

We need a 2009 Investor Town Hall now! See info on the 2005 Investor Town Hall at http://www.osc.gov.on.ca/Investor/Forum/TownHall/th_20050531_audiocast-transcript.pdf
Note the lack of progress after 4 years, despite record numbers of complaints.

CSA/OSC plan to alter Corporate Governance regime given the finger. [NI 58-201 *Effective Corporate Governance*] Kenmar was first out of the gate questioning how the proposed governance changes would benefit retail investors (who had not been consulted prior to the proposals being unleashed for public comment). We especially found the Queens University Comments quite revealing.

http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part5/Comments/58-201/com_20090416_58-201_salterios.pdf You can see all the 55 comments at http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part5/Comments/58-201/com_58-201_index.jsp The universal condemnation of the proposals reveals how disconnected the CSA is from its stakeholders. We again recommend a standing Committee to represent the interests of retail investors, fully funded and staffed by the CSA. The IAC was dumped by the OSC in 2008 but apparently the OSC may reconstitute in a new, improved form. Who knows? As for mutual fund governance, well, that's a whole other mess to be dealt with. See Principles Based Regulation paper by LSE's Julia Black <http://www.lse.ac.uk/collections/law/staff/%20publications%20full%20text/black/forms%20and%20paradoxes%20of%20pbr%202008.pdf>

Excellent Complaint Guide from the Aussies

[http://www.fido.gov.au/asic/pdf/lib.nsf/LookupByFileName/You_can_complain_July08.pdf/\\$file/You_can_complain_July08.pdf](http://www.fido.gov.au/asic/pdf/lib.nsf/LookupByFileName/You_can_complain_July08.pdf/$file/You_can_complain_July08.pdf) (21 pages)

ALERT: "Rogue reps on the loose": The June issue of Investment Executive warns of yet a new adviser scam. Apparently, in firms where the systems are still paper based, it's possible for a rep to bypass the dealer and instruct a fundco to change a client address without the client's knowledge or concurrence. There is no requirement to confirm that the instruction is actually based on a client authorization. Money then can be stolen from the clients account by a forged signature or changing account information for direct deposit... MFDA Rule 2.2 4 is being changed -, dealers will be required to have written client authorization or internal controls in place to ensure that clients have authorized all such changes. It seems to us that the CSA/OSC rules should also be amended to require that fundcos to adopt complementary rules. If the regulators were able to put in some rule that says all transactions have to be electronic, rather than paper-based, it would prevent a lot of fraud from happening. No doubt the fraud squad has been advised. Source: O. Glauberzon, *MFDA raises warnings about "rogue reps*, IE, June, 2009

Carrick: But ETFs, all in, are still cheaper than mutual funds in most cases. How important do you think costs are when selecting an investment?

Feather: Cost is one of many factors an investor should review when looking at a fund. I think an investor should immediately rule out any funds that are outliers on cost. Anything with an MER above 2.70%, just stroke it off your list. But I don't think it's the most important variable.

Source: Rob. Carrick, *A mutual fund man strikes back*, G&M, Feb. 19, 2009 [David Feather is President of Mackenzie Financial]

Liquidity is when you look at your retirement funds and wet your pants

Follow-up on new IIROC Whistleblower line

We asked a few questions and here are the answers: from IIROC

1. IIROC does not have block caller ID on incoming calls. The caller may activate block caller IR when he/she is originating the call.
2. All regulatory tip information received will be treated in confidence to the fullest extent possible. IIROC, however, cannot guarantee that the identity or documents of the source of a regulatory tip will not become known during the course of a related investigation or possible prosecution of the matter. For example, in certain instances we may be compelled by law to disclose this information.
- 3 Calls will not be taped. We gave considerable thought as to whether we would tape the whistleblower line. While there are advantages to taping, we were concerned that a taped line may inhibit a caller from calling or being open with us. By asking the caller to trust us enough to call us, we did not want to give the perception that we did not trust them by taping the line. For these reasons, we decided not to tape the line and we will evaluate this practice for a period of time depending on the number and nature of the calls.
4. There are no monetary rewards for tips
5. Tips can be called in 24/7/365

Another adviser runs afoul of MFDA rules according to regulator

On May 29, 2009 the Mutual Fund Dealers Association of Canada ("MFDA" www.mfda.ca) announced that it has commenced additional disciplinary proceedings against Bruce Patrick Schriver. The MFDA had previously commenced a separate proceeding against Mr. Schriver by Notice of Hearing dated March 12, 2009 (MFDA File No. 200901). MFDA staff alleges in its Notice of Hearing that Mr. Schriver, the Respondent, engaged in the following conduct contrary to the By-laws, Rules or Policies of the MFDA:

*Allegation No. 1: Between December 2000 and June 2004, the Respondent misappropriated approximately **\$116,316.22** from Client A, thereby failing to deal fairly, honestly and in good faith with Client A and engaging in business conduct that was unbecoming and detrimental to the public interest, contrary to MFDA Rule 2.1.1.*

The word *misappropriation* sends a chill down our spine. Sounds like theft.

Bebee suggests strategies that can reduce the impact of currency fluctuations on returns

According to independent investor and personal finance author Gail P. Bebee, Canadians don't need to become foreign exchange day traders to protect their U.S. investments from further declines in the U.S. dollar. She suggests these five relatively easy-to-implement strategies which can help reduce the impact of U.S./Canada exchange rates on the investments of Canadians:

1. Buy U.S. equity mutual funds which are hedged to the Canadian dollar.
2. Buy U.S. equity ETFs which are hedged to the Canadian dollar.
3. Invest in currency exchange-traded funds which bet against the U.S. dollar.
4. Buy gold or shares of gold mining companies.
5. Buy U.S. companies with substantial international business.

Source: Gail Bebee eNewsletter May 27, 2009 (her website is at www.nohypeinvesting.com
Ms. Bebee is the author of *No Hype - The Straight Goods on Investing Your Money*

A recording of a Securities Crime Unit Webinar held on Tuesday, May 26th, 2009 is available at http://ismymoneysafe.org/video/Webinar_SCU_PoliceServices.wmv

. This webinar was delivered to Police Services and Police Services Boards throughout Canada. Wynne Miles, one of the 1,800 retail owners of Non Bank ABCP, speaks in this Webinar. She supports the proposed Securities Crime Unit as a process that would have reduced the stress caused by a substantial portion of her lifesavings being frozen in ABCP for 17 months. Securities fraud victims, like Wynne Miles, expect their Public Safety Ministers to ensure there are competent and independent police authorities investigating their allegations of securities fraud. Thanks to Diane Urquhart for drawing our attention to this.

How your undies track the recession

<http://finance.sympatico.msn.ca/investing/michaelbrush/article.aspx?cp-documentid=20040810>

If you're like most men, you've got more than a few skivvies in, well, less than perfect condition. If you're put off buying replacements -- and your significant other hasn't done it for you -- then guess what? The recession probably ain't over yet. Read more...

Sun Life Financial and CI Investments announce fee **increases, changes to Seg funds**

- Market takes its toll as portfolio managers lose money

The Office of the Superintendent of Financial Institutions, a federal regulator, has changed the capital requirements for segregated funds. The insurance company that insures your segregated fund has to hold more capital to back the guarantee on the fund. This makes it more expensive for the insurer to offer the fund to you. We knew an increase was coming after seeing Sun Life raise additional capital to support the guarantees it made on Seg funds. On May 27, 2009 Sun Life Financial (TSX/NYSE: SLF) and CI Investments Inc. announced some undesirable changes to their segregated fund line-up. Effective July 31, 2009, or later, where applicable under the terms and conditions of each segregated fund contract, Sun Life and CI will implement **increases in the insurance fees and limit certain premium deposits for their segregated fund line-up**. Price increases will vary by asset class, guarantee type, rider options, and risk of funds. For fees charged to segregated funds, the increases will range from no change to 0.30 %. In addition, the Guaranteed Minimum Withdrawal Benefit (GMWB) rider fee increase on SunWise Elite Plus will be 0.10 to 0.30 %. There are no changes to fees for other riders. **New premium deposits will no longer be accepted for certain segregated fund products**, including:

- SunWise Elite Full Guarantee Option (Class A - 100% deposit maturity / 100% death benefit)
- SunWise Elite Plus Full Guarantee Option (Class A GWB - 100% deposit maturity / 100% death benefit)
- SunWise
- Clarica Portfolio

Clients who currently have a pre-authorized chequing plan or systematic transfer plan for their premium deposits can continue to make these types of contributions to existing investment options. New contracts and premium deposits will continue to be accepted for SunWise Elite and SunWise Elite Plus Combined Guarantee Option (Class B - 75% deposit maturity / 100% death benefit) and Basic Guarantee Option (Class C - 75% deposit maturity / 75% death benefit). New contracts will be required to have at least 30% of the value of the portfolio allocated to fixed-income investments. Investors had typically been attracted to volatile Segregated funds because of the guarantees. The principal protection guarantees (deposit maturity and death) and Guaranteed Minimum Withdrawal Benefits associated with current investments, which are provided by SLF, remain in place and continue to protect clients' investments. Full details of these changes will be communicated to affected clients in the coming weeks. Source: <http://www.newswire.ca/en/releases/archive/May2009/27/c7971.html> In addition to acting as an investment, segregated fund contracts provide insurance benefits that include potential creditor protection and estate planning benefits. Of course, you pay heavily for this so be sure Seg funds fit into your financial plan before investing. Read the Information Folder .The fee for the Sunwise Elite CI Portfolio series Conservative Balanced fund class B units (with just 75% principal guarantee) will cost 2.91% ,up from 2.65% .Not sure if this includes Ontario's new HST

Just what we needed – yet another fund

Jovian Capital Corp. (TSX: JOV) announced on May 27th that it is partnering with UM Financial Inc., an Islamic financial services company in Canada, to explore the launch of a co-branded, Shariah-compliant ETF. The Shariah product would be geared toward Canada's Muslim population of approximately 1 million, as well as foreign investors looking for a uniquely Canadian, Shariah-compliant investment. Shariah-compliant investment products avoid such industries as gambling, alcohol and tobacco, and enables active review of financial ratios and leveraging. They are roughly similar to SRI funds but with an even more constrained mandate.

The news of the new product came on the same day that Standard and Poor's announced it is launching a Shariah compliant version of the S&P/TSX 60. The new index is highly correlated to the S&P/TSX 60 Index, while adopting explicit selection criteria defined by Islamic law. The S&P Shariah Indices are screened by Rating Intelligence Partners, a Kuwait-based consulting company specializing in the Islamic investment market. Ratings Intelligence Partners researchers interface directly with a dedicated Shariah supervisory board. The board is comprised of Islamic scholars whose role is to interpret business issues as well as financial practices and recommend actions in relation to Shariah index management. Read the prospectus and check fees before investing. Source:

<http://www.newswire.ca/en/releases/archive/May2009/27/c8320.html> [Shariah monitors recognize it's not a perfect world. Inevitably, regardless of how hard fund managers try to create products in line with the framework, some companies may have a small income stream coming from interest or from a black-listed activity. To solve this religious issue, funds can be "purged" of their so-called Western "sins" by donating a company's income stream from non-Shariah compliant activities to charity, according to Habib Meghjee, associate partner at Deloitte & Touche LLP. For example, if a fund invests in a company that earns \$10 a share, but has 10% of its revenue coming from interest income, the fund managers would donate \$1 a share to charity in order to be 100% Shariah compliant. Not sure if donation tax credit is passed through to unitholders] Details on the new Shariah index can be found at http://www2.standardandpoors.com/spf/pdf/index/SP_TSX_60_Shariah_Factsheet.pdf (pretty heavy concentration on energy and materials)

Free Finance Guide from Down Under: *A practical guide to personal financial advice: Finding the right financial adviser and advice that works for you [27 pages]* Visit [http://www.fido.gov.au/asic/pdflib.nsf/LookupByFileName/Getting_Advice.pdf/\\$file/Getting_Advice.pdf](http://www.fido.gov.au/asic/pdflib.nsf/LookupByFileName/Getting_Advice.pdf/$file/Getting_Advice.pdf) from the Australian Securities and Investments Commission

Fund Factoid: A Toronto-based investment firm, frontierAlt Management Ltd., launched Canada's first sharia-compliant mutual fund, frontierAlt Oasis Canada, www.frontieralt.com in 2007. The firm also later started sharia-compliant funds frontierAlt Oasis World and frontierAlt Global Income funds, but these were closed last fall because it was no longer cost-effective to run them. The two Oasis stock funds invested in firms in the Dow Jones Islamic Market Indexes. The income fund invested in *sukuk*, which is similar to conventional bonds, but pays out a share of revenue from a designated pool of assets or services rather than interest. Islamic principles prohibit receiving interest income. A problem in flogging the Oasis funds is the fact they are no-load funds; they do not pay fund salespersons a sales commission, but rather a 1 % annual trailer commission as long as investors hold them. So, despite the religious connection, they weren't sold. **The frontierAlt Oasis Canada Fund suffered a 42-% loss for the year ended April 30, and an average annual loss of 23 % over two years.** Source: S. Won, *Firms plan to launch sharia ETF*, G&M, May 29, 2009 pg B9.

IIROC Complaint Stats (2009): Customer complaints received through the end of April, 2009 reached nearly 900, compared with 1,419 for all of 2007. Nearly 2,000 complaints were received last year, according to figures published by IIROC. The most common complaint this year is about unauthorized or discretionary trading in clients' accounts, followed by complaints about advice to buy unsuitable investments and misrepresentations by their advisers, another big complaint, not revealed by IIROC is the dispute resolution itself. IIROC is reviewing its 12-year-old arbitration system because most clients are using a parallel mediation system offered by the Ombudsman for Banking Services and Investments (OBSI). IIROC is reviewing whether to modify its program, which caps compensation at \$100,000 and is binding on clients. OBSI, on the other hand, can award compensation up to \$350,000 - its recommendations are not binding and are at no cost to the complainant <http://www.iiroc.ca/English/Enforcement/Statistics/Pages/Comset.aspx>

Comset Details

ComSet (Complaints and Settlement Reporting System) is a system that enables reporting of

client complaints and disciplinary matters by dealer Members to IIROC. With ComSet, staff can identify new and emerging compliance or regulatory issues, as well as patterns and trends in the industry, at the national, regional and firm level that help to direct focus on potential problems, areas that require enhanced compliance review, or events that warrant enforcement action.

	2009 (as of April 30)	2008	2007	2006	2005	2004
Number of reports in ComSet	1,043	2,393	1,858	1,924	1,836	1,922
Number of events reported						
<i>Civil claim</i>	97	224	277	382	383	505
<i>Criminal charge</i>	3	9	8	8	6	9
<i>Customer complaint</i>	899	1,992	1,419	1,415	1,314	1,295
<i>Denial of registration or approval</i>			3		1	2
<i>External disciplinary action</i>	2	29	15	25	23	20
<i>Internal disciplinary action</i>	11	48	29	28	39	44
<i>Internal investigation</i>	31	91	107	66	70	47

The MFDA has advised us that the number of complaints that they've received during the first four calendar months of 2009 was 40% more than the number received in the same period in 2008.

More on leveraged ETF's

We've previously noted IIROC-funded FAIR's report (available at www.faircanada.ca) on leveraged ETF's calling for improved prospectus disclosure. As we've said many times before, disclosure is a necessary but insufficient device to protect retail investors. Prospectuses are just too complex, long and written in legalese to do the job. We've always placed the onus on advisers. According to an article by Morningstar's Rudy Luukko BetaPro products have been popular – attracting more than \$2 billion in about 26 months – but it's not a business built on the backs of gullible gamblers. Roughly 60 % of the buyers and sellers are sophisticated institutional investors. Luukko says the main use of Horizons BetaPro ETFs is to reduce risks by hedging existing positions. Of the retail investors, BetaPro estimates six out of 10 invest through full-service brokers, with the rest using discounters. Individuals can blow their money by speculating with BetaPro ETFs. But they could do as badly or worse by short-selling or by speculating in options or futures. Luukko points out FAIR's report cited no real-life examples of BetaPro investors who lost money as a result of misunderstanding the risks they had taken. We've seen a few complaints but they were quickly settled when the firm realized its advisers had mis-sold the relatively new product.

Luukko sums up his piece as follows:

*“In my opinion, the onus should be on individuals and their advisers to make suitable choices about holding BetaPro ETFs, rather than laying the blame on legitimate investment tools from a reputable firm. The innovative BetaPro funds have earned a place among institutional investors and sophisticated retail investors who trade actively. **My advice for everyone else: avoid them.**”* We agree-regulatory focus should be on the 24% who use IIROC registered advisers. Source: R.Luukko, *Leave BetaPro ETF's to professionals*, Toronto Star, May 30, 2009 pg B6.

Mackenzie Growth fund –what’s in a name?

Per globefund.com the stated fund objective of this fund is to seek long-term capital growth with preservation of capital. The Fund asserts that it invests in promising Canadian companies to provide long-term capital appreciation to investors.

Here’s some vital stats on this long-in-the-tooth fund:

Date of inception: Oct. 1967

Assets: \$249.2 million (as at April 30, 2009)

MER: 2.38 % ex FEL, TER (cheap, eh?)

Type: Load fund

Category: Canadian focussed equity

3-year risk: 32.89 vs. 17.08 (per globefund.com)

Globe rating: One Star

Worst 12 months: **-61.2 %**

3-year Beta: 1.47

Quartile Rank: 4

Returns (pre-tax to April 30, 2009): 1 year= **-49.04 %**; 5-year =-5.91%; 10 year= 0.69% and 20-year= **2.19 %**. Income taxes would have reduced these figures

Question; Did the fund achieve long-term capital growth and preserve capital? Look at the 20-year return-it doesn’t match a Government insured GIC! The average rate of inflation since 1989 is 3.61% (per calculator at http://www.bankofcanada.ca/en/rates/inflation_calc.html)

<http://www.sorted.org.nz/> Sorted is New Zealand’s free independent money guide, run by the [Retirement Commission](#). It’s full of [calculators](#) and [information](#) to help you manage your personal finances [throughout life](#).

Comparing apples to apples mutfunds vs. ETF’s

“Quickie tonight: A lot of comparisons between actively-managed funds and their benchmarks are clouded by the inclusion of trailer commissions (commissions paid to the dealer/salesperson) associated with actively-managed mutual funds. The index performance obviously doesn’t include this. A more apples to apples comparison would be to compare the cap-weighted ETF performance that tracks a specific index versus the investment fund without trailer fees. Does this change the basic premise? No. Let’s look at some data and then do some simple mental math:

5 Year Annualized Numbers (to end of 2008, Equal Weighted Fund Returns)

S&P/TSX outperformed the average Canadian Equity fund by 3.29%

S&P 500 (CAD \$) outperformed the average US Equity Fund by 2.79%

Source, 2008 Q4 SPIVA Scorecard Canada

Subtract a 1% trailer commission from those numbers, and then subtract the MERs of the corresponding ETF for those indexes (in the 0.10% to 0.30 % range). If the numbers are still greater than 0.00% then the basic argument still holds. You may want to budget for tracking error for the ETFs as well, but tracking error can work both ways (negative or positive). I used the equal weighted fund returns, but will replace them with asset-weighted returns when I dig up the info..." Source: P. Banerjee, eNewsletter, wheredoesallthemoneygo.com, May 31, 2009 [you'll also need to add about \$9.95 for brokerage commissions to buy/sell ETF's]

Gartenberg Standard: The legal standard used in the U.S. for the assessment of fund fees. To be found excessive, the trustee's fee must be so disproportionately large that it bears no reasonable relationship to the services rendered and could not have been the product of arm's-length bargaining. The fund industry successfully lobbied for this standard in the 1960s, but times have changed, and the political environment may be ripe to raise the bar for directors when negotiating advisory contracts. http://books.google.com/books?id=IznQkcx0NVgC&pg=PT137&lpg=PT137&dq=Gartenberg+Standard%E2%80%8F&source=bl&ots=j6KibUxAZx&sig=0jLvg6u8DnrO7G0ZVZgmh_q-ltA&hl=en&ei=GmMmStKIKJDMmb283LcF&sa=X&oi=book_result&ct=result&resnum=8#PPT101,M1

Turning point for US mutual fund fees

A longstanding debate over mutual fund fees in the United States is coming to a head in a series of pending cases - including one before the US Supreme Court- that could have far-reaching consequences for how the US retail fund industry sets fees. The cases all focus on how funds, and the boards that oversee them, set the fees charged to investors, and what qualifies as reasonable. With conflicting lower court decisions now going through the appeals process, some speculate that the Supreme Court will have to decide the matter this autumn when it hears *Harris v. Jones*. For the US retail mutual fund industry, *Harris v. Jones* is "the most important litigation in the past 40 years, arguably ever," says William Birdthistle, assistant law professor at Chicago-Kent College of Law. "This is an industry that makes \$100 Billion a year from fees. This [litigation] goes to the heart of their profit line," he adds. For decades, fund boards have used the Gartenberg Standard when determining fees, while plaintiffs and investor advocates have argued that the definition of "reasonable" is too vague. Despite scores of so-called excessive fee cases, no judge has ever ruled in favour of a plaintiff in such actions. Some have been settled, however. Source: Hannah Glover, Financial Times FT.com, May 31 2009

BMO Financial Group finally accepts indexing: launches 4 low-cost ETFs

June 4, 2009 marked the first day of trading for BMO Exchange Traded Funds The BMO ETFs can be found at www.bmo.com/etfs

1. BMO Canadian Government Bond Index ETF (TSX: BGB) has been designed to replicate, to the extent possible, the performance of the Citigroup Canadian Govt. Bond Index. MER=0.341 %

2. BMO Dow Jones Canada Titans 60 Index ETF (TSX:BCA) has been designed to replicate, to the extent possible, the performance of the Dow Jones Canada Titans 60 Index. MER=0.158 % (will compete with XIU: TSX with 0.17% MER)

3. BMO US Equity Index ETF (TSX: BUE) has been designed to replicate, to the extent possible, the performance of the Dow Jones U.S. Large-Cap Index (CAD \$ hedged). MER= 0.231 %

4. BMO Dow Jones DiamondsSM Index ETF (TSX: BDJ) has been designed to replicate, to the extent possible, the performance of the Dow Jones Industrial Average (CAD \$ hedged). MER= 0.242 %

The BMO US Equity Index ETF and BMO Dow Jones DiamondsSM Index ETF will hedge their exposure to U.S. dollars. The ETFs are offered through Jones Heward Investment Counsel Inc. (Jones Heward), an operating company within BMO Asset Management, and the trustee and manager of BMO ETFs. A good alternative to their actively-managed funds.

<http://www.newswire.ca/en/releases/archive/June2009/04/c2997.html> TD Asset Management Inc. once offered four Canadian equity ETFs but exited the business in 2006, citing a lack of investor interest at that time. How things have changed! All banks also sell index mutfunds but most are no bargain. The domestic ETF market accounts for nearly \$24-billion in assets or about 5% of the mutfund market.

Want to comment on IIROC's proposed Client Relationship Model?

[http://docs.iiroc.ca/DisplayDocument.aspx?](http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=DEC3ACCAF40F444284A47E4D9967D5F8&Language=en)

[DocumentID=DEC3ACCAF40F444284A47E4D9967D5F8&Language=en](http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=DEC3ACCAF40F444284A47E4D9967D5F8&Language=en)

Fund Facts: What's a material change?

The CSA proposal requires that a new or revised Fund Facts would have to be filed if there is a material change to the information in Fund Facts. Here's what we'd consider a material change:

- A change in investment mandate or style
- A change in fees, fee structure or expenses
- A change that would permit shorting of securities
- A change in manager
- A change in currency hedging strategy
- Any significant change in the fund's risk profile e.g. initiating securities lending
- Any material change to the prospectus that would give rise to a change in FF's
- A change in fund auditor
- Any change that would affect the liquidity of the fund

Not sure what regulators will consider as "material".

Investors bitch about POS disclosure: selected emails

"My adviser told me his services were free-now I know better"

“He never told me I’d receive a huge taxable capital gains in December”
“Why didn’t the adviser tell me that the DSC penalty applies to my original purchase amount?”
“The manager of my mutual fund changed – I read about it in the Globe!”
“The name of my fund suggested I’d receive dividends-I haven’t received a cent in 4 years”
“The proprietary fund I was sold is expensive and a dog-my adviser gained-I lost”
“Glitzy printed material was the primary sales tool”
“My planner never disclosed MER discounts for large dollar accounts like mine”
“To this day I’ve not received a prospectus”
“The investment objectives of my mutual fund changed after a merger but no one told me”
“My fund is down 45% -it was tagged as LOW RISK “

Visit this url for an example of a completed risk tolerance questionnaire and the resulting risk tolerance report <http://www.riskprofiling.com/downloads/sample.pdf>

A word about risk tolerance

New Account Application Forms try to assess your risk tolerance through checking of a few blocks on the form. This is often the primary basis for advisors in deciding on suitable investments (KYC’s). Much more is needed. Though risk and risk tolerance are both complex issues some of the complexity arises from the semantic/ conceptual confusion and from erroneous beliefs. Risk tolerance is sometimes confused with loss tolerance. How somebody feels about taking a risk in choosing between alternative courses of action, risk tolerance, is one thing. How somebody feels if a loss actually occurs, loss tolerance, is another. Risk tolerance is relevant to how someone makes decisions. Loss tolerance is relevant to how someone reacts to an event. An assessment of risk tolerance is not a prediction of loss tolerance. How a client will react to an unfavourable outcome, loss tolerance, is not predictable with any certainty. A critical factor will be whether or not the outcome was within the client’s range of expectations. Did the client actually understand the risk being taken? If not, the client will be much more upset than if they had. Although nobody enjoys an unfavourable outcome, there is a significant difference between being unhappy with the outcome and being unhappy with the decision that led to the outcome. You may choose to have a birthday party outdoors. If the weather is bad you won't be happy, but you won't necessarily regret the decision and you may or may not make the same decision for next year's birthday.

Risk tolerance is sometimes confused with “risk capacity”. Risk capacity is the amount of money a client can afford to lose without putting the achievement of financial goals at risk. Risk capacity, which more accurately should be called “loss capacity”, is an objective financial calculation. It represents an absolute downside constraint on strategy selection which must be taken into account of, but it’s not the same thing as risk tolerance. There is evidence of four different categories of risk tolerance: social, ethical, physical and financial. Individuals behave consistently within category but not across categories. For example, hand gliding will correlate with mountain climbing but not with public speaking. Overall, studies suggest that gender and age, number of dependents, marital status, tertiary education, income and wealth are all related to risk tolerance.

It is generally acknowledged that educating clients about risk is desirable. To the extent that such education reduces fear of the unknown, it can be expected to reduce perceived risk and

therefore to cause clients to choose courses of action that they previously would have considered too risky. However the opposite can also be true. During the climate of irrational exuberance in the bull market of the late 1990s, it was common for investors to underestimate risk. Education about risk would then, in many cases, have caused clients to think twice about courses of action that otherwise appeared attractive. Source: Book, *The Investment Think Tank* [Given that retail mutual investors are often vulnerable to marketing hype, a key regulatory tool is clear exposition of risk at the point-of-sale. That's why we prefer a risk metric like *worst 12 months performance* for a fund category. That gets attention]

Prospect Theory [from Investopedia <http://www.investopedia.com/terms/p/prospecttheory.asp>]

A theory that people value gains and losses differently and, as such, will base decisions on perceived gains rather than perceived losses. Thus, if a person were given two equal choices, one expressed in terms of possible gains and the other in possible losses, people would choose the former. Also known as "loss-aversion theory". To demonstrate, say one investor was presented with the same mutual fund by two different [financial advisors](#). The first tells the investor that the mutual fund has had an average return of 7% over the past five years. The second advisor tells the investor that the mutual fund has seen above-average returns in the past 10 years but has been declining in recent years. According to prospect theory, even though the investor is presented with the same mutual fund, he or she is more likely to buy the mutual fund from the first advisor, who expressed the rate of return as an overall 7% gain, rather a combination of both high returns and losses.

[Tversky and Kahneman originally described "Prospect Theory" in 1979. They found that contrary to expected utility theory, people placed different weights on gains and losses and on different ranges of probability. They found that individuals are much more distressed by prospective losses than they are happy by equivalent gains. Some economists have concluded that investors typically consider the loss of \$1 dollar twice as painful as the pleasure received from a \$1 gain. They also found that individuals will respond differently to equivalent situations depending on whether it is presented in the context of losses or gains. [Here is an example](#) from Tversky and Kahneman's 1979 article. Researchers have also found that people are willing to take more risks to avoid losses than to realize gains. Faced with sure gain, most investors are risk-averse, but faced with sure loss, investors become risk-takers.]

SEC Mutual Fund Consumer Guide

It would be great if the CSA issued a similar Guide in conjunction with its POS disclosure rules. <http://www.sec.gov/investor/pubs/inwsmf.htm> Emphasis needs to be on fees, return and especially downside risk.

Is Sentry Select fund proposal fair to existing investors?

The Sentry Select Income fund is converting from a closed end fund (SDT.un: TSX) to a mutual fund. In a June 1 column*, Barry Critchley of the Financial Post tells us that Unitholders are being asked to support a motion that in return for "eliminating the fee payable to the Manager upon termination of the management agreement," the 12-year old fund will agree to not receiving \$23.945-million owed to it by the manager. The fund's annual financial statement explains the history of the so-called receivable from the manager. The manager agreed to pay the expenses

associated with some of the fund's recent financings. Interest was part of the equation and the manager agreed to pay the expenses over defined periods of time (four or seven years) on a regular basis. At the end of 2008, \$27.04-million was owed by the manager. It is accepting a 0.25 % reduction in management fee for not having to pay a loan of \$23.945-million. If one assumes the fund's net assets stay at \$654-million (just \$616 million at March 31, 2009), the reduced management fee costs the manager \$1.635-million a year. So it will take investors 14.6 years to recover the forgiven loan –not the kind of payback period that’s attractive these days. Governance seems to have taken a holiday at the firm. * *Sentry Fund is suspect*

A bigger issue is whether this fund is worth holding at all. With an MER of 2.01 % and a TER of 0.20 %, the fund is not cheap. In the past 5-years, as of April 30, 2009 the fund has achieved a lowly 1.9 % pre-tax compound annual return. For the past year, the return is -33.5 % by market price. In 2008, 50% of the \$0.54 in distributions was Return of Capital. What’s to like?

Kenmar’s Proposed new CSA markings for Fund Facts



New Paper: *How Does Simplified Disclosure Affect Individuals’ Mutual Fund Choices?*

<http://www.som.yale.edu/faculty/jjc83/summaryprospectus.pdf> March, 2009

“Our experiments also shed light on the scope of investor confusion regarding loads. Even when our subjects have a one month investment horizon—where minimizing loads is the only sensible strategy—they do not avoid loads. In our experiment, subjects chose funds with an average load of 3.00% in the conditions with an investment horizon of one month. This choice is like betting that the chosen portfolio has an (implausible) excess log return relative to the load-minimizing portfolio of 24 percentage points per year. We conclude that our subjects either don’t understand how loads work or don’t take them into account. We also conclude that the Summary Prospectus does nothing to alleviate these kinds of errors.

“..The assumption that “investor initiated” and “advisor initiated” trades are separate, clear and distinct is naive. Even when investors initiate their decisions to buy mutual and segregated funds, they may be responding to incomplete, poor or unbalanced information, and would still benefit from prior receipt of the Fund Facts. The scale of who initiates trades is a fuzzy continuum rather than a clear distinction – and *not an appropriate distinction for POS disclosure*. Even a typical discount brokerage client would benefit from looking at a Fund Facts prior to purchase. I doubt more than 10-20% of clients making investor initiated trades fully understand the fees and risks of the products they purchase. If the Joint Forum wants to distinguish between types of investors who should receive Fund Facts, the appropriate scale would be how well informed they are, not who initiates a trade. Not only will a new investor initiated trade “loophole” eliminate many investors from receiving Fund Facts, it will be a constant source of future contention, argument and

watering down of the value of POS disclosure....” -- Tony Paine, Private Investor , Point of Sale Comments by Tony Paine June 27, 2008

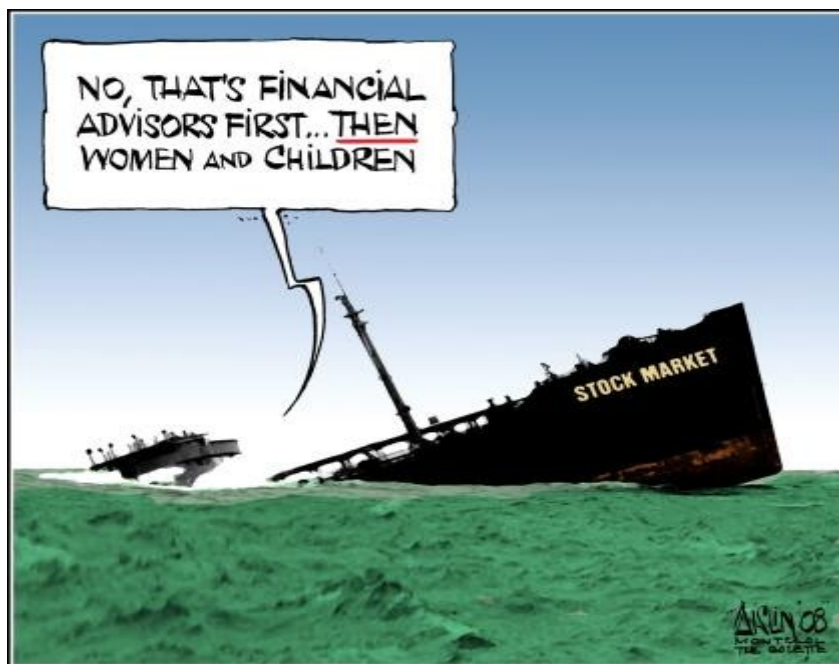
MFRP Q1, 2009 Sentry Select Diversified Income Fund (SDT.un: TSX)

The fund lost 4.1 % in the quarter and its net assets fell 6.55% from Dec. 31, 2008. Assets at Q1 stand at \$616.2 million down from \$1.08 billion in 2005. The fund trades at a whopping 25.36% discount to NAV. The highlight of the report is a proposal to convert to a mutual fund with an amended investment objective including a controversial forgiving of a loan amounting to \$24 million in exchange for a miniscule reduction in management fee of 0.25 %. CIBC World Markets Inc. , itself a controversial entity , says the deal is fair to unitholders as does the IRC. The Chairman of Sentry Select is also the Chairman of 2 holdings in the portfolio. The fund lost 30.2 % in 2008. The report says that economic conditions have increased the potential severity of risks identified in the AIF but nevertheless are cautiously optimistic. The Fund’s annual MRFP included details about the key activities included their IFRS changeover plan, preliminary conclusion, and identified the significant areas impacting the Fund that will or potentially could change. There are no page numbers

Read *Mutual Fund Investors Learned some Hard Lessons*

<http://www.fundlibrary.com/features/columns/page.asp?id=12602>

ALERT: Your RRSP Book Value may be deceiving. When Canadian Medical Discoveries Fund was merged into Growthworks Canadian Fund the transaction was effectively a disposition. A new BV was determined on the day of the merger. RRSP client statements now show a lower value for Book Value (for Growthworks) than before since Medical Discoveries was a chronic loser. This is a general danger when using BV vs. market value to make portfolio assessments. Over time, the numbers can be quite deceiving.



What do new Fed proposed credit card rules mean to you? <http://www.thickenmywallet.com/blog/wp/2009/05/25/what-the-proposed-new-credit-card-rules-means-to-you/>

“[Learning what those fancy letters mean to your financial future](#)”. **Take a read of Carrick’s article-it’s an interesting topic – There’s a whole alphabet soup of designations in the advisory industry. Ask your adviser for his credentials-you may be surprised or even shocked.**

McCallum's law: All sales pitches become void upon investment.

Canadian Securities Lending Association (CASLA) formed: On April 27, 2009 CIBC Mellon, Northern Trust, RBC Dexia and State Street Corporation announced the formation of the Canadian Securities Lending Association (CASLA) to advocate on behalf of all securities lending market participants in Canada. A sure sign some lobbying is planned but without retail investors at the table.

Worth Reading:

Securities Lending, Repurchase and Reverse Repurchase Transactions Come to Mutual Funds, 2001 <http://www.fasken.com/files/Publication/5d6503fc-76a1-409f-b505-49f877a4e355/Presentation/PublicationAttachment/ec5f5fbe-240c-4922-b2ca-87b99bb45b58/SECURITIES%20LENDING.PDF>

ALERT: Your RRSP Book Value may be deceiving. When Canadian Medical Discoveries Fund was merged into Growthworks Canadian Fund the transaction was effectively a disposition. A new BV was determined on the day of the merger. RRSP client statements now show a lower value for Book Value (for Growthworks) than before since Medical Discoveries was a chronic loser. This is a general danger when using BV vs. market value to make portfolio assessments. Over time, the numbers can be quite deceiving.

In the U.S., FINRA has issued an ALERT on leveraged ETF’s

<http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p118952.pdf>

Raise same issues revealed by Al Rosen 6 months ago, *Leave Bull and bear ETF’s to day traders*, National Post, Dec. 11, 2008 pg FP8 Al’s article is reprinted here:

<http://www1.investorvillage.com/smbd.asp?mb=5061&mn=7651&pt=msg&mid=6333982>

The site may force you to sign up so have also copied it following.

Commissions cut for AGF Canadian Money Market Fund

AGF Funds Inc. plans to make changes to certain commissions paid in respect of AGF Canadian Money Market Fund as a way of helping to maintain a positive yield for unitholders amid the current low-yield environment. Effective June 15, AGF will no longer pay up-front commissions for new purchases into the Deferred Sales Charge (DSC) or Low Load (LL) options of AGF Canadian Money Market Fund. AGF previously announced to dealers that it had reduced the

management and trailer fees on the MF, D and F Series of the fund. AGF will continue to waive management fees and absorb expenses as may be required to ensure the NAV remains at \$10.
<http://www.investmentexecutive.com/client/en/News/DetailNews.asp?Id=49729&cat=146&IdSection=146&PageMem=&nbNews=>

Mutfund investors screwed again:

Compensation for unfair trading losses in RRSPs are taxable

The great mutfund market timing scandal was marked by investigations into trading practices at a range of companies in the U.S. and Canada. In Canada, the Ontario Securities Commission, together with the Investment Dealers' Association (now IIROC) and the Mutual Fund Dealers' Association of Canada, reached settlements with 5 mutual fund companies, including Franklin Templeton Mutual Funds and AIC Mutual Funds and a number of dealers. The settlements included compensation for mutual fund investors robbed of returns by the sketchy trading practices: the issue relating to these payments in a recent Tax Court of Canada case, was whether or not those funds should be taxed in the hands of individual mutual fund investors. While the amount in question in *Lavoie v. The Queen* was small - \$303.00 - the issue is "significant," the ruling by Justice E.A. Bowie notes, because of the "large number of other taxpayers who received payments as a result of these agreements because they held units of the mutual funds [that were investigated] within their registered retirement savings plans." A total of \$205.6 million was reimbursed by the 5 fundcos. At the time we challenged the OSC to be clear to retail investors on the tax consequences and if there were tax consequences to top the restitution up to make them tax neutral.

The issue was complicated by the manner in which the payments were offered to unitholders. Russell Lavoie, who challenged the CRA's contention that his settlement was taxable, is a member of an RRSP offered by Manulife Securities International Limited. That RRSP owns units in AIC and Franklin Templeton Mutual Funds. The letter offering him a settlement noted that he had the option of taking the settlement in cash or, by default, having the amount paid directly into his mutual fund.

Lavoie chose to take the cash directly, noting during the litigation that he had no further contribution room in his RRSP and did not want to be assessed a penalty for over-contributions. In filing his 2005 personal income tax & benefit return, Mr. Lavoie did not include the Payments in his income for tax purposes. Nevertheless, those amounts should not be taxable, he argued, on the basis that the compensation money amounted to a "windfall" and was therefore not taxable. In holding for the CRA, the judgment includes a discussion of the features of a windfall; they include elements such as whether or not the recipient might have been able to recover the money using litigation (if yes, it is not a windfall); whether or not there was an organized effort to collect the money; whether it was expected and whether it was received in exchange for other value, among other considerations.

In holding that it was not a windfall, the judgment notes that it was the compensatory nature of the payments that prevented them from being a windfall. Further, the court found that it was appropriate to treat the compensation as if it were part of Lavoie's fund holdings, since the compensation was paid to make up for impairment of the value of his fund due to the prohibited trading practices. Thus, by cashing the cheques and not allowing the amounts to be paid into his

RRSP, Lavoie was compelled to treat them like any other amounts removed from his fund-taxable in his hands. In countering the objection about over-contribution penalties, the court stated that he would have been able to make the contribution, free of such penalties, since the amounts were not new contributions, but designed to compensate him for his losses due to the unfair trading practices. Source: P. Chisolm, IE, June 11, 2009 and <http://decision.tcc-cci.gc.ca/en/2009/2009tcc293/2009tcc293.html>

As an aside, CI Investments sent this guidance to investors with the restitution cheque in Sept 2005:

“Investments held in an RRSP or RRIF

A payment in relation to an investment held in your RRSP, LIRA , locked in RRSP,RRIF, LIF, or LRIF is included in income in the taxation year that includes the date payment is received in the same way that a withdrawal from your registered plan is included in income. If the payment is \$200 or more payment has been withheld.

If your spouse made some contributions to your plan in any of the last 3 years preceding the year in which you receive the payment, this payment will generally be taxable to your spouse instead of you.”

Quebec Judge comes to assistance of consumers

Canada's big banks have lost an important round in their battle to be excluded from provincial consumer protection laws. In a Quebec Superior Court judgment, the Big Six banks and Desjardins Group, Laurentian Bank of Canada, Citibank Canada and Amex Bank were ordered to reimburse tens of thousands of credit card customers more than \$200-million. Mr. Justice Clément Gascon ruled that the financial institutions were in “flagrant violation” of the province's consumer protection law when they charged a fee for foreign currency transactions on customers' credit cards. Lawyers acting on behalf of the customers in three class-action suits argued that the fees were not – as the banks argued – service or administration charges, but were credit charges that are subject to the contract provisions of Quebec's consumer protection law. Judge Gascon agreed with the argument presented by Quebec's Attorney-General that provincial laws intended to protect the consumer should apply to banks on a broadly defined basis. For the banks, the biggest concern is not the award, but the judge's refusal to accept their argument that they shouldn't be subject to provincial consumer protection legislation because they operate under federal law. Source: Bertrand Marotte, *Banks lose class action over credit card charges*, Globe and Mail, June, 12, 2009

There are related issues regarding banks and other financial institutions. There is a forced conversion of US dividends to Loonies in RSP's and an often undisclosed fee is charged. Fed rules permit foreign currency to be held in registered accounts. We're told, but have not confirmed , that US dollar denominated distributions by mutual funds also are converted then reinvested after another conversion back to Greenbacks into the fund (in registered accounts). The OSC and IIROC are presumably checking into this potential abuse.

Murphy's 50-50-90 rule: Anytime you have a 50-50 chance of getting a mutual fund investment right, there's a 90% probability you'll get it wrong.

Do Fund mergers determine your asset allocation?

On June 12, 2009 CI Investments Inc. became the latest player to cut back on several of its sector funds. On Aug. 14, it plans to merge its Global Biotechnology Corporate Class into CI Global Health Sciences Corporate Class. CI Global Consumer Products Corporate Class and CI Global Financial Services Corporate Class will be merged into CI Global Value Corporate Class. You can be sure this merger will take place leaving you with a fund you never thought you'd own. Great, eh? Source: S. Won, *Volatility kills appetite for sector-focused funds*, G&M, June 12, 2009 pg B10

New Paper: *The effects of summary information on consumer perceptions of mutual fund characteristics* (Journal of Consumer Affairs, Spring 2008)

http://findarticles.com/p/articles/mi_hb3250/is_1_42/ai_n29419895/ Choosing how to best invest for retirement is one of the most important decisions a financial consumer can make. Unfortunately, this can be an especially challenging task given the current financial information disclosure environment. The objective of this research is to explore whether a single page supplemental information disclosure impacts investors' fund evaluations and investment intentions. Results indicate that while investors continue to place too much emphasis on prior performance, the provision of supplemental information, particularly in a graphical format, interacts with performance and investment knowledge to influence perceptions and evaluations of mutual funds. The results show that investors will respond positively to summary data presented on a single page. However, further testing of modified summary documents is needed to lessen existing biases on the part of investors, particularly an overemphasis on past performance versus expense information.

"Fund companies were launching these products [sector funds] at or near the peaks of their valuations, [he recalled of technology and real estate funds.] If investors bought technology funds at the peak and held them since, they are still at a fraction of what they were worth." [He agreed that sector funds tend to be launched at the top of their sector cycles only to disappoint investors.] - Morningstar Canada analyst Philip Lee
Source: S. Won, *Volatility kills appetite for sector-focused funds*, G&M, June 12, 2009 pg B10 [The problem with sector funds is that they cater to the most counterproductive elements of investor psychology in terms of chasing recent past returns, and tapping into greed.]

Follow-up on securities lending practices in Canada

The first response we received was from Barclay's Global Investors .iShares Canada does participate in securities lending in many of the iShares products as it can add significant value to the bottom line to benefit investors. The revenue from the lending is split 50 / 50 between BGI and the iShares funds, apparently in line with industry standards. All costs are paid from BGI's portion of the revenue. The IRC has approved this apportionment despite the fact the fund takes 100% of the risk.

All revenues from the securities lending process can be viewed on their website. The 2008 annual report provides the securities lending revenue for each fund under the heading 'Statement of Operations' and the number shown is the revenue that went to the fund. For XIU (iShares Canadian LargeCap 60 Index Fund) the total for 2008 was \$1,196,788, with another

\$25,618 further outstanding at the end of the year. This represents an income of around 1.5 basis points for the unit holders for the year. The MER of the fund is 0.17 % .For some other funds it is a much smaller number (iShares CDN Dividend Index Fund was less than 1 basis point) and for some it is larger (iShares CDN SmallCap Index Fund was around 19 basis points).

iShares appear to have a very conservative approach to risk management. There are 3 ways in which they seek to control risk:

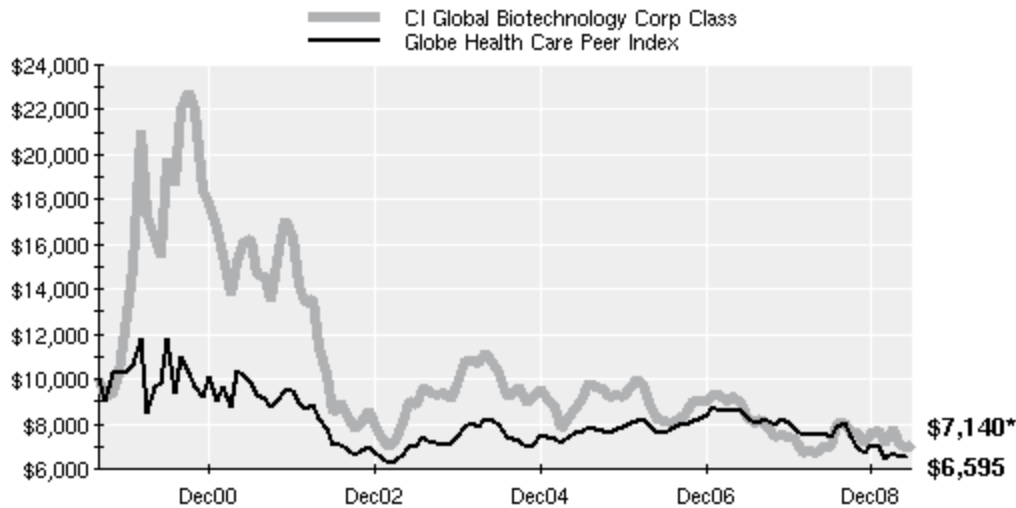
- 1) Due diligence on their securities lending counterparties.
- 2) By managing this process in house with a team of portfolio managers and securities lending traders they are able to carefully monitor borrow rates within the marketplace and take advantage of these whenever possible.
- and 3) iShares Canada asks for at least 105% collateral on all lending and only in bonds and T bills [102 % minimum is required by NI81-102]. They do not accept cash. The industry standard for the collateral is that the lender keeps interest on cash collateral and this encourages the lender to invest the cash in higher paying (and therefore riskier) assets. BGI, seeing this as a potential conflict of interest, have taken the position that they will not accept cash. Any interest earned on the bonds/tbills is given to the lender.

Hopefully the new owners of BGI will not degrade these standards. In April, the Canadian Securities Lending Association (CASLA) was formed to advocate on behalf of all securities lending market participants in Canada.

<http://www.newswire.ca/en/releases/archive/April2009/27/c5153.html>^,

Here`s another sector fund not worth looking at

The CI Global Biotechnology (corporate class) fund`s stated objective is to obtain maximum long-term capital growth. It invests primarily in equity and equity-related securities of companies around the world that are engaged in healthcare, health products, pharmaceuticals, medical research and other areas related to human health. This includes companies that are involved in biotechnology and gene technology research, product development, production and marketing. It`s 5-year compound average return is -8.55%. This is where you`d be if you had invested at inception in August 1999.



As is too often the case, most people were sold this fund during the height of the tech boom. If they followed a buy-and-hold investment strategy, their nestegg would be down about 29 % today. By the way, you paid about 2.33 % MER annually for the privilege and incurred some capital gain taxes along the way. Assets are down to \$36.4 million, it's end is thankfully in sight.

IFIC comments on MFDA complaint handling proposals

The May 12, 2009 Comment letter makes a few interesting points:

1. The MFDA policy should be coordinated with IIROC's e.g. IIROC proposals do not allow complaint filing if the rep is acting in an undeclared occupation outside the dealer ; the MFDA does
2. An acknowledgement is required in 5 business days by the MFDA which is faster than the CSA proposal of 10 days
3. IFIC feels assistance to complainants in documenting their complaints be limited to exceptional cases such as for seniors with special needs
4. They want to be able to cease a complaint investigation when litigation is reasonably expected
5. They don't want the MFDA to open a complaint file when dealers are still in the 90 day investigation –response period
6. IFIC is unclear as to when a complainant can refer a case to OBSI. They assert that member dealers are most equipped to resolve their own complaints. A referral to OBSI before all internal processes have been exhausted, they claim, robs them of the opportunity to efficiently and effectively resolve a complaint. Kenmar want the right for a complainant to refer a case to OBSI immediately after 90 days.
7. They are concerned with the sharing of information with other SRO's because of privacy legislation
8. They don't want dealers to have to advise complainants of specific provincial statute of limitation time periods because of legal concerns. They've suggested that the rule merely stipulate that the dealer advise complainants to consult counsel for further information.

You can read all the Comment letters including ours at

<http://www.mfda.ca/regulation/comments.html#pol3>

An Investment Policy Statement can be very useful- an IPS helps investors avoid risky ventures and leads to effective rebalancing. This statement provides the general investment goals and objectives of a client and describes the strategies that the manager should employ to meet these objectives. Specific information on matters such as asset allocation, risk tolerance, and liquidity requirements would also be included in an IPS. –Do you and your adviser have agreement on the goals of your account and the type of investments that will be pursued? Try filling in Morningstar’s form <http://im.morningstar.com/im/InvestPolicyWS.pdf> , it’ll give you a good idea as to how your investment portfolio should be constructed.

No buy-and-hold for these suddenly ultra-short short life cycle funds

On June 17, 2009 Russell Investments Canada Limited announced that its Sophistication Made Simple LifePoints 2010 Portfolio, LifePoints 2020 Portfolio and LifePoints 2030 Portfolio (the "Funds") will be terminated on or about November 2, 2009. [The 2010 Portfolio fund carries a whopping 2.10% management fee; it’s return since inception in July 2005= **-0.18 %**] The decision to terminate the Funds was driven by the fact the fundco wasn’t making money on managing the funds. Russell is offering you the wonderful option to switch their investment to any of the other Russell LifePoints Portfolios or to redeem their units. prior to termination. Upon liquidation the firm will liquidate the holdings of the terminating Funds at fair market value and distribute the net assets to unitholders. Unitholders will not be required to pay any redemption fees, sales charges or other fees associated with the termination of the Funds. All costs strictly associated with the termination of the Funds will be borne by Russell Investments. Russell Investments strongly encourages unitholders to consult with their financial advisor to discuss their individual circumstances, including possible income tax consequences. So do we.

FINRA Fines RBC Capital Markets Corporation, Raymond James Stock Loan Trader for Improper Stock Loan Practices

The Financial Industry Regulatory Authority (FINRA) announced June 17 that as part of its in-depth investigation of stock loan practices in the industry, it has imposed a fine of \$400,000 against RBC Capital Markets Corporation of New York and \$1 million against Raymond James & Associates, Inc. of St. Petersburg, FL, for various stock loan improprieties.

Raymond James was sanctioned for making unjustified and improper payments to finder firms that provided no service in locating securities or had no involvement in the stock loan transaction for which they were paid. Raymond James and RBCCMC were both fined for using a non-registered individual, who had been convicted in federal court of securities law violations and had been barred from the securities industry by the Securities and Exchange Commission (SEC), to perform stock loan functions requiring registration. Benedict Patrick Tommasino, the head trader of RBCCMC's Stock Loan Department was suspended for 20 months from working for a securities firm in any capacity, was suspended an additional two months from acting in a principal capacity and was fined \$30,000 for his role in the misconduct.

During 2004, Raymond James, on various occasions paid finders in connection with stock loan transactions when there was no apparent justification for the finder payments. For example, a

review of stock loan transactions on four days in March and April 2004 revealed 11 transactions for which two finder firms were paid despite having performed no service, including one finder firm where a Raymond James stock loan trader's son was an employee. In addition, Raymond James's books and records inaccurately reflected that a finder had provided services in connection with certain stock loan transactions in exchange for payment when, in fact, the purported finder had not performed any function.

In 2004, Raymond James and RBCCMC each allowed Dennis Palmeri, Sr. of Shields Institutional, a non-registered finder, to perform stock loan functions requiring registration. In February 1994, Palmeri was convicted in federal court of aiding and abetting his then-employer's violation of federal securities laws. The SEC then barred Palmeri from working for any broker dealer, investment advisor or investment company. The bar did not preclude Palmeri from acting as a non-registered finder, but does preclude him from performing functions requiring registration. FINRA further found that these activities occurred because Raymond James and RBCCMC each failed to reasonably supervise the activities of their respective Stock Loan Departments. In concluding these settlements, neither Raymond James, RBCCMC nor Tommasino admitted nor denied the charges, but consented to the entry of FINRA's findings. Source: <http://www.finra.org/Newsroom/NewsReleases/2009/P119007>

FINRA Reminds Firms of Sales Practice Obligations Relating to Leveraged and Inverse Exchange-Traded Funds Regulatory Notice 09-31 reminds firms of their sales practice obligations in connection with leveraged and inverse ETFs. In particular, recommendations to customers must be suitable and based on a full understanding of the terms and features of the product recommended; sales materials related to leveraged and inverse ETFs must be fair and accurate; and firms must have adequate supervisory procedures in place to ensure that these obligations are met. Leveraged ETF's are highly complex financial instruments that are typically designed to achieve their stated objectives **on a daily basis**. Due to the effects of compounding, their performance over longer periods of time can differ significantly from their stated daily objective. Therefore, inverse and leveraged ETFs that are reset daily typically are, according to FINRA, unsuitable for retail investors who plan to hold them for longer than one trading session, particularly in volatile markets. It's really hard to see how these securities would fit into a RRSP portfolio. For the 5-page Notice [View Full Notice](#) pdf <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p118952.pdf>

Economics Explained

This is one of the best "Nut Shell" accounts of how the USA Economy is running today... It is a slow day in the East Texas town of Madisonville. It is raining, and the little town looks totally deserted. Times are tough, everybody is in debt and everybody lives on credit.

On this particular day a rich tourist from the East is driving through town. He enters the only hotel in the sleepy town and lays a hundred dollar bill on the desk stating he wants to inspect the rooms upstairs in order to pick one to spend the night. As soon as the man walks up the stairs, the hotel proprietor takes the hundred dollar bill and runs next door to pay his debt to the butcher. The butcher takes the \$100 and runs down the street to pay his debt to the pig farmer.

The pig farmer then takes the \$100 and heads off to pay his debt to the supplier of feed and fuel.

The guy at the Farmer's Co-op takes the \$100 and runs to pay his debt to the local prostitute, who has also been facing hard times and has lately had to offer her "services" on credit. The hooker runs to the hotel and pays off her debt with the \$100 to the hotel proprietor, paying for the rooms that she had rented when she brought clients to that establishment. The hotel proprietor then lays the \$100 bill back on the counter so the rich traveler will not suspect anything.

At that moment the traveler from the East walks back down the stairs, after inspecting the rooms. He picks up the \$100 bill and states that the rooms are not satisfactory..... Pockets the money and walks out the door and leaves town. No one earned anything. However the whole town is now out of debt, and looks to the future with a lot of optimism. That, ladies and gentlemen, is how the United States Government is conducting business today.

If that doesn't scare you, then I don't know what will.

Good advice from Gail Bebee on complaints

Pursuing a complaint about your financial advisor or firm has all the trappings of the epic battle between David and Goliath. While David won that particular match, most investors aren't as fortunate and would be better off avoiding a battle in the first place. So, here is my prescription for a problem-free relationship with your financial advisor/firm:

1. Take the time to select a qualified financial advisor who meets your specific needs.
2. Educate yourself about investing basics.
3. Track news which could affect your investments.
4. Communicate with your advisor regularly.
5. Monitor your investment account on an ongoing basis.

Gail Bebee is a personal finance speaker and author of No Hype - The Straight Goods on Investing Your Money, www.nohypeinvesting.com. Source: G. Bebee, *Having a serious spat with your advisor?*, G&M, June 21, 2009

CSA takes yet another crack at mutfund POS disclosure

Here we go again. The latest CSA Request for Comments at

http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/Part8/rule_20090619_81-101_notice-rfc-pos-mutual-fund.jsp The mutual fund industry has thrown tremendous resources into the fray.

For whatever reason, they really oppose POS, possibly because too many tough questions would have to be answered. The proposed rule is at http://www.osc.gov.on.ca/Regulation/Rulemaking/Current/rm_part8_index.jsp You have 120 days from June 19, 2009 to respond to their request for comments.

Manulife has some explaining to do

On June 19th, Manulife Financial revealed that the Ontario Securities Commission is looking into its disclosures. The OSC sent the company an enforcement notice relating to disclosures about its business selling guaranteed investment products. The OSC has come to the "preliminary conclusion" that it failed to meet its rules for timely disclosure to investors. The key issue is Manulife's stock market exposure from its large business selling segregated funds and variable annuities. Those products are like private pension plans for individual investors; Segregated funds are popular but complex investments. They are similar to mutual funds but offer various

guarantees to protect capital. Some investors have complained they were not properly informed of the risk, particularly in a steep stock market decline. When markets drop, it must build up capital and reserves to protect against any shortfall in the amount it has promised to pay clients in the future. While most of the payments that Manulife has promised will not come due for many years in the futures, the plunge in stock markets has caused a growing shortfall between the amount of the guarantees and the value of the portfolio supporting the business. The shortfall stood at roughly \$30-billion at the end of March, 2009 forcing Manulife to boost its reserves to \$7.7-billion. Manulife's stock has fallen from \$39 at the beginning of October to a low of \$9.20 in early March. The company reported back-to-back losses of more than \$1 billion in its past two fiscal quarters Source: <http://www.newswire.ca/en/releases/archive/June2009/19/c8730.html>

The Canadian Securities Administrators (CSA) recognized World Elder Abuse Awareness Day on June 15 by urging Canadians to be aware of, and report, financial abuse involving seniors. Elder abuse relating to finances may appear in a variety of forms: an investment offered to a senior might be an outright fraud, or it could be a legitimate investment product that is unsuitable for the senior's circumstances. Problems involving securities can also include theft of funds or products sold by unregistered sales representatives. "Financial losses through investment fraud and unsuitable investments can be devastating for anyone," said CSA chair, Jean St-Gelais. "However, seniors living on a fixed income or limited savings have a more difficult time recovering from financial loss." A 2007 CSA study found that victims of investment fraud experience negative effects on their physical and mental health. Fraud victims in the study reported higher stress levels, increased feelings or displays of anger, depression, and feelings of extreme loss or isolation, as well as physical effects such as panic or anxiety attacks http://www.osc.gov.on.ca/Media/NewsReleases/2009/nr_20090615_csa-prev-fin-abuse-sr.jsp A very serious issue especially when the complaint handling process is so flawed and provincial Limitation periods are so short. Deficient complaint handling in the investment industry can be just as, or even more, stressful than the actual loss.

Testimony Before the Subcommittee on Financial Services and General Government by SEC Chairman Mary L. Schapiro, (on target date funds) June 2, 2009

'...In addition, on June 18, the SEC and the Department of Labor will hold a joint hearing on target date funds. Target date funds and other similar investment options are investment products that allocate their investments among various asset classes and automatically shift that allocation to more conservative investments as a "target" date approaches. These funds have become quite popular, and growth in target date fund assets is likely to continue since these funds can be default investments in 401(k) retirement plans under the Pension Protection Act of 2006. However, target date funds have produced some troubling investment results. The average loss in 2008 among 31 funds with a 2010 retirement date was almost 25 percent. In addition, varying strategies among these funds produced widely varying results. Returns of 2010 target date funds ranged from minus 3.6 percent to minus 41 percent.

These returns cause concern for investors and regulators alike. I can assure you that SEC staff is closely reviewing target date funds' disclosure about their asset allocations. In addition, in connection with our joint hearing with the Department of Labor, we will consider whether additional measures are needed to better align target date funds' asset allocations with investor

expectations. Among other issues, we will consider whether the use of a particular target date in a fund's name may be misleading or confusing to investors and whether there are additional controls the SEC should impose to govern the use of a target date in a fund's name....`

Regulators suing regulators: On June 19, 2009, the SEC charged Leroy King, the administrator and CEO of Antigua's Financial Services Regulatory Commission, alleging that he accepted "thousands of dollars per month in bribes to ignore the infamous Allen Stanford Ponzi scheme and supply Stanford himself with confidential information about the SEC's investigation." It also claims that King has obstructed the SEC's case since 2005, when its investigation into Stanford began. These allegations haven't been proven.

“People have the same expectations of competence and trustworthiness of financial advisers as they do of doctors or lawyers. They say, ‘I don't know anything; here's my money and do something with it.’ But people should not be as blindly trusting.” – Jim Roache (retired) Source: T. Martin, *No risk, no debt for retiree*, G&M, June 20, 2009 pg B8

“The more capital people have the less need they have to take risk. If someone has \$10-million in investable assets and lives on \$100,000 a year, why take any risk at all? Just put it in Canada bonds.” - B.C.-based financial planner Fred Kirby
Source: J. Chevreau, *Play it safe with life cycle investing*, FP, June 20, 2009 pg FP13

A national securities regulator? On June 22nd Minister of Finance Jim Flaherty named Doug Hyndman to head the transition office that will work to develop a single securities regulator for Canada. Hyndman, chairman of the British Columbia Securities Commission, will lead the new Canadian Securities Regulator Transition Office as chairman and chief executive. He will be joined by Bryan Davies, current chairman of the CDIC. www.cdic.ca, as vice chairman. Before joining CDIC, Davies, was CEO and superintendent of the FSCO www.fSCO.gov.on.ca from 2002 to 2005. Before that, Davies was senior VP of regulatory affairs at the Royal Bank. Hyndman, who has headed the BCSC since 1987, will join the new transition office on a full-time basis. Davies will remain head of the CDIC and act as vice chairman of the committee. So far, only Ontario, and more recently, B.C., have openly expressed an interest in moving to a national regulator. Alberta and Quebec have been most opposed, preferring to retain their jurisdiction and pursue a controversial passport model. Even a perfect regulatory structure will not work if the regulators do not enforce the laws and regulations, deal with hedge fund issues and engage retail investors. There does not appear to be a plan to fold in insurance at this time despite the growing overlap. We remain constructively critical of this development.

Quebec Coalition for the Protection of Investors – Indemnity Fund The current system for compensating victims of investment fraud or negligence in Canada is underfunded, confusing and inadequate. The Quebec Coalition has devoted much time and effort to advancing the idea of an industry wide, inclusive indemnity fund. A summary of the Coalition's thoughts on an indemnity fund can be found at <http://faircanada.ca/en/retail-investors/quebec-coalition-for-the-protection-of-investors-indemnity-fund/>

Financial Market Turmoil Takes Toll on Canadian Investor Satisfaction, Loyalty and Channel Usage

Poor investment performance in a tumultuous financial market has caused overall satisfaction among full-

service investors in Canada to decline considerably in 2009 when compared with 2008, according to the J.D. Power and Associates 2009 Canadian Full Service Investor Satisfaction StudySM. Now in its fourth year, the study provides benchmarks for investor satisfaction that allow individual investment institutions in Canada to evaluate how they compare to competitive firms. The study finds that overall investor satisfaction in Canada has declined to 693 on a 1,000-point scale, marking a drop of nearly 30 points, compared with 2008. Poor investment performance primarily drives the decline, as satisfaction with this factor has dropped by 50 points from 2008. The rate of switching investment firms has also increased in 2009, with 10 % of investors indicating they will likely switch firms in the next 12 months, compared with only 6 % saying the same in 2008. Additionally, investors are less likely to recommend their investment firm to others, with only 24 % of investors indicating they will recommend their primary firm in 2009, compared with 32 % in 2008. Investors are becoming more sophisticated in understanding the value of each channel and maximizing their investments by diversifying their portfolio and trading channels. As investment vehicles become more complex, firms will benefit from providing clients with investment information online and secure online trading that is cost effective and easy to use. The new frugality has arrived. <http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2009112> , (Raymond James No. 1; BMO Nesbitt Burns No.14)

A MUST read : FSA details the enhanced standards people can expect from all investment advisers <http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/082.shtml> If implemented, this would U.K. initiative would leapfrog the CSA mutfund POS disclosure plan by at least a decade. If ever adopted in Canada (ho, ho , ho) this would cut down financial assault and reduce OBSI workload.

A Discussion With John Bogle http://www.indexuniverse.com/sections/features/6027-a-discussion-with-john-bogle.html?utm_source=newsletter&utm_medium=email&utm_campaign=IndustryNews The full transcript of John Bogle's recent webinar examining ETFs and the outlook for America's investors. For the slides in pdf <http://www.indexuniverse.com/docs/BogleWebinar.pdf>

Follow up on the controversial Sentry Select Diversified restructuring

Bad news: The controversial fund restructuring proposal put forth by the firm was approved by Unitholders on the 26th. We believe this is due to retail investor financial literacy shortcomings, complacency or blind trust in the manager and the lack of any meaningful OSC intervention to protect investors. This case puts the integrity of the proxy voting system in disrepute and the OSC in an inexplicable situation. Ask for our SPECIAL REPORT *The Curious Case of the Sentry Select Diversified Income Fund Restructure* by contacting kenkiv@sympatico.ca

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