85% of mutual fund purchases are based on the recommendation of an adviser.]. Fundcos won't be allowed to send the document with an order confirmation, as is done now with prospectuses. For investor-initiated orders, however, investors can choose to wait to receive Fund Facts until the mailed confirmation is received. Can you imagine the issues that will arise in the event of a dispute? He said, she said. For your self-protection, we suggest you formally update your profile- concentrate on objectives, risk tolerance, loss tolerance, time horizon, investment knowledge/experience, your financial status and any other factors that would help establish your investment suitability criteria. Don't overestimate anything just to satisfy your ego-it could back to haunt you. [Investors in mutual funds and segregated funds will have a cooling-off right that allows them to cancel their purchase-they will have 2 business days from receipt of trade confirmation to exercise this right.]

".. I also wonder why self-directed investors get treated differently. I think it should be pointed out to a discount brokerage client how much the brokerage is getting paid in trailer fees [sales commissions] by the fund company, as shown in the Fund Facts document. Email delivery is an interesting concept, though in my experience email isn't necessarily all that efficient, given the vagaries of spam filters for those of us who are high volume recipients. Also, there are privacy concerns for those who have only their at-work email addresses." --Rudy Luukko, Investment Funds Editor, Morningstar Canada commenting on new Joint Forum POS disclosure framework

Ken's Law: "Guarantees" may significantly reduce the value of your investment while dramatically increasing your costs.

Canada's largest bank gives OBSI the kissoff and spits on clients

The Royal Bank of Canada (RBC) has announced the introduction of a new independent dispute resolution process, effective November 1, 2008. RBC has retained the services of Toronto-based ADR Chambers, an alternate dispute resolution firm, replacing OBSI. RBC had taken strong objection to a number of positive proposed OBSI mandate changes in a Feb. 1, 2008 Comment letter (available on the OBSI website). RBC asserts that it expects the new appeal process will result in quicker response to RBC banking clients' concerns that remain unresolved after review by the RBC Ombudsman. ADR members are all independent contractors who contract individually with the clients through ADR Chambers Inc., a for-profit corporation which provides administrative services to the members and the clients to assist in the delivery of the dispute resolution services. ADR fees will be paid directly by RBC which potentially could give rise to a conflict-of interest (a la bond rating agencies). The time line goal on a best efforts is 180 days or less but no clear automatic review if this time is exceeded. Their connection to FCAC,

law enforcement and OSFI is not yet clear to us. Investment complaints will continue to be serviced by OBSI. <http://www.adrchambers.com/bankingombuds.htm> Terms of reference at http://www.adrchambers.com/terms_of_reference.pdf

Many of the terms of reference are similar to OBSI and the dollar limit is identical- \$350,000. But there are some huge disadvantages to using ADR's services compared to OBSI:

- ADR is not committed to following ISO guidelines for external dispute resolution entities
- The 2 year Ontario limitations clock is not stopped as is the case with OBSI
- ADR will not take on a case until after RBC has self-declared they have completed the process, regardless of any level of reasonableness [OBSI standard is now 90 days]
- There is no News Release issued should RBC not accept a recommendation as is the case with OBSI
- Unlike OBSI, ADR will not formally deal with systemic cases of financial assault but they may raise the issue with RBC
- There is no automatic independent review/assessment of ADR operations
- Governance is more opaque even than OBSI

According to OBSI's 2007 Annual Report just 25 % of banking disputes recommended compensation compared to 61 % of investment cases. Only 7 RBC banking cases were referred to OBSI in 2007. Similar to the current framework with OBSI, the ADR Terms of Reference provide that where a complaint involves an area that falls within their mandate and that of another Ombuds service, ADR will, we are told, cooperate with that service to respond to the complaint. It is our understanding that the all-important process that will be used to engage clients [referred to as complainants] will be client-friendly as is the case with OBSI and not legalistic as is the case with their work on IIROC arbitrations. Overall, a giant step backward for banking financial consumers. If other banks also go their own way, OBSI could implode and a Government legislated Ombuds service put in place.

Hear what this hapless fisherman has to say about RBC lending practices

<http://www.youtube.com/watch?v=xBWdbbwrnsE>

Unhappy with high bank credit card interest rates? Send your petition to Minister Flaherty at <http://www.torontosun.com/money/2008/11/13/CCgougingCOUPON.pdf>
STOP credit card gouging

IDB protesting MFDA rule on advisers

The Independent Financial Brokers of Canada has filed an application for a hearing with the OSC to quash controversial changes to a MFDA by-law that was passed in August. The IFB was surprised to find out on Aug. 1 that the OSC had approved a proposal by the Mutual Fund Dealers Association that broadens the circumstances in which the MFDA can suspend or terminate licenses of mutual fund advisors who have acted "inappropriately." According to the MFDA, "the proposed amendments will enhance the

ability of the MFDA to protect investors in circumstances where it is not reasonable or practical to proceed by way of a regular disciplinary hearing.” It allows the suspension of a license ex parte -- or without notice -- to the person affected. Specifically, the IFB was concerned that the proposal allows the MFDA to suspend a license when it “receives information regarding the incapacity of the person, by reason of mental or physical illness, or other infirmity or addiction to or excessive use of alcohol or drugs.” Source: Investment Executive

RRIF rules need changing for seniors

For years, the Federal Income Tax Act has forced Canadians with defined contribution pension plans or RRSPs stop contributing at a prescribed age. At age 71, they must annuitize, putting their assets into accounts such as RRIFs and begin taking out their money. The abusive formula forces larger % withdrawals as they get older. Seniors cannot deduct their saving from taxable income, as other Canadians do. And bringing tax-deferred saving into income makes them pay tax and often subjects them to clawbacks of seniors' benefits such as OAS. A nest egg of \$100,000 invested in the S&P/TSX index at the beginning of this year has lost almost 30%. Retirees approaching 71 have little time to make more tax-deferred contributions, and those past that age cannot make any at all. They must try to rebuild their diminished wealth from income-a forbidding task when taxes and clawbacks can take half or more of their income, and when post-tax yields on safe investments are too low even to keep pace with inflation. An added insult is that the mandatory withdrawals that RRIF holders must make this year are determined by their RRIF balance as of Jan. 1, 2008 – the point from which much of their value has been lost. And in some cases, forced withdrawal can trigger DSC early redemption penalties, further reducing RRIF assets.

There is another macro- effect of these tax policies. The credit crisis has left households and businesses around the world short of investable funds, and while Canadian firms and financial institutions are in better shape, they too are scrambling. Preventing a large and growing segment of the Canadian population from adding to their retirement saving - and, worse, obliging them to sell financial assets and withdraw cash - is intensifying the already severe pressure on banks, insurers and others. These policies are exacerbating a crisis that has already left many retirees and soon-to-be retirees much poorer. It's time for change if we don't want Canadians outliving their nest eggs.

ETF's soar , mutfunds languish

For the months of September and October combined, Barclays Global Investors Canada Ltd.'s TSX listed iShares funds had net inflows of \$2.1 billion. In contrast, IFIC reported that investors yanked \$4.5 billion from mutual funds in September, and a further \$8.45 billion in October.

“What we've seen in the past few months is a very different attitude towards risk,” said Heather Pelant, head of iShares, Barclays Canada, in a News release. “One thing that

investors and advisors are recognizing is that complexity is not always a good thing - simplicity is -- and that means knowing what you own. We have always been advocates for better investing and we know that iShares ETFs are going to withstand the level of scrutiny that all financial products will be going through.” Over the past two months, the inflows have been concentrated in iShares CDN LargeCap 60 Index Fund (TSX: XIU) with inflows of \$1.38 billion, iShares CDN S&P 500 Index Fund (TSX:XSP) with inflows of \$204 million, and iShares CDN Energy Sector Index Fund (TSX:XEG) with inflows of \$130 million. In addition, the family of iShares fixed income funds combined have had a substantial influx of \$125 million. Source:

<http://www.newswire.ca/en/releases/archive/November2008/05/c5528.html> [ETF's are known for low fees, tax-efficiency, transparency, diversification and agility]

Leverage investment has been good, real good, to AGF-startling stats

*“...In recent years, the trust arm of AGF Management, Canada's ninth-largest mutual fund company, has been **aggressively marketing loans** for retirement savings plans. Investors can get loans through online applications on its **website with no proof of income under certain circumstances** ... AGF Trust, however, has been an "important mutual fund sales contributor, funding **approximately 60 per cent** of AGF's net sales since 2005 through providing investment loans to clients," Mr. McCormick said.... AGF Trust has been an "important earnings growth tool for AGF, **contributing nearly one-third of its pretax growth since 2005**, and currently **accounting for 22 per cent of pretax profits**," he said... ”. Source: S.Won, *AGF Unit slashes workforce* , Globe and Mail, Nov. 7, 2008 pg B12 [Pity those trusting unitholders who now must pay non-deductible interest on their RRSP loans whose accounts are down 30%+ Thankfully, AGF Trust will be suspending its 100 % no-margin loan product. as of Nov. 8th .]*

Should you care about mutual fund after-tax returns? Visit

<http://www.fundlibrary.com/features/columns/page.asp?id=12360> After-tax returns are critical at POS but Canadian regulators and fund industry have vigorously resisted disclosure. This is Material information outside a tax deferred account The U.S. SEC has required disclosure since 2002.

Useful FCAC Complaint-handling process search tool http://www.fcac-acfc.gc.ca/eng/consumers/Complaints/CHPSearch_e.asp

Fund beats index (unfortunately in a negative way): The 2.77 % MER Mackenzie Cundill Emerging Market fund has lost 36.64 % in the last 6 months vs. “just” 24.82 % for the benchmark. Arawak Energy, one of its biggest holdings has lost 70.14 % in the past year. This loser of a fund starting taking money from investors in March , 2007. If you had invested \$10,000 back then, it'd be worth just \$4061 as at Nov.8, 2008. In March 2007 this Index had been growing nicely , so the fundco created the fund for advisers to let unsophisticated investors chase returns as the market was peaking.

BCSC using YouTube to communicate with investors: [This video podcast](http://www.youtube.com/watch?v=-TYtXzINly0)

<http://www.youtube.com/watch?v=-TYtXzINly0> shows what BC investors can do to

choose an investment advisor who is right for them. An advisor should have the qualifications, experience, investment strategies, and level of service to help you set and achieve your investment goals and service expectations. [InvestRight's free Guide to Investing: How to work with your investment advisor](#) provides detailed step-by-step instructions and worksheets on how to complete the tasks discussed in the podcast. The Guide also shows you how to work with your advisor to keep your portfolio on track. [Download your free copy of the Guide now.](#)

"In a bull market you don't need financial analysts; in a bear market you don't want them." -Gerald Loeb

Political risk

The [risk](#) of [loss](#) when [investing](#) in a given country caused by [changes](#) in a country's political [structure](#) or [policies](#), such as [tax](#) laws, [tariffs](#), expropriation of [assets](#), or restriction in [repatriation](#) of [profits](#). For example, a [company](#) may suffer from such loss in the case of expropriation or tightened [foreign exchange](#) repatriation rules, or from increased [credit risk](#) if the government changes policies to make it difficult for the company to [pay creditors](#). Source: investorwords.com

\$700,000,000,000PS!

- Henry Paulson , [United States Treasury Secretary](#) (previously served as the [Chairman](#) and [Chief Executive Officer](#) of [Goldman Sachs](#).)

The economy and MER's

Many companies are going out of their way nowadays to please customers. Cars are cheaper, LCD TV's are cheaper and even Microsoft is easing prices. These competitive firms are focusing on service and offering discounts; in a recession, every customer counts. Somehow mutual-fund companies haven't gotten that message. Fund expenses are staying high, even though AUM balances are the lowest they've been in several years due to massive redemptions. Of course, fund firms make less money with fewer assets under management, but they still take a chunk from investors regardless of performance. They also make money off DSC early redemption penalty fees. So this year, fund investors can look forward to a triple-whammy: stiff losses, capital gains tax exposure, and fees as usual. Unfortunately, the Canadian fund industry isn't likely to lead the charge. Fund expenses are crucial all of the time, but never more so than when every penny counts in a bear market. Should you reward poor-performing funds that continue to hit you with high expenses? Index funds, ETFs, GIC's, anyone?

SEC improves fund disclosure

The U.S. Securities and Exchange Commission has voted unanimously to alter mutual fund disclosure rules, requiring that mutual funds provide investors with a concise, plain English prospectus summary, and reforming delivery requirements. Specifically, the commission adopted amendments to the registration form for mutual funds, to require

that every mutual fund include key information at the front of its prospectus about the fund's investment objectives and strategies, risks, and costs. The summary will also include brief information regarding investment advisers and portfolio managers, purchase and sale procedures, tax consequences, and financial intermediary compensation. Funds will be required to provide the summary information in plain English and in a standardized order. The rule changes are effective on Feb. 28, 2009, and funds must begin complying with the form changes on Jan. 1, 2010. <http://www.sec.gov/news/press/2008/2008-275.htm> *Chairman Cox discusses mutual fund disclosure for investors.*
[Windows Media Player](#)
[QuickTime](#)

[We compared the Joint Forum's proposed Fund Facts to the SEC's Summary prospectus approach (sample at <http://www.sec.gov/investor/hypotheticalprospectus.pdf>). The SEC emphasizes fees and expenses, while the JF draft, with its various graphics, has more of the look and feel of a marketing document. On page 2, the SEC does a much better job of discussing strategies and risks, -we especially like the disclosure of worst quarterly loss. While the JF is silent on Portfolio turnover and after-tax returns, the SEC is front and center on these metrics. We especially liked the boilerplate closing sentence: "... These payments may influence the broker-dealer or other intermediary and your salesperson to recommend the Fund over another investment. Ask your salesperson or visit your financial intermediary's Web site for more information...".]

MFDA warns firms about "stealth advising"-investors need heads-up too

"Advisors" sure are creative folks. The Mutual Fund Dealers Association of Canada www.mfda.ca has issued a notice #0067 warning firms [and investors too] about "stealth advising", after finding instances of unregistered individuals *servicing* mutfund investors. The notice reports that MFDA staff has become aware of situations where non-registered individuals have engaged in securities related business through various sneaky arrangements with fund salespersons of MFDA member firms. Under these schemes, client accounts are set up at the firm with a registered rep as the rep of record, and trading activity is processed using their rep code. However, a non-registered individual services the account and this individual provides "advice" and makes recommendations to clients with respect to securities in the account, directing the registered rep to place trades. A portion of the commissions paid to the rep by the dealer goes to the stealth advisor, no doubt with full tax foiling records. Why does this deviant advisor behaviour not surprise us? <http://www.mfda.ca/regulation/notices/MR-0067.pdf> [The Sept. 2007 IFIC Investor survey concluded that the vast majority of mutual fund investors continue to rely on advisors -scary, no?]

Is your fund manager a closet indexer?

It isn't always easy to spot an indexer. That could be changing, though, thanks to two professors at Yale School of Management, Antti Petajisto and Martijn Cremers. They

have developed a theory called "active share." Their paper *How Active Is Your Fund Manager: A New Measure That Predicts Performance*. The researchers say that in 2003 almost 30% of all [U.S.] mutual-fund assets were tied up in funds that had low active shares. Some investors are obviously paying too much in fees.

Traditionally, spotting a closet indexer meant looking at something called R-squared. This metric measures the percentage of a fund's returns that are directly tied to movements - up or down - in the corresponding index that it tracks. So if your fund has an R-squared of 100 it moves in lock-step with that index. Any actively- managed fund with an R-squared above a 95 is probably a closet indexer. Active share takes a different approach by looking at a fund's positions- not only individual stocks but their weightings, too- and the degree to which they deviate from a given benchmark. Let's say your fund holds 500 stocks but 50 of them differ from the constituents of the corresponding index. That means your fund's active share is 10%. The study found that the average large-cap equity fund typically has an active share around 60%. Anything under that, according to the study, is a sign that the fund is closely hugging its index.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=891719

Confidentiality agreements are in the public interest, huh??

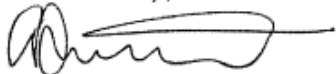
Here's an extract of Worldsource Financial Management Inc's comment letter on the MFDA's proposed complaint handling rule changes Policy #3:

Settlement Agreements

The proposed wording of the policy should make it clear that confidentiality restrictions are permitted, except with respect to the MFDA, securities commissions and law enforcement agencies. The wording of the draft suggests the intention to prohibit confidentiality restrictions generally. Confidentiality restrictions generally are in the public interest as they promote the resolution of disputes. We agree there should be an exception respecting the MFDA, securities commissions and law enforcement agencies.

Thank you for providing this opportunity to comment on this important matter.

Yours truly,



Andy Mitchell,
President & COO

Markham Ontario based Worldsource engages over 500 mutual fund advisors.

MER rules with Bond funds

“...Bond fund managers have relatively little potential to add value, so you should not be willing to pay much for a broad market bond manager. With bond funds, cheaper is almost always better. This is a rare example in the fund industry where

simply sorting today's bond funds by MER is almost always a sure winning strategy. Accordingly, advisors (and clients dealing with advisors) should take a close look at PH&N's new B series of bond funds, which pay 0.25% per year in trailer fees..." D. Hallett, *Bonds vs. bond funds: Needs, amount, fees drive decision*, **Dan on Funds**, Nov.21, 2007, www.danhallett.com, Nov. 21, 2007

"ETF usage in Canada pales in comparison to the U.S. A survey of more than 300 U.S. advisors found more than 71% have used ETFs for their clients. Two out of every five advisors surveyed (40%) said they are either gradually or rapidly replacing actively managed mutual funds as core portfolio holdings. Still, only 11% have abandoned mutual funds as the core holding for their client portfolios, and the shift is predominantly in the independent and fee-based RIA channel. For advisors affiliated with banks and insurance companies, funds are overwhelmingly the product of choice.

This trend seems to be establishing itself in Canada. For example, Barclays Global Investors, the world's largest ETF provider, says its ETF subsidiary in Canada, iShares, is doing brisk business right now during a period when most traditional fund companies are bleeding a substantial amount of assets. For the months of September and October [2008] combined, iShares funds had net inflows of \$2.1 billion. In contrast, mutual funds saw sell-offs of \$4.5 billion in September and \$8.45 billion in October." Source: M. Noble, *Mutual fund supremacy in decline: Study* Nov. 14, 2008
http://www.advisor.ca/news/article.jsp?content=20081114_154802_16620

" .. With that in mind, my recommendation to the regulators is that they come out with a second document [in addition to Fund Facts] that can be called *Advisor Facts*, which would cover such items as:

- **The advisor's experience, training and education;**
- **The number of complaints made by clients to the regulators;**
- **The rates of returns his or her clients have earned over various bull market and bear market periods;**
- **Whether he or she individually tailors fund portfolios to individual clients;**
and
- **The percentage of clients that have leveraged portfolios based on the advisor's recommendations.**

The document could also explain the basis on which the advisor recommends a deferred sales charge over an initial sales charge, and in the case of an initial sales charge, whether anyone has ever negotiated a sales charge of less than the "up to" amount stated in a prospectus. In my opinion, it's probably more important to choose a good advisor than read something that really isn't going to help someone make an informed decision..."
Source: S. G. Kelman, November 14, 2008 *Fund Facts won't make meaningful difference to the investors it is aimed at*, located at:

<http://www.morningstar.ca/globalhome/Industry/News.asp?>

[Articleid=ArticleID111320089591](#) [Kelman commenting on new proposed Joint Forum regulations for POS disclosure for mutual and Seg funds]

Interesting research Study: STOCK MARKET EXTREMES AND PORTFOLIO PERFORMANCE by Prof. Nejat Seyhun of the University of Michigan. Dr. Seyhun studied stock market returns between 1926 and 2003, found that a very small number of days accounted for a large percentage of market gains and losses. Stock market extremes are crucial to portfolio performance. For the 1963-1993 time frame, the index gained at an average annual rate of 11.83%, for a cumulative return on \$1.00 of \$23.30 over 31 years. If the best 90 trading days, or 1.2% of the 7,802 trading days, are set aside, the annual return tumbles to 3.28% and the cumulative gain falls to \$1.10. If the 10 worst days are eliminated, the annual return jumps to 14.06%, and the cumulative return increases to \$44.80. Dr. Seyhun's study looks at all kinds of variations - missing the 10, 40 or 90 best and worst days - but, essentially, the conclusion is clear: it shows just how difficult it is to time market fluctuations correctly. And while it clearly shows how wonderful results can be for successfully timing the market, it is sobering to consider the penalties for being wrong. <http://www.towneley.com/pdf/MT%20Study%2094.pdf>

For a copy of the Terms of Reference of the Joint Standing Committee on Retail Investor Issues visit http://www.osc.gov.on.ca/jsc/ic_20080828_jsc-rii-terms.pdf

Dumb money: A perjorative label commonly used to describe uninformed or misguided investors. - Arne Alsin

“... What are some of the potential disadvantages? [of investing in mutual funds]

When you invest in a mutual fund you place your money in the hands of a professional manager. The return on your investment will depend heavily on that manager's skill and judgment. Even the best portfolio advisers are wrong sometimes, and studies have shown that few portfolio advisers are able to consistently out-perform the market.

Check the fund manager's track record over a period of time when choosing a fund...”

Source: CSA Booklet on Mutual Funds [http://independentinvestor.info/PDF-Downloads/CSA-OSC-QSC-AMF-SEC-04/doc.609-CSA%20mutual%20funds%20\(francais%20voir%20647\)%20\(ancien%20295\)%20mutual_funds_brochure.pdf](http://independentinvestor.info/PDF-Downloads/CSA-OSC-QSC-AMF-SEC-04/doc.609-CSA%20mutual%20funds%20(francais%20voir%20647)%20(ancien%20295)%20mutual_funds_brochure.pdf)

Ken's Believe it or Not: "It's in the companies' [the banks'] financial interest that people know what they're getting into." - FCAC commissioner Ursula Menke(talking about a new format for more effective disclosure of credit card fees and terms/conditions.) [In fact, credit card application forms are second only to mutual fund prospectuses in opaqueness and legalese. It seems that banks and credit institutions have found a very legal way for loan sharking just as fundcos thrive off high fees.] Source: E. Roseman, *Credit cards need to lose the legalese*, Nov. 16, 2008 pg A21 and <http://www.fcac-acfc.gc.ca/eng/media/news/default.asp?postingId=269> You can see the joint FCAC/ Mastercard Canada proposed plain language form at http://www.mastercard.com/ca/wce/PDF/EN_MC_Formulaire.pdf or http://www.fcac-acfc.gc.ca/eng/publications/SurveysStudies_e.asp#SS

Email from a reader: “ Mr. Kwenko. I read your piece on mutual fund POS disclosure. Are you aware the OSC put out a report in September on investment fund industry disclosures wherein 45 % of marketing materials were found to be deficient? See http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part3/sn_20080904_33-731_2008-compliance-rpt-commercial.pdf - Gerry, Ottawa, Ont.” [the report cites cases of unsubstantiated performance claims, use of inappropriate benchmarks and the like. For investment fund dealers, an average of 7 deficiencies were found with on average two considered to be “ very significant”]

Limitation period not always 2 years Notwithstanding the short 2-year statute in Ontario, it appears that the time limit for filing a claim against the CIPF is as short as 180 days (6-months). https://www.cipf.ca/c_explore_coverage.htm#determination [thanks to William Nichol]

Oct. fund industry net redemptions totaled \$8.4 billion, up from net redemptions of \$4.5 billion in September.

It was the worst month on record for long-term fund sales with \$6.5 billion in redemptions. There were some extenuating circumstances beyond poor market performance, namely an unprecedented number of so-called “protection events” on principal-protected notes (PPNs). In such a situation, the underlying asset, in many cases a mutual fund, is sold and the proceeds are moved to a fixed income product such as a zero-coupon bond. Based on a sample of members representing close to 60% of industry assets, IFIC estimates that just over \$1.4 billion or 17% of total net redemptions in October were due to institutional redemptions. These redemptions force asset sales and increase expenses for hapless retail investors left holding the funds. The appreciation of the U.S. dollar by 13 % last month against the Canadian dollar also led some investors to lock in exchange gains. The net redemptions in foreign money market funds totaled more than \$1.5-billion

Barclays Global Investors Canada, which operates ETF provider iShares reports that iShares' net inflows in September and October combined stood at \$2.1-billion. Investors are attracted to ETFs because their diversification makes them less volatile than individual stocks. ETF's are much more affordable and quicker to trade than mutual funds - the average Canadian mutual fund charged a management expense ratio of around 2.50 %. On the other hand, the iShares Canadian S&P/TSX Capped Composite Index, for example, charged about 0.25% MER on an annual basis. ETF's are also more tax-efficient but can only be sold by advisers licensed to trade stocks. If the actively-managed fund industry is to survive it will need to cut costs and be a lot more investor-friendly and transparent. Its latest opposition to point-of-sale disclosure is an example of an industry tied to past bad practices like Polaroid, GM. and so many others that failed to change

The ISE SIndex: Includes owners and operators of casinos and gaming facilities, producers of beer and malt liquors, distillers, vintners and producers of other alcoholic beverages, and manufacturers of cigarettes and other tobacco products.

KPMG appointed receiver for fund dealer ASL Direct

The Ontario Superior Court of Justice issued an endorsement on Nov. 14, approving the appointment of KPMG as receiver and manager of all the property and assets of ASL Direct Inc. (ASL). In early November, the Ontario Securities Commission (OSC) filed an application with the court seeking an order to appoint a receiver for ASL.

The application followed a full statement of allegations against ASL that the OSC released in May. In the statement, the OSC alleged that ASL and its principal Adrian Leemhuis distributed the Future Growth Group of Funds without a receipted prospectus and without an exemption from the requirement for one. It also alleged that the Future Growth Group of Funds have traded their securities without a prospectus and without an exemption from the requirement for one. In addition, Leemhuis and ASL have made materially misleading statements in documents and failed to meet the standard of conduct required of a MFDA member and therefore acted contrary to the public interest, according to the statement. Source: <http://www.investmentexecutive.com/client/en/News/DetailNews.asp?id=47015&IdSection=8&cat=8&BImageCI=1> and <http://www.newswire.ca/en/releases/archive/November2008/18/c9720.html> [If you're concerned about your ASL holdings, contact KPMG or MFDA IPC]

Email from the West Coast

Ken, I just read the sample Fund Facts document in the Joint Forum's October 24 news release. In the block *Who is this fund for?*, we're shown by example that one reason could be "wanting to invest for the long-term". Another "reason" cited as an example is "I want to invest in a broad range of Canadian companies". Gimme a break. These aren't financial objectives or reasons to invest in a mutual fund. How about "I want to exceed the return of GIC's" or "I'm looking for steady monthly income?". It would be nice if regulators used as examples elements of the typical KYC not a bunch of meaningless dribble. – Allen, Nasnaimo, B.C.

RBC influence takes its toll on PH&N

As we expected, Phillips, Hager & North Investment Management Ltd. has upped the ante in its bid for advisor-driven mutual fund sales. Subject to regulatory approval, the wholly owned Royal Bank of Canada subsidiary will start selling a new Series C that will qualify for much higher trailer commissions than previous PH&N offerings. Series C versions will be available for all 25 of PH&N's retail mutual funds. They are no-load, as are all other PH&N purchase options. Setting the Series C funds apart are its provisions for hefty trailer commissions that are in line with those paid by other independent firms that flog funds primarily through third-party advisors. Specifically, trailer commissions payable on Series C sales will be a full percentage point for equity and balanced funds, 50 basis points for fixed-income funds and 25 basis points for money market funds. Expect performance to suffer as a result in a market where 1% is significant <http://www.morningstar.ca/globalhome/Industry/News.asp?Articleid=ArticleID1114200810191>

Good riddance: Canadian Medical to be merged into GrowthWorks Canadian

[Canadian Medical Discoveries](#), one of the largest retail venture capital funds, has agreed in principle to a merger with [GrowthWorks Canadian](#). It's the latest consolidation initiative in the chronically money-losing category. Maybe the whole category should be merged into oblivion. Subject to a definitive agreement, the approval of shareholders of both losing funds, and regulatory and other approvals, the merger of Canadian Medical into GrowthWorks Canadian is to be completed in Q2/ 2009. Though investors in labour-sponsored venture-capital funds have benefited from federal and provincial tax credits, both of the merging funds have been money-losers. GrowthWorks Canadian's return since inception is a compound annual loss of 0.1%, while Canadian Medical has a compound annual loss since inception of

5.3%. [http://www.morningstar.ca/globalhome/Industry/News.asp?](http://www.morningstar.ca/globalhome/Industry/News.asp?Articleid=ArticleID1114200810191)

[Articleid=ArticleID1114200810191](http://www.morningstar.ca/globalhome/Industry/News.asp?Articleid=ArticleID1114200810191) [-1 + (-1) = -3]

Did you know?: It's a smaller point compared to some of the others, but previously the only reason OBSI would go public with a firm's name is if a recommendation was refused. In OBSI's recently revised Terms of Reference, a refusal to cooperate with the investigation would now also be grounds for publication. That was added because the Framework for Collaboration said it should be. IIROC and MFDA already covered because firms are required by their bylaws to cooperate, but this now covers the banks (except for RBC which has terminated its arrangement with OBSI in favour of ADR Chambers) and others.

*"...One of my business school professors, Peter Drucker, warned us repeatedly against accepting the conventional. He said to always ask the seemingly stupid question. For me, that has usually meant How does he know? Over the years I've responded to many "truths" and accepted facts in the market by asking how this analyst or that commentator knew a thing. Too often I've found that the underlying analysis was superficial, limited or even nonexistent. One argument for long-term investing has always been that if you get out of the market you may miss the good days when the gains are made. My research team recently went back 42 years to the bull market that began in 1966, and **we found that had you missed the five best days of each year, your \$1 investment, without dividends, would now amount to just \$1.11. But had you missed the five worst days each year, your dollar would have become \$2,696.** So maybe it's not so crazy to be on the sidelines some of the time..."* Source: Laszlo Birinyi Jr, Unchartered Waters,

<http://www.forbes.com/forbes/2008/1124/156.html> His blog is at <http://search.forbes.com/search/colArchiveSearch?author=Birinyi>

Live and Learn about inappropriate investments

"Steven Trager, now 62, owns a pizza shop in Santa Monica. In 2006, on the advice of an insurance agent who billed himself as a "Senior Financial Advisor", Trager sank \$1.4 million from the sale of real estate into five equity-indexed annuities from Sun Life of Canada and Midland National. Trager says the agent told him he was guaranteed a minimum 3% annual return and that the policies, which track the S&P, had earned 12%. "Music to my ears," he says. What Trager says he didn't understand was that the potential gain was just a fraction of that from the S&P; that he wouldn't receive dividends, as he

would from stocks; that he faced surrender penalties for as long as 14 years; and that any gains would eventually be taxed as ordinary income, not lower-taxed capital gains. Steven E.M. Roth, whose fee-only firm, Wealth Management International, was hired by Trager to analyze the annuities he had already bought, figures if the S&P 500 returned 12% (including dividends), Trager's annuities would earn 4%. He estimates the adviser earned \$125,000 in commissions.

The insurance agent, for his part, says Trager, was a "sophisticated investor" who knew what he was buying and was never promised a minimum 3% return--the guarantees are actually for less. Trager is asking the companies to refund his investment without penalties. Sun Life has refused, saying provisions of the annuities were adequately disclosed. Midland says it's waiting to receive Trager's response to the agent's denials." Source: Deborah Orr, *Shoot the messenger*, Forbes.com, Aug. 12, 2008
<http://www.forbes.com/forbes/2008/1208/122.html>

It's more than just investing

Presumably, you're paying for more than just stock- and mutfund-picking advice--you're paying for help dealing with essential investment chores. For example, if your adviser neglects to tell you about a required minimum annual withdrawal from a retirement account or bungles a rollover from one retirement account to another, you could get hit with a tax penalty. Have you been told about the new TFSA accounts? If distributions from a PPN will be taxed as ordinary income, you should be told this in advance of purchase. That's the kind of advice a pro should be providing.

Flaherty comes to rescue of RRIF account holders

"A common misconception is that seniors must sell assets to satisfy RRIF [annual minimum] withdrawal requirements, something many may not want to do at this time given the recent decline in value of many assets." Basically Federal Minister Jim Flaherty is telling fund dealers brokers and bankers that income tax law allows "in-kind" asset transfers. Apparently some financial institutions have either not advised seniors of this option or worse, demanded that they redeem their mutual funds before withdrawal. In some cases, seniors have not only suffered huge market losses but had been sold DSC funds requiring the payment of early redemption penalties. Shame on the industry for not being above board. No doubt OBSI will treat this as a classic example of a systemic issue.

The 2008 MFDA Annual Report is now available

Key observations :

1. 381 enforcement cases opened up from 361 in 2007
2. Only \$525,500 of fines collected out of \$2,023,000 levied
3. 15% of investigations took longer than 1 year
4. Top 3 issues were outside business activities, falsification and investment suitability

5. One case, the Berkshire (Ian Thow) debacle accounted for \$500,000 in fines

6. A terrific set of Suitability Guidelines were issued MR-0069

We could find no mention of OBSI's new Terms of Reference regarding systemic issues.

http://www.mfda.ca/about/AnnReports/MFDA_AR2008.pdf (44 pages)

MFDA Investor Protection Corp. 2008 Annual Report available

With the current market turmoil, readers may be interested in their investor protection fund. The 2008 Annual Report is at http://www.mfda.ca/ipc/AR/IPC_AR08.pdf As at June 30, 2008, the balance in the Fund stood at \$17.8 million. In addition, the IPC has obtained a credit facility from a Canadian chartered bank with a maximum limit of \$30 million. This facility is guaranteed by the MFDA. There was one insolvency of a Quebec-based Member Firm during fiscal 2008 [ends June 30] and one of an Ontario Member Firm shortly after the fiscal year end. In both cases, client accounts were transferred to another dealer and no claims to IPC have arisen to date.

Subject: Financial bail out Package - in the words of several doctors.

The Allergists voted to scratch it, and

The Dermatologists advised not to make any rash moves.

The Gastroenterologists had sort of a gut feeling about it, but

The Neurologists thought the Administration had a lot of nerve, and

The Obstetricians felt they were all labouring under a misconception.

The Ophthalmologists considered the idea shortsighted.

The Pathologists yelled, 'Over my dead body!' while the Pediatricians said, 'Oh, Grow up!'

The Psychiatrists thought the whole idea was madness, the Radiologists could see right through it, and also

The Surgeons decided to wash their hands of the whole thing.

The Internists thought it was a bitter pill to swallow, and

The Plastic Surgeons said, 'This puts a whole new face on the matter.'

The Podiatrists thought it was a step forward, but

The Urologists felt the scheme wouldn't hold water.

The Anaesthesiologists thought the whole idea was a gas, and

The Cardiologists didn't have the heart to say no.

In the end, the Proctologists left the decision up to some assholes in Washington, and then as expected

We all got it in the end!

2009 : THE YEAR OF THE OX

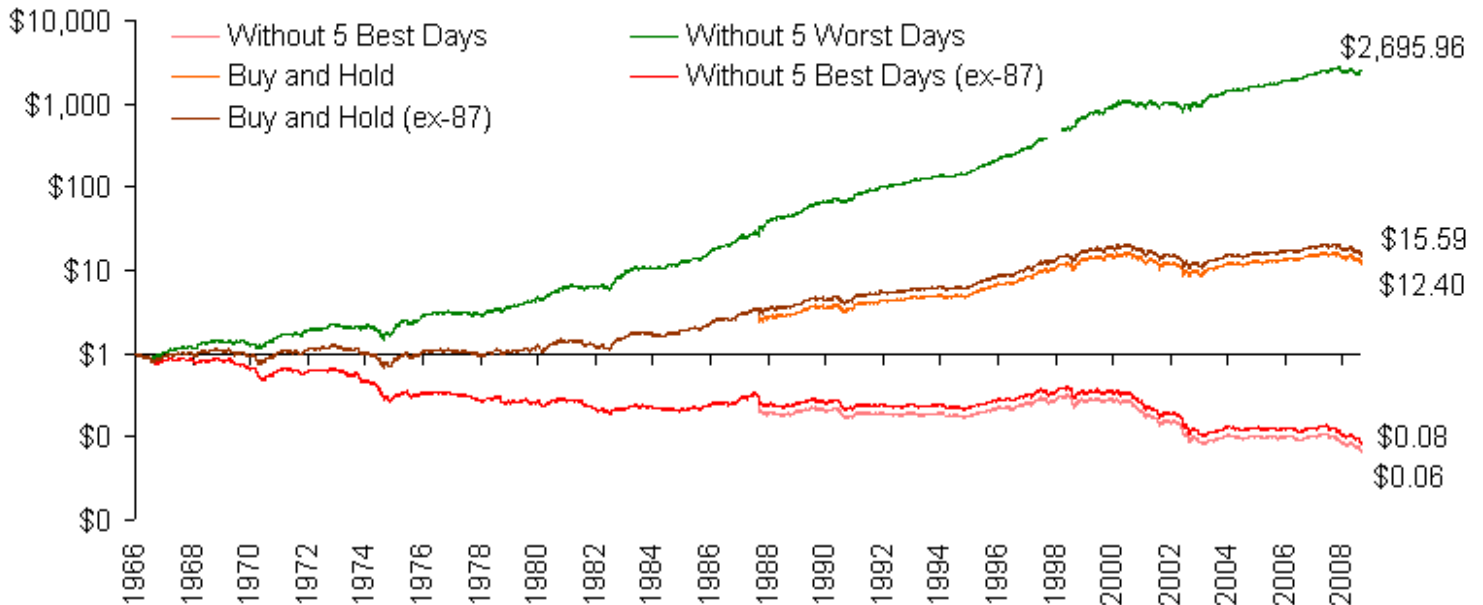
1/26/2009 - 2/13/2010 (Earth)

According to the [Chinese Zodiac](#), the Year of 2009 is the Year of the Ox. The Ox, or the Buffalo sign symbolizes **prosperity** through fortitude and hard work. Those born under the influence of the Ox or Buffalo are fortunate to be stable and persevering. The typical Ox is a tolerant person with strong character. Not many people could equal the resolution

and fearlessness that the Ox exhibits when deciding to accomplish a task. Ox people work hard without complaints at work or at home. They know that they will succeed through hard work and sustained efforts, and do not believe in get-rich-quick schemes.

The Good, the Bad and the Beautiful

Under three different investment scenarios, a \$1 investment in the S&P 500 yields very different results since Feb. 1966



Source: Cleveland Rueckert, Birinyi Associates, Inc.

REMEMBER: MER's are percentages, so seemingly small differences are actually much larger than they appear. e.g. the difference between an MER of 2.00 % and 2.50% is "only" one-half of one percentage point. That doesn't sound like much, but the 2.50% fund is actually 25 % more expensive.

“ Remarkably, this industry [the mutual fund] considers itself immune from the very forces and characteristics it lauds in the industrial economy -- high productivity low-inflation, innovation and customer value ” William Haun, founder of start up all investment stores-- Haun Investment Stewards Inc. Source: Jonathan Chevreau, *Fund industry stuck in the 20th century*, Financial Post Jan. 25, 2003

Making money without mutual funds

"A penny saved is a penny earned"

- Buy by low-cost ETF's or D series mutual funds
- Require loyalty points wherever possible
- Pay down non-deductible tax e.g. credit card debt
- Make your money work for you i.e. don't leave a lot of money rot in a zero or low rate bank account
- Optimize use of seniors discounts at movie theaters, banks and select restaurants
- Consolidate your purchases on monthly seniors days e.g. Shoppers Drug Mart
- Cash out travelers checks you don't expect to use in the foreseeable future
- Negotiate everything you possibly can
More next time

In case you missed *Who's Guarding Your Money*, the program is now available on the internet. http://www.cbc.ca/sunday/2008/11/112308_8.html#comments

SocGen pays up on Portus fiasco

Manulife Securities Investment Services has reached a settlement in its class action suit against Société Générale (Canada), over the bank's role in the collapse of Portus Alternative Asset Management Inc. While SocGen continues to deny all of the allegations in the suit, it has agreed to repurchase the deposit notes underlying the Portus hedge fund investments. The notes are being bought back for \$611 million, their face value if they were held to maturity. Some of the notes would not have matured until 2011. Manulife Securities had filed suit against Société Générale, Société Générale (Canada), Lyxor Asset Management and Société Générale Securities Inc., in March 2007. Société Générale had been named as the provider of the guarantee on Portus's PPN's. In March 2005, Manulife president Dominic D'Alessandro promised that his firm would guarantee the recovery of 100% of the principal invested in Portus. Manulife "advisors" [aka *salespersons*] had inappropriately referred \$240 million in investor money to Portus before the hedge fund company went bust. The notes form the lion's share of the money to be repaid to hapless investors as the company is wound down.

The settlement is subject to court approval which will be sought at a hearing in the Superior Court of Ontario - Commercial list on Dec. 18, 2008. Previously, Portus co-founder Michael Mendelson pleaded guilty to one count of fraud and was sentenced to a paltry 2 years in prison for misusing investors' money. He admitted to taking part in the misappropriation of C\$106 million. The other co-founder Boaz Manor, who has been charged with fraud, money laundering, obstruction of justice and possession of property obtained by crime, is scheduled to have a preliminary hearing next year, at which time a judge will determine whether prosecutors have enough evidence to warrant a trial.

Barclays Global Investors Canada launches 4 portfolio funds

Barclays Global Investors Canada Ltd. has launched its first portfolio funds. They provide new low-fee alternatives to traditional open-end balanced funds and other multi-asset-class products. The four iShares funds of funds (ETFs of ETFs) opened for trading on the TSX on Nov. 18. The funds represent the latest evolution in ETFs, allowing investors to gain access to diversified and professionally managed portfolios at a low cost with full transparency; tax efficiencies; intra-day trading; and access to hard-to-reach markets. A key attraction of the new portfolio funds is their low management-expense ratios of 0.6% for the two core portfolios and 0.7% for the two non-core offerings. These MERs include the fees charged by the underlying funds. By comparison, the median MERs for actively-managed balanced-fund categories currently range between 1.99% and 2.43%. Over 15 or 20 years this saving means a lot more money in your pocket. <http://www.newswire.ca/en/releases/archive/November2008/18/c9650.html>

Flaherty grants token RIF relief for seniors

The minimum required RRIF withdrawal for 2008 will be lowered by just 25 %. The reduced RRIF withdrawal applies to 2008 and is available to RRIF-holders of all ages. People who have already made a RRIF withdrawal this year will be able to put the excess 25% back into their plans until whichever date comes later - March 1, 2009, or 30 days after the RRIF measure is passed into law. The amount put back into a RRIF would be deductible from income for the 2008 tax year. Redeeming mutual funds at this point in the market cycle is tough on seniors portfolios and can generate unnecessary DSC penalty fees. <http://www.fin.gc.ca/ec2008/Ec/eca2-eng.html> Compare this to the relief offered to the big banks.

DISCLAIMER

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