

Huh? http://www.mondaq.com/article.asp?articleid=78694&email_access=on and <http://www.bcsc.bc.ca/comdoc.nsf/allbyunid/52fcb6bb5af012588825759900561d3d?opendocument>

In light of our finding that IIROC has no duty to act reasonably, Golden Capital's submissions that IIROC failed to prove it acted reasonably are not relevant. However, the panel considered those submissions in applying the reasonableness standard, and we find that, had that been the standard, the panel correctly concluded, for the reasons it stated, that IIROC acted reasonably

Mackenzie acquisition knocks this fund off Morningstar's Picks list

“We’ve long been fans of Robert Tattersall, lead manager of **Saxon World Growth** since its 1985 inception, despite several years of lacklustre performance. However, we anticipate a decreased emphasis on Saxon Financial's no-load, low-fee business model as a result of the firm's recent acquisition by IGM Financial, which has soured our view of its funds. This, added to our existing concerns relating to Tattersall's pending retirement, has caused us to remove this offering from our list of Analyst Picks. IGM [acquired](#) Saxon on Sept. 25, 2008, with plans to integrate the Saxon fund family into its Mackenzie Financial Corp. subsidiary. we expect most new investment dollars will be directed to the Advisor series, which charges higher management fees in order to provide financial advisors with compensation that is in line with industry standards. Thus, even though unitholders of the Investor series will continue to enjoy the relatively low 1.86% management-expense ratio, most new investors in this mandate will face a higher hurdle rate...” Source: Morningstar Analyst Report April 29, 2009, Brian O'Neill

MRFP Review: Canadian Medical Discoveries Fund

No words can describe the disappointment that tags along with this fund.

- The fund hasn't met it's long term objective
- In June 2008, redemptions were suspended
- For the 6 mos. Ending Feb. 28, the return was -12.72%
- IFRS conversion may materially affect results
- The MER now stands at 8.00 % [a 0.5% service fee is paid to dealers!]
- Total net asset value at \$108.7 million is down from \$239.7 million in 2005 ; NAV per share has dropped by about 48 % during that time
- There's a few related- party transactions

- Since 1999, the fund has had positive returns in only 2 years; no *since-inception* returns are provided and neither is a benchmark.

The fund is thankfully being merged away into the GrowthWorks Canadian Fund Ltd. Good riddance. You have to feel sorry for the poor folks who got involved with this dog.

Socially Responsible Investing making strides

This Canadian Socially Responsible Investment Review is the only comprehensive survey of socially responsible investment (SRI) in Canada. The document has been produced by the Social Investment Organization every two years since 2000. The study is based on data collected between September 2008 and January 2009 through a survey of money managers and social finance providers. The results were combined with various publicly-available data on mutual funds, pension funds and renewable energy income trusts. As well, data on assets subject to ethical lending policies and assets related to sustainable venture capital deals were obtained from expert sources. The total of all these sources were used to arrive at the final estimates contained in this report.

In the two years since publication of the last Review in 2006, assets invested according to socially responsible guidelines have increased to \$609.23 billion from \$503.61 billion, a 21 % increase in two years when markets generally experienced great difficulty. While the growth rate was lower than the growth rate experienced by SRI in the 2004 to 2006 period, this report shows that SRI is continuing to occupy a significant share of the financial services market in Canada. Full report at <http://www.socialinvestment.ca/documents/caReview2008.pdf>

“Forget Freedom 55, my RSP now consists of a ski mask and a shotgun”

- former mutual fund investor

“Churn the old ladies, To buy the Mercedes”--ex fund salesman

Financial advice makes the brain 'follow blindly'

The research, published in the Published Library of Science One, studied the brains of 24 volunteers who were asked to make several financial choices. They were asked to choose between a guaranteed payment and gambling on the lottery and received advice at different stages of the process. When the volunteers were advised to follow a certain course of action, they tended to follow that advice, even if it was not the best solution. Brain activity was notably different on the occasions a person received an "expert opinion" and when they made a decision on their own.

Author of the study Gregory Berns, Professor of Neuroeconomics and Psychiatry at Emory University in Atlanta, said: "This study indicates that the brain relinquishes responsibility when a trusted authority provides expertise."The problem is that it can work to a person's detriment if the trusted source turns out to be incompetent or corrupt."He went on: "Seeking advice from experts is common practice. The most prominent situations in which people turn to experts for advice

occur under conditions of enhanced uncertainty, such as an economic recession. "During such times, people may feel unfit to predict the consequences of their choices, and may seek the counsel of experts to reduce the enhanced perception of risk." Our behavioural results indicated that the expert's advice significantly influenced behaviour."

<http://www.telegraph.co.uk/news/uknews/5043174/Financial-advice-makes-the-brain-follow-blindly.html>

Money market funds caught in low rate downdraft

"..The so-called Money Market Working Group under the auspices of the (U.S.) ,mutual fund industry's trade group, the Investment Company Institute, has put out a detailed set of recommendations to deal with prevailing conditions. In effect, it says to tighten up the ship--but keep the ship. (Details on the ICI's recommendations are [available here](#).)

The ICI's proposals are mostly sound but don't go far enough. The trade group suggests tightening up credit requirements, shortening maturity risk, and making sure that funds have plenty of liquid assets. It also argues for giving money fund boards the authority to suspend redemptions in a pinch. There's more, including provisions for better educating investors about risk, but none of it will stop the industry from sliding into deep trouble in a future crisis. As safe as funds would be under the ICI's plan, if panic resurfaces and liquidity disappears, investors are almost certain to run, and money funds will again find themselves in hot water. Source: By Eric Jacobson ,*The Broken Money Market Model* , *Can we keep Humpty Dumpty from falling apart next time, too?..*" Morningstar, April 30, 2009

Zombie Banks:"They're dead, but they just don't know it"

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

Bankrupt Farm Mutual fined over \$2.5 million for sale of inappropriate securities

Big deal. A hearing panel of the Mutual Fund Dealers Association has terminated the membership of Farm Mutual Financial Services Inc. and has fined the company more than \$2.5 million for the sale of certain securities to unaccredited and inappropriate investors. Farm Mutual was a non-attende. The MFDA found that between June 2003 and April 2007, Farm Mutual Financial Services approved and allowed the sale of debentures issued by FactorCorp Financial

Inc. to approximately 680 clients without having conducted reasonable due diligence on the product and without having made reasonable inquiries to determine whether the product was suitable for sale to its clients. In May 2007, FactorCorp suspended redemptions, and two months later, the Ontario Securities Commission issued a temporary Cease Trade Order against the company. **At the time, roughly \$49 million of Farm Mutual clients' debentures remained outstanding and unredeemed.** Over a year ago, in March 2008, FactorCorp went into bankruptcy. The MFDA also found that Farm Mutual failed to develop guidelines or investor profiles to identify clients for whom the debentures might have been a suitable investment. Unfortunately, other than writing up reports nothing meaningful was done about it so investors now must try to recover via a class action lawsuit.

A review of the transactions revealed that only 22 of the 680 clients of the Respondent who purchased had a risk tolerance of "high" recorded on their Know Your Client information at the time of their initial purchases. Fifty-two clients had no risk tolerance information recorded. In addition, only 44 of the 680 clients met the necessary thresholds to qualify for the accredited investor exemption. The remaining 636 clients should not have been sold the debentures, according to the MFDA. Since Farm Mutual is bankrupt, the MFDA said it would not be filing a proof of claim in the bankrupt estate, which would compete with the distribution of funds by the trustee in bankruptcy to any other creditors. Not exactly world class investor protection, eh?
Source: M. Harman, IE, April 30, 2009

IG money market fund yielding 0.05%; MER= 1.12 %

Money market mutual funds are facing a crisis. Fundcos are making more than 10x what retail investors are and that's just plain wrong. Interest rates are so low they barely cover management fees and expenses. While IG's yield is shocking, the AGF Cdn Money Market Acct yields just 0.01% after accounting for a 1.58% MER. Canadians have about **\$75 billion** invested in m/m funds. Carrick figures that with that amount of money you could buy TD Bank and BNS. Maybe prospectuses aren't painting a clear picture or advisers are not advising. Something's not right.
Source: R. Carrick, *Say adios to money market funds*, G&M, April 30, 2009 pg B15. NOTE: Unlike GIC's and bank deposits m/m funds are not covered by CDIC insurance.

IIROC requesting comments on Client Relationship Model: (the remnant of OSC's ill-fated Fair Dealing Model) The proposed rules and amendments have been introduced to establish substantive requirements and address regulatory objectives in the areas of: relationship disclosure; management and disclosure of conflicts of interest; suitability; and performance reporting. It's a laugh that the regulators think they are really inviting the "public" to comment on such rules - in any meaningful or practical way - when they provide no funding or support for the time it would take to develop a response. This is one reason why there's need for a fully-funded Investor Advisory Panel, i.e. a group of reasonably well-informed people who would be able to consider and comment on this from a small investor perspective. Unfortunately, it will be left to well-funded financial services industry to ensure their interests are brought to bear on this, while a few retail investors will hobble together resources to make a response.

<http://docs.iiroc.ca/DisplayDocument.aspx?>

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

"Consultation framework needs makeover"

<http://www.investmentexecutive.com/client/en/News/DetailNews.asp?IdPub=156&Id=42235&cat=25&IdSection=25&PageMem=&nbNews=>

Email from a reader: “The Fund OBSERVER has saved me a lot of money. I was having a very difficult time with my complaint with a certain fund dealer. However, once I read about the tactic to use a firms own marketing materials to support a case, everything turned around. I quoted from their brochures and website -balanced portfolios, buy-and-hold, fees count, trusted advice blah, blah. Apparently none of this was applied to my account, High MER sector funds, 90% equity, totally unsuitable for a 78-year-old widower living on fixed income. I can't thank you enough. Keep the Fund OBSERVER coming- Harry in Moncton”

Are your investments tax-smart? With return opportunities so low, you'd be well advised to review your accounts for tax inefficiencies. Remember, it's only what you get to keep that counts.

Adviser-Refugee: A retail investor so dissatisfied with the 'advice' he received from embedded commission-driven salespersons that he's decided to go it alone to protect his nestegg. See also GIC-Refugee.

INVESTORS GUIDE TO EFFECTIVE COMPLAINTS - Download at <http://www.canadianfundwatch.com/files/effectivecomplaints.pdf> A very useful guide that will save you from making a lot of wrong turns.

What is the difference between a tick and a financial adviser? A tick falls off of you when you die.

Advisor Checklist

Does this adviser make me feel comfortable and fully understood?

Yes/No

Comes across as the kind of person I want to work with for years to come

Yes/No

Seems to understand me as a person and can relate to my goals

Yes/No

Has other clients like me

Yes/No

Has an approach to investing that I understand and feel comfortable with

Yes/No

Feels like someone I can trust to put my interests first

Yes/No

Shows an understanding of my feelings about risk

Yes/No

Gives me a feeling of trust when I share personal information

Is this adviser easy to work with?

Yes/No

Answers my questions clearly and patiently

Yes/No

Clearly explains the risks in any investment

Yes/No

Explains other options and the pros and cons

Yes/No

Provides quarterly performance reports so I will know how I'm doing

Yes/No

Is willing to speak with me throughout the year

Yes/No

Will meet with me at least once a year to talk over my finances

For more: www.investored.ca

Is Quantitative risk management “hogwash”?

Nassim Taleb, author of “The Black Swan: The Impact of the Highly Improbable,” talks with Bloomberg’s Tom Keene and Ken Prewitt about quantitative finance, the failings of business schools and his investment strategy. [Nassim Taleb Says Portfolio Theory is ‘Hogwash’](#)
Bloomberg, Nov. 7 2008

<http://itunes.apple.com/WebObjects/MZStore.woa/wa/viewPodcast?i=44189791&id=93576579>

For those who don’t wish to deal with itunes - here is the simple MP3 file:

[Nassim Taleb: Portfolio Theory is ‘Hogwash’](#)

Is Asset allocation alive and well?-sort of

“Despite its failure to shelter investors from the fallout of the global financial crisis, the impulse to abandon modern portfolio theory should be rejected, a new report from UBS says. Instead, investors should fortify the well-worn approach that espouses diversification and asset allocation to better protect against financial shocks that are occurring with far greater frequency and severity."Many investors are now openly questioning the relevance of asset allocation and portfolio diversification amid the failure of traditional strategies to insulate portfolios when the need for protection was greatest," said Mike Ryan, UBS head of wealth management research for the Americas, and Stephen Freedman, UBS global investment strategist.... In moving beyond the current crisis, the two UBS strategists say investors need to modify their current approaches in recognition that extreme events, particularly to the downside, are occurring far more often than current statistical models would perhaps indicate.... We believe that risk tolerance is far more nuanced than previously thought and can change over time. Stated risk-tolerance levels tend to be higher when markets are moving up and the economy is booming, and lower when markets are under pressure and the economy is in recession."... Lastly, they stress the importance of rebalancing the portfolio on regular basis. "Discrepancies may emerge over time due to changes in the risk characteristics of financial markets, a shift in the client's risk profile or life circumstances, or simply because of financial-market fluctuations," they wrote. Source: <http://www.financialpost.com/story.html?id=1539936> D. Pety, *Don't drop portfolio theory, report says*, April 28, 2009 pg FP9

OBSI's Proposed new reporting format using 2008 data

<http://www.industrymailout.com/Industry/LandingPage.aspx?id=376606&p=1>

Activity in the period Nov 1, 2007 – October 31, 2008

	Banking	Investments	Other	Total
Complaints Received				
Out of mandate	787	35	513	1335
Sent to firm	2107	370	44	2521
Complaint withdrawn	5	11	0	16
Complaint resolved	30	61	6	97
Complaint rejected	274	203	0	477
Complaint supported	14	50	0	64
Inquiries and referrals				
Information provided	2676	206	534	3416
Referred to regulator	76	26	92	194
Referred to ombudservice	17	3	32	52
Other	217	36	5	258
Total	6203	1001	1226	8430
Complaints currently under review on Oct. 31 2008	432	462	16	894

What % are **Out of mandate** (complaints determined to be outside OBSI's Terms of Reference.)? What % of complaints are **outright rejected** by OBSI i.e. determined to have no merit and no recommendation for investor compensation? What % are supported in that OBSI has recommended some compensation or other action? What % are complaints that have not started or finished the firm's convoluted internal process (sent **back to firm**)? What do you notice about these results? NOTE the relatively small number of investment complaints. OBSI is industry-sponsored and funded.

Zombie Banks:"They're dead, but they just don't know it"

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

Nancy Graham sums her advice up in five points:

1. Read Larry Swedroe's *The Only Guide to a Winning Investment Strategy You'll Ever Need*.
2. Turn off the investment news.
3. Be aware of conflicts- of- interest in the investment advice you may be getting.
4. If you are "doing it yourself," read up on passive investing, particularly the articles of Professors Eugene Fama and Kenneth French.

5. If you are working with an adviser, ask them to show you how your investments are performing against a market index. Ask them to explain why and how its performance differs.

Source: L. MacDonald, *Adviser takes passive course*, Globe and Mail, May 2, 2009 pg B9 [Ms. Graham uses a passive approach for herself and her clients at the investment advisory firm where she now works (PWL Capital Inc.)]

"Research has shown it is very difficult to outperform the market consistently over time. Take the Standard and Poor's Index Versus Active Funds (SPIVA) scorecard that comes out every quarter: It has consistently shown that the majority of Canadian equity mutual fund managers underperform the market." – N. Graham, investment adviser at PWL Capital Inc. Source: L. MacDonald, *Adviser takes passive course*, Globe and Mail, May 2, 2009 pg B9

AGF Funds quietly eliminates “underperformance bonus”

“They don’t call it an “underperformance bonus”, but rather it was referred to as the AGF Elements Advantage and it was quite innovative while it lasted. It was announced at the end of 2005, but essentially the “fund of funds” under the AGF Elements portfolios banner would credit back up to 90 basis points (0.90%) to an investor if their portfolio did not outperform its blended benchmark over a three year period. (A “fund of funds” is a mutual fund that holds a number of different mutual funds itself, to create a one stop solution for a complete portfolio.)

You can [read about the “AGF Elements Advantage” here](#) (this will become an invalid link shortly, I presume)

You can [read the press release that announced that they were cancelling the program here \(it’s found near the bottom of the release\)](#). Anyone who bought units while the program was still running will be grandfathered, but the program will no longer be offered to units purchased on June 22nd, 2009 and after. Too bad - it was a step in the right direction. If we didn’t have such a market meltdown, it would be interesting to see if they still would’ve eliminated the program since statistically it’s very likely that investors would collect the Elements Advantage very often as most mutual funds underperform their benchmarks on a routine basis.’ Source: wheredoesallthemoneygo.com

Scary Commentary from OBSI www.obsi.ca : *We have opened up more files in the last 10 weeks at OBSI than we did in all 52 weeks of 2006. Having come off of two years in a row of huge growth, we are without doubt headed for another record year. We have started to see cases on the investment side reflecting the downturn in the markets, with suitability complaints continuing to lead the way and leverage (borrowing-to-invest) files re-emerging as a significant category of dispute. ... Regretfully, we have seen indications that some firms – no doubt hit by the recession – have cut staff and resources in their complaints and compliance areas. Not only is this leading to more frustrated customers, it adds to our workload. Instead of a proper response to the client, the firm has fired off a template letter dismissing the complaint, and has done none of the proper groundwork of responding to a client.* Source: April 2009 OBSI Newsletter

Fidelity facing reality on m/m fund yields and MER's

On May 1, in response to historically low short-term interest rates, Fidelity Investments Canada ULC announced that it will temporarily waive a portion of management fees charged on its money market funds. The goal of these changes is to maintain a positive yield for investors [avoid "breaking the buck"] and keep them invested with Fidelity. Fidelity will not be changing the investment approach of these funds to seek higher yields. The temporary management fee reductions are being made on the following Fidelity funds: << Fidelity Canadian Money Market Fund Fidelity Canadian Short Term Income Class Fidelity Premium Money Market Private Pool Fidelity U.S. Money Market Fund . In addition, for Fidelity Canadian Short Term Income Class, Fidelity will absorb operating expenses normally charged in order to maintain a positive total return on a series-by-series basis. All other Fidelity money market funds are not assessed operating expenses. The fee reductions will be implemented gradually as required. Initially, these fee reductions will affect series A, series C and series I units of these funds. Fidelity will monitor the situation and may reduce fees on other series to maintain a positive yield. On some series of funds, Fidelity actually pays trailer commissions to dealers from the management fees collected. On these series, the trailer commissions may be reduced to contribute to the total fee reduction required. Fidelity and dealers will share in fee reductions that may be required. Visit www.fidelity.ca/moneymarket to access current fund yields and up-to-date information on these temporary fee reductions.

New threat to actively-managed mutfunds

The first U.S. exchange-traded fund whose managers pick its stocks is made its debut. Unlike other ETFs, which mainly track indexes, the "actively managed" Grail American Beacon Large Cap Value ETF (GVT:NYSE) will be comprised of names that the ETF's managers choose based on research aimed at finding good, cheap stocks. A few other ETFs bill their portfolios as "actively managed," meaning the stocks aren't bought simply because they mirror those in an index such as the Standard & Poor's 500-stock index. But in those actively- managed ETFs, offered by Invesco Ltd.'s PowerShares Capital Management LLC, managers buy stocks based on computer models. Grail's ETF mark the next step in the ETF evolution.

ETFs are bundles of securities that are traded on exchanges throughout the day, unlike conventional mutual funds. Unlike closed-end funds, which also are traded on exchanges but are sold by a firm only during the initial public offering, ETFs are offered to investors continuously. The Grail ETF will charge fees of 0.79% of assets, compared with the 1.4% fee for a typical stock mutual fund [in Canada, MER's are more like 2.50%] according to Morningstar Inc. For years, ETF providers have been trying to create actively-managed ETFs, believing that they would lure investors away from more expensive conventional mutual funds. But for the ETF structure to work, all of its holdings have to be made public daily, a requirement that stock-picking managers have balked at before.

<http://www.grailpartners.com/docs/PR20090115.pdf> [Note that 85% of active fund managers can't beat the **Russell 100 Value Index Fund (IWD)**, so why on earth would you choose an unproven, higher expense ratio product like Grail American Beacon? American Beacon International will likely be passing along taxable cap gains. The fund is traded in U.S. dollars so there is currency risk]

Dan Hallett wants meaningful mutfund risk disclosure-so do we!

We quote directly from his Investment Executive column:

“..Implement Meaningful Risk Disclosure. Almost two years ago, I criticized **the risk ratings** used by the industry in its *Fund Facts* summary document. In light of steep stock market losses suffered during the past year or two, this is an issue well worth revisiting. The industry uses standard deviation as its risk rating. Prospectuses for many Canadian equity funds say such funds are suitable for “long-term” investors with a “moderate risk” tolerance. Failing to define terms like “long term” and “moderate risk” leaves investors unprepared for the possibility that stock values occasionally get halved.

Worse, such abstract descriptions may have contributed to a problem that I’ve observed in client portfolios. Too many seniors’ portfolios that I have reviewed over the past two years were far too heavily exposed to stocks, to the tune of 80%-100%. Predictably, sustained losses have made many clients disgruntled. Accordingly, we may see a rise in the number of lawsuits against financial advisors (if they haven’t started already). Had the industry adopted a more intuitive and explicit risk illustration, it may have saved pain for more than a few regretful investors....”
--Fund analyst Dan Hallett Source: D. Hallett, *A regulatory wish list*, May, 2 IE 009 pg 18 [new CSA POS fund disclosure rules being proposed could contain the toxic IFIC measure as the sole indicator of risk; we’ve been arguing against it for over a year]

Some ideas for OBSI

According to 2008 statistics, about 50% of investment complaints received are referred back to the firm because they have not started or finished the firm’s convoluted internal process. This seems rather high to us especially with some firsthand experience of cases that were unjustly denied ombuds services. We recommend that the rules for denying ombuds service be refined and publicly disclosed. Some situations where a case should be taken on include:

- investigation longer than 90 calendar days
- refusal to respond to letters, phone calls and e-mails
- refusal to agree to a tolling agreement to stop limitation time clock
- evidence of maltreatment or rudeness by the firm in its dealings with complainant
- a rejection letter from the firm
- a refusal by the firm to provide documents requested by complainant
- no firm date provided for completion of investigation
- never-ending requests for information or time extensions

Because of provincial statutes of limitation, an extended delay in resolution could end up preventing a complainant from seeking restitution via civil litigation. Maybe that’s why firms drag out the process, eh?

FUND Factoid: As at March 31, 2009 the CIBC Renaissance Millennium Next Gen Fund held 40.1 % in cash. The MER is 2.52% with \$73.9 million in assets. It’s classified as a CDN small/midcap equity fund. In 2008 it managed to lose 35.8%.

Recommended reading for Regulators: Professor Julia Black's insightful research study for the IDA Task Force, "Involving Consumers in Securities Regulation" at:

[http://www.tfmsl.ca/docs/V6\(9\)%20Black.pdf](http://www.tfmsl.ca/docs/V6(9)%20Black.pdf)

The IDA [now IIROC] Task Force published its Final Report with the research studies in 2006 - almost three years ago. Regulators should review Professor Black's recommendations, especially section 3 on "Consultation and Participation," section 4 on "Consumer Advocates" and section 5 on "Embedding Consumer Interests in Decision- Making". Her recommendations are summarized on pp. 558-560 of her study available at the above link. Thanks to Dr. Reeve for reminding us of this important study.

U.S. money market fund acted fraudulently

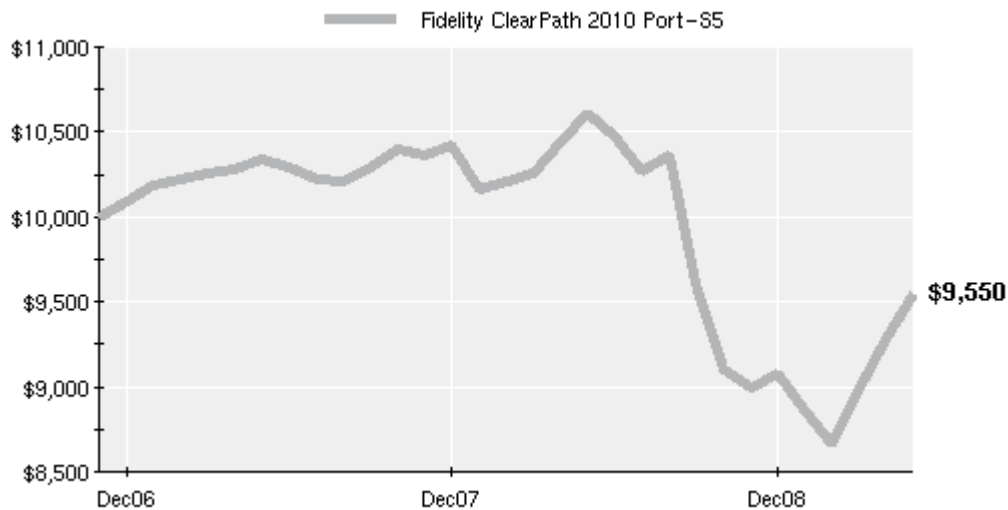
On, May 5, 2009 the Securities and Exchange Commission filed fraud charges against several entities and individuals who operate the Reserve Primary Fund for failing to provide key material facts to investors and trustees about the fund's vulnerability as Lehman Brothers Holdings, Inc. sought bankruptcy protection. In a complaint filed in U.S. District Court for the Southern District of New York, the agency is asking the court to enter an order compelling a pro rata distribution of remaining fund assets, which would release a significant amount of money that is currently being withheld from investors pending the outcome of numerous lawsuits against the fund, the trustees and other officers and directors of the Reserve entities. The Reserve Primary Fund "broke the buck" on Sept. 16, 2008, when its net asset value fell below \$1 per share, meaning investors in the money market fund would lose money. The SEC alleges that the Reserve Management Company, Inc. (RMCI), its Chairman Bruce Bent Sr., its Vice Chairman and President Bruce Bent II, and Resrv Partners, Inc., failed to provide key material information to investors, the fund's board of trustees, and rating agencies as Lehman Brothers filed for bankruptcy protection on September 15. The fund, which held US\$785 million in Lehman-issued securities, became illiquid when Lehman filed for bankruptcy protection, and the fund was unable to meet redemption requests. Litigation Complaint available at <http://www.sec.gov/litigation/complaints/2009/comp21025.pdf> Who says m/m funds are safe?

Rob Carrick interviews OBSI President, David Agnew

<http://beta.theglobeandmail.com/globe-investor/investment-ideas/features/lets-talk-investing/who-will-fight-for-you/article1130281/>

Jonathan Chevreau in Financial Post's "**A complete financial plan in 140 characters**" does a pretty good job at the Twitter version of financial planning: "Eliminate debt. Cut up plastic. Join pension. Buy home. Pay it off. Spend little. Save tons. Invest wisely. Be tax smart. Marry for life." And his revised one "Lose debt. Join pension. Own home. Spend little. Save tons. Invest wisely. Be tax wise. Marry 4 life. Insure life. Make will."

Life Cycle Fund hopes not always realized



Fidelity ClearPath™ Retirement Portfolios are a family of lifecycle funds that are actively managed and regularly rebalanced to a target allocation to provide investors with optimal risk and return for their investment time horizon. The portfolios seek to maximize growth opportunities early on to provide high total investment return, and gradually become more conservative with advancing age to provide a steady flow of income and the potential for capital gains closer to retirement and thereafter. Oops. While much better than most equity funds over the period, a good old CDIC- insured GIC would have been a better deal.

<http://www.fidelity.ca/fidelity/cda/live/0,4917,00.html?strmid=54>

Ontario's new [Consumer Protection Act](#) now neutralizes any clause that attempts to make you waive your legal rights or promise not to go to court. Unless your contract pre-dates July 30, 2005, such contract clauses are legally ineffective. Consumers are not bound by them even if they have accepted the agreement. The new law does not prevent you from agreeing to use arbitration after a dispute has arisen. Sometimes arbitration works quite well. But you cannot be forced to use arbitration instead of the courts or instead of complaining to the ministry. The choice is yours. Source: <http://www.gov.on.ca/MGS/en/ConsProt/121589.html>

CMA unduly restricting doctors' investment choices?

MD Management Ltd (MDML), owned by the Canadian Medical Association, has told its advisors they must now direct clients to nine ready-made portfolios consisting of mutual funds run by MD Management and Mackenzie Investments, which is part of IGM Financial Inc. [IGM :TSX] The nine portfolios are made up of 8 mutual funds run by Mackenzie and 18 MD

Management funds run by outside managers .Should advisors invest a client's money outside of the nine options, they have to provide a written explanation of why the decision was made, which will be reviewed by MD Management. About 250 MD Management advisors guide roughly 36,000 physicians and their families across Canada, dealing with about \$20 billion in assets. Bill. Horton, MDML's Chief Investment Officer says the performance of the \$20-billion in assets is not measured because client goals are not uniform, therefore not comparable. Physicians must be CMA members and pay the fund's management expense ratios in order to access MDML's services. Source: C. Tait, *New rules irk doctors' advisors*, NP, May 4, 2009 pg FP1 [Reminds us of Henry Ford's infamous quote 'You can have any Ford you want as long as it's black'. How will these advisers satisfy regulatory requirements and professional codes of ethics? Doesn't sound like CDIC insured GIC's or low-cost ETF's are part of the cookie-cutter portfolio solutions]

SIDE NOTE AHA: CMA Holdings, the parent company of MD Financial and a principal shareholder of Saxon Financial Inc., fully supported the recommendation of the Saxon Board for the sale to IGM Financial. As part of the Aug. 2008 acquisition, MD Financial entered into a strategic partnership with Mackenzie that would provide MD Financial clients with access to a number of specialty investment products that complement the MD funds and MD PIM pools. See also <http://mdm.ca/>

U.S. GSA Consumer Action Handbook (Free download) http://www.consumeraction.gov/pdfs/2009_Handbook_Web_Version.pdf

This everyday guide to being a smart shopper is hot off the press and chock-full of helpful tips about preventing identity theft, understanding credit, filing a consumer complaint, and much more

Another report points to our high fund fees

Canadian mutual fund investors are fairly well protected, according to a study of funds in 16 countries, conducted by the Chicago-based Morningstar Inc., and overall the industry scored a B-. But the industry is not likely to appreciate the report, which attacks the costs associated with funds. In fact, most of the praise for the Canadian system is focused on the regulatory regime. Canada scored high in investor protection [A!!!] and transparency (in both the prospectus and reports segment, and in sales and media) [A!!!]. [Canada received a C for taxation] But the report hammered the Canadian mutual fund industry on fees and expenses, giving it the only F in this category. "Canadian investors do not pay much attention to fees," reads the *Morningstar Global Fund Investor Experience*. "Canadian investors are comfortable with the fees because they don't know how low these fees should actually be." Canada's failing grade in fees is the lowest grade received in any of the surveyed areas. Canada has notoriously high management expense ratios."

The report lays much of the blame for this at the feet of advisors, saying that funds with higher trailer fees [aka commissions] are pushed harder. "Assets tend to flow into average- or higher-fee funds because Canadian investors use financial advisors to help them make decisions," the report says. "Advisors direct client assets to funds that pay better trailers. And since the trailer is included in the MER, the result is that assets flow into higher-fee funds." Source:

http://www.advisor.ca/advisors/news/industrynews/article.jsp?content=20090512_112255_6868
Full report at <http://corporate.morningstar.com/us/documents/ResearchPapers/MRGFI.pdf>

“ Target funds are an interesting concept but they have not been around long enough to prove they’re any better than an ordinary balanced fund over the long term. You can try out one if you wish, but don’t commit all your savings to it. Despite what the ads may say, these funds do not offer one-stop shopping for your retirement plan.”- Gordon Pape

“ I was far more impressed with my fund manager when I knew a lot less about him”---Ken Kivenko

Avoid the inconveniences of bank ‘convenience fees” <http://www.thestar.com/article/634565>

History of the Great U.S. mutual fund scandal http://en.wikipedia.org/wiki/2003_Mutual_fund_scandal (2003)

Go to link

http://web.me.com/lelford/breachoftrust.ca/movie_intro.html

to view a nearly complete set of chapters for *BREACH OF TRUST* . You’ll need Apple’s QuickTime to view (free download)

"During times of universal deceit, telling the truth becomes a revolutionary act"- George Orwell

End-date bias: The strong tendency for specific periods to be unrepresentative of overall historical performance. This is due to the mathematics behind return calculations. End-date bias tends to become more pronounced immediately after a sharp market swing in either direction. In a bear market, the steeper the losses, the lower the starting point for the next measurement period, and the greater will be any subsequent gains in percentage terms. Rudy Luukko cautions that in the past couple of months when the stock market was rebounding, some mutual funds have been putting up handsome performance numbers. To avoid being unduly impressed, take a good hard look. It's often the case that the biggest short-term gainers were previously among the worst losers. The lesson is that in evaluating performance, it's important to look at both the shorter-term and longer-term numbers, and at non-overlapping periods such as calendar years. Time tends to mitigate the impact of end-date bias. The longer the measurement period, the more likely it is to be a meaningful indicator of what to expect from a mutual fund or from the underlying market. Source: R. Luukko , *Meaningful fund market indicators take a long-term look at numbers*, Toronto Star, May, 16, 2009 pg B6

Email from a reader “*I used the ATM to get a cash advance from my credit card to make last minute RRSP contribution. I bought \$2500 of mutual funds from Investors .Was this smart? - Gerry R. In Saskatoon*

Response; This is pretty much the worst thing you could have done. You can end up paying interest in excess of 18 % from the day you withdraw the money until you pay off the balance. If you bought funds with high MER’s you did double damage. Note that borrowing to invest for a RRSP contribution is not tax deductible. Maybe you need a friendly chat with your adviser.

MFDA requesting comments on proposed Rule changes The proposed rules and amendments have been introduced to establish substantive requirements and address regulatory objectives in the areas of: client communications, account supervision and client reporting. We’ve asked the

MFDA to meet with the pro-investor community face- to- face. Do the regulators think they are really inviting the "public" to comment on such rules - in any meaningful or practical way - when they know there will be a blizzard of industry responses? That's why there's a crying need for a fully-funded Investor Advisory Panel, i.e. a group of reasonably well-informed people who would be able to consider and comment on such proposals from a retail investor perspective. http://www.osc.gov.on.ca/MarketRegulation/SRO/mfda/rr/srr-mfda_20090424_pro-amd-rule22.pdf

How'd you like to earn nearly nothing after 10 years? Try the 2.63 % MER Working Ventures Balanced Ser 1 fund, a labour-sponsored fund. There's a \$100 million tied up in this fund which returned just 0.71 % for the 10 yrs. ending April 30, 2009. The BMO Nesbitt Burns Cdn Small Cap Index returned 5.33 % in the same time period. Thankfully, it's not available in BC,AL,SA,MA,ON,PQ,NB,NS,NF,PEI,YK,NWT,NUV because it's closed. Labour funds aka retail venture capital funds - have been losing traction during the key RRSP season against a backdrop of market volatility, lousy performance and uncertainty about Ontario's plan to reduce and abolish its juicy tax credit. Labour-sponsored funds require an 8-year holding period, and offer tax credits to investors to compensate for these higher-risk investments in junior firms. The Feds provide a 15-% tax credit. Participating provinces currently add at least another 15 %. Before cancelling its credit, Ontario plans to reduce it to 10 % for the 2010 tax year and 5 per cent for 2011. Ah well, you can always buy a toxic SPAC which the CSA thinks is suitable for Main Street. One of the big risks with start ups beside business and technical risk is the concern about whether there will be enough cash in future years to provide second- and third-round financing as they implement their business plans.

INVESTORS GUIDE TO EFFECTIVE COMPLAINTS - Download at <http://www.canadianfundwatch.com/files/effectivecomplaints.pdf> A very useful guide that will save you from making a lot of wrong turns.

Dan Hallett wants meaningful mutfund disclosure-so do we!

We quote directly from his Investment Executive column:

“Make Available The Statement Of Portfolio Transactions [SPT] The 2005 approval of National Instrument 81-106 has resulted in many new mutual fund disclosure requirements. As a concession to mutual fund companies, the regulation removed the obligation for funds to file the SPT. Previously, the SPT was available on request (or by visiting www.sedar.com). Now, the regulation requires the internal tracking of the same trading details that were found in the SPT.

I have begun approaching companies about these trading details. I thought I could obtain this information by asking. Not so. Many of the companies that I first approached have a policy against releasing trading summaries. I then made the same request of a company I have long covered - and even offered to sign a confidentiality or non-disclosure agreement. My motivation was to obtain the insight gleaned from the SPT even if I could not disclose any of the details. Still no success. Legal counsel at some firms even justified their refusal by saying they could not release non-public information. But that's nonsense. There's no compelling reason to keep this data secret. Mutual funds trade at net asset value, and old trading data cannot possibly influence any mutual fund's market price or NAV. I'll continue pressing fund companies to release this

valuable information to interested parties.” -- Fund analyst Dan Hallett Source: IE, *A regulatory wish list*, May, 2009 pg 18

"Most investors, both institutional and individual, will find the best way to own common stocks is through an index fund that charges minimal fees." -Warren Buffet, 1996 Letter to Shareholders at Berkshire Hathaway

"You get what you DON'T pay for" -John Bogle on the subject of high fund fees

Enhanced disclosure needed for leveraged ETF's: FAIR

“ HBP ETF's are a unique series of alternative exchange traded funds ("ETFs") used by investors and investment professionals to profit when the market is rising or falling, or to reduce risk by hedging their existing market exposure. Now investors have even more choice to take advantage of various market conditions across multiple asset classes including equities, fixed income, currencies and commodities. All HBP ETFs are denominated in Canadian Dollars.” – from <http://www.hbpetfs.com/index2.asp>

Canadian securities regulators should force providers of leveraged exchange-traded funds (ETFs) to give enhanced disclosure about their risks in their prospectuses/promotional advertising and sales practices , IIROC funded Fair Canadian Foundation for the Advancement of Investor Rights. [FAIR] argues in a report “Heads You Lose, Tails You Lose: The Strange Case of Leveraged ETFs .” Retail investors don't understand what the real risks are. Leveraged ETFs "are not only complicated, but they are pretty dangerous " said Ermanno Pascutto, executive director of FAIR. Toronto-based BetaPro Management Inc. is the only provider of leveraged ETFs in Canada-its Bull and Bear Plus ETFs aim to give double the **daily** (Daily is not monthly, and it's definitely not annually-this is KEY word) performance of the indexes that they track. Most people associate ETF's with passive long-term investing ; leveraged ETF's sure ain't that! According to BetaPro, about 40 %t of the HBP ETFs are used by retail investors with 60 % of them investing through advisers and the rest buying them through discount brokers. Visit http://jovian.globefund.com/gishome/plsql/jovian2f.process_fr?fr_mode=ANALYSER&fr_param1=All+companies&fr_param2=All&fr_param3=&fr_param4=&fr_param5=All+classes&fr_param7=All&fr_param8=All&fr_param6=All&fr_param9=All&fr_param10=All&rep_type=STD&pi_universe=JOVIAN_HBPETF to get an idea of the volatility of these funds.

FAIR wants regulators to require all these kinds of ETFs offered in Canada to file a new prospectus with "bold front-page disclosure in plain language of the risks of holding these products for longer than a few days, particularly in volatile markets. Print and broadcast advertising should warn: "This product is not suitable for holding periods longer than a few days and is not appropriate for virtually all retail portfolios," the group says. The HBP S&P/TSX Global Bear Plus ETF did not lose 2 %, as its two-times inverse would indicate, it actually lost 87. Its pair, the inverse Global Gold Bull Plus ETF, should have gained 2 %.; instead it lost 46 %. Full 9-page report at <http://faircanada.ca/wp-content/uploads/2008/12/etfs-may-14pm-etf-sw-final-final.pdf> [Management fees for these funds are set at 1.15% - a big premium to plain vanilla ETFs, although still below fees for actively managed mutual funds]. Like we say, make sure you understand what you're buying before you put your hard-earned cash at risk.

Actually, for us the \$500 billion mutual fund industry now carries a far greater threat. The CSA proposed **Fund Facts** Point-Of-Sale disclosure that will effectively replace the prospectus, discloses risk in such a weak manner, most investors won't know what hit them. We continue to protest this attack on Main Street and want the IFIC scale dumped.

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The report lays much of the blame for this at the feet of advisors, saying that funds with higher trailer fees [aka commissions] are pushed harder. "Assets tend to flow into average- or higher-fee funds because Canadian investors use financial advisors to help them make decisions," the report says. "Advisors direct client assets to funds that pay better trailers. And since the trailer is included in the MER, the result is that assets flow into higher-fee funds. The root cause of course is the fundco which provides sales commission incentive structures to promote sales." Source: http://www.advisor.ca/advisors/news/industrynews/article.jsp?content=20090512_112255_6868
Full report at <http://corporate.morningstar.com/us/documents/ResearchPapers/MRGFI.pdf>

"I think we've got a lot of work to do on the culture of complaint handling and dispute resolution in financial services. There are some firms that have worked hard at it, but we also see some behaviour that really suggests to me they don't get it. It's the tactics of delay, it's the automatic no, it's the attitude of, 'Get this into the hands of legal and start the formal letters.' I would say there are thousands of people who should have had recourse to us, and they didn't for want of knowledge " - D. Agnew, former Ombudsman for Banking and Investments Source: R. Carrick, *Ombudsman made headway*, G&M, May 14, 2009 pg B14 [Mr. Agnew's last day as Ombudsman was may 15]

He said – she said ---Fund Facts could cause legal issues

We've been complaining about the new CSA mutual fund Point- Of -Sale Fund Facts proposals for nearly a year. Written at a Grade 5 level, Fund Facts is designed to provide basic information to investors at a time when it is most meaningful - before they've been sold the fund. One of the most controversial aspects of Fund Facts have to do with delivering it, and the different delivery rules for adviser-initiated orders and those initiated by investors. For all 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. Fund companies won't be allowed to send the document with an order confirmation (i.e. after the sale) , as is done now with prospectuses. For so-called *client-initiated orders*, however, investors can choose to wait to receive Fund Facts until the confirmation is mailed. Retail Investors can choose to receive Fund Facts for m/m funds before, at or after the sale, a plan some investor advocates believe is plain wrong given the issues affecting these “safe” funds lately. Dealers will not be required to demonstrate actual delivery of Fund Facts. Not unreasonably, Discount brokers are exempted from having to provide a Fund Facts to DIY clients before or at the point of sale.

The CSA has left it to dealers to define what constitutes a *dealer-recommended* as opposed to a client-initiated order. It won't always be obvious which is which. It will be a very complex compliance requirement, and no doubt cause a problem when disputes arise. Proposed changes to the cooling off period also make the proposals investor-unfriendly. One final point: The proposals allow “delivery” to be satisfied by merely referring an investor to a link to the relevant Fund Facts on the dealer’s website. Not much Adviser-client ‘interaction involved. If these proposals ever see the light of day, fund investors should start worrying about their financial well-being. ETF’s anyone?

Horizons AlphaPro recently filed a preliminary prospectus for an actively-managed bond ETF, the Horizons AlphaPro Fiera Tactical Bond Fund. To find the preliminary prospectus, go to www.sedar.com . This fund will initially be offered as a closed- end fund and will convert to an ETF into an actively managed ETF after June 30, 2010 and, in any event, no later than December 31, 2010. The Fund’s investment objectives are to provide investors with a stable stream of tax efficient monthly distributions and the opportunity for capital appreciation through exposure to the proprietary tactical asset allocation strategies of Fiera Capital Inc. (“Fiera”), one of the largest independent money managers in Canada. The Fund will seek to achieve its investment objectives through exposure to an actively- managed portfolio consisting primarily of exchange-traded funds, including inverse ETFs, that provide exposure to global fixed income markets, including government treasury securities, corporate bonds and high yield debt securities. Management Fee for the Horizons AlphaPro Fiera Tactical Bond Fund will be 45bps. Service Fees of 0.40% will be paid on Class A Units. The service fees will not be paid out after the fund converts to an ETF. For the preliminary prospectus, you can go to SEDAR (www.sedar.com),

- click on “Search Database”
- select “Search for **Public Company** documents”
- type in the fund name, press enter

The jury is still out as to whether these actively- managed ETFs can beat their benchmarks. Low fees clearly help especially in the fixed income category. Read also <http://www.morningstar.ca/globalhome/Industry/News.asp?Articleid=292139> FAIR Canada turns up the heat on leveraged BetaPro ETFs

B.C. court ruling allows IIROC to pursue former members:

But the matter of whether the SRO can go after wrongdoers in Ontario who have left the industry is still unclear <http://www.investmentexecutive.com/client/en/News/DetailNews.asp?IdPub=171&Id=46881&cat=27&IdSection=27&PageMem=&nbNews=> IE, Mid -Nov 2008

BeBee's Five tips to help investors decide

Given the recent stock market rally, many Canadians are wondering if it's time to buy stocks again and try to recoup last year's losses. According to independent investor and personal finance author Gail P. Bebee: "Successful market timing is notoriously difficult. Most people are better off buying stocks based on a personal investment plan and when they have money to invest." Bebee recommends that investors follow these five steps before deciding to buy stocks or stock-based mutual funds:

1. Decide how much money you are prepared to lose. The market may be up this week, but it could fall significantly in a just few days.
2. Brush up on investing basics to remind yourself why you invest in the stock market.
3. Make sure your investment goals are up-to-date and realistic.
4. Pay off high- interest loans. Zeroing credit card balances carrying 18 or 19% interest rates is like making an 18 or 19% return on your money.
5. Make sure you have an emergency fund of easily accessible cash to cover at least 3 months of living expenses.

Source: Gail BeBee eNewsletter, April 22, 2009

<http://www.nohypeinvesting.com/>

How good is the IA Clarington Target Click fund guarantee? Pape discusses Issue

IA Clarington funds have something going for Target funds that none of the other Target funds offers: a guarantee of principal combined with a feature that locks in the highest month-end value the fund achieves over its lifespan. The guarantee is supported by fixed-income securities (mainly strip bonds) in the fund that are issued by the federal and provincial governments. The company says that, "In normal circumstances, it is expected that this fixed income component would ensure payment of the guaranteed value." However, if that were not the case IA Clarington has a back-up plan in place. "Fortis Bank SA/NV ... has provided a guarantee to each of the funds that it will pay any shortfall to the fund if the net asset value of any fund is less than its guaranteed value at maturity. If such a payment were required to be made, it would be subject to the creditworthiness of Fortis Bank. Fortis, which was once the financial pride of the Benelux countries, is in deep financial trouble. The Netherlands section has been nationalized by the Dutch government and recently reported a loss of \$24-billion (U.S.) in 2008. The Belgian part of the business, which is the one that provides the IA Clarington guarantee, is in the process of being sold off to French bank BNP Paribas SA, which is poised to take a 75-per-cent stake, with the balance owned by the Belgian government. In short, the creditworthiness of Fortis Bank referred to in the IA Clarington guarantee is a huge question mark and investors need to keep that in mind when making a decision about these funds Source: G.Pape, *Too good to be true?*, April 15, 2009

New CSA POS disclosure proposals add risk to mutual fund investing

We've been complaining about the new CSA mutual fund Point Of Sale Fund Facts proposals for months. We recently came across this article by Morningstar's Rudy Luukko that further supports the argument that the proposals need to be changed. Here's an extract:

“Relative risk looks at how a fund's losses during a period compare with market benchmarks or with competing funds in its peer group. Historical data on losses, as valuable as they are in assessing risk, are not required to be disclosed in prospectuses or in the information folders issued by segregated funds. The typical prospectus contains a section giving textbook-style descriptions of the different types of risk. Some of the more common types cited are those related to equities in general, foreign markets in particular and smaller companies. The risks of a fund are then listed in point form in the section devoted specifically to that fund. It's human nature to gloss over the risk of a fund when it is communicated in general terms in a lengthy document that requires investors to flip back and forth between one section and another.

Regrettably, the proposed two-page Fund Facts – created by mutual fund and segregated fund regulators as the key disclosure document most investors will get – would require less information to be communicated about risk. The Fund Facts section titled "How risky is it?" contains just two brief sentences. The first tells prospective investors only that "the value of your investment can go down as well as up." No kidding. The second sentence tells you that the fund company has "rated" the fund's risk as either very low, low, low to moderate, moderate, moderate to high, or high. A little chart contains a pointer on a sliding scale to one of these six choices. The risk groups, which are based solely on historical standard deviations (a statistical measure of the variability of returns) by asset class, were created by the Investment Funds Institute of Canada [the fund industry lobbyist].

In its report released in October, the Joint Forum of Financial Market regulators said that when the Fund Facts disclosure regime is implemented, it plans to use the IFIC risk scale "at least until an acceptable alternative is developed." Why not instead cite historical worst returns? They'd be much more meaningful measures of risk. Here are three that can be readily calculated: the worst one-month loss, worst quarterly loss and worst 12-month loss. These wouldn't reveal anything about new funds, for which market index losses could possibly be substituted in offering documents. But there would be worst-loss numbers to disclose for the vast majority of individual funds and assets under management. Knowing these would help investors select suitable funds. Consider the hard-hit Canadian equity category. Is it meaningful that a fund company has labelled its Canadian stock fund as a "moderate" risk? Or would you rather know that the fund's worst ever losses (assuming for example the actual average losses to Oct. 31 [2008]) are roughly 15 per cent over one month, 26 per cent over three months and 33 per cent over 12?

Source: R. Luukko, *Why not be specific about risk levels?*, Toronto Star, Nov. 15, 2008 pg B6
Contact the CSA and let them know how you feel about their proposal; write Susan Silma ssilma@osc.gov.on.ca and your MPP. We feel this proposed new rule is an attack on the middle class and too much aligned with industry interests.

Edmonton rep fined for forging client signatures

A hearing panel of the Investment Industry Regulatory Organization of Canada has imposed penalties on Dustin Rene Lamontagne for forging client signatures. The violations occurred when he was a registered representative with the Edmonton branch of CIBC Investor Services Inc. At a disciplinary hearing held on Dec. 11, 2008, in Calgary, the panel found that in August 2006 Lamontagne forged 13 client signatures to his client investment plans and financial advice disclosure documents. The panel also found that on Oct. 23, 2006, Lamontagne misled CIBC by providing false information in respect of client signature irregularities, all involving his client investment plans and financial advice disclosure documents.

In imposing penalties, the panel suspended Lamontagne for six months from the date of the Hearing (which makes the end of the suspension until June 10) and ordered him to pay a fine \$35,000. The panel also ordered Lamontagne to pay costs in the amount of \$15,000. The Investment Dealers Association of Canada formally initiated the investigation into Lamontagne's

conduct on June 4, 2008. Lamontagne is no longer a Registrant with the Investment Industry Regulatory Organization of Canada (IIROC). The panel issued its decision and reasons on January 27, 2009. The matter was turned over to the police but for whatever reason they chose not to investigate or pursue the case. Source: IE, May 12, 2009 and not so pretty

<http://docs.iiroc.ca/DisplayDocument.aspx?>

[DocumentID=CB5CB126E810462B8D78949F49022F21&Language=en](http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=CB5CB126E810462B8D78949F49022F21&Language=en) **Lesson learned:**

Check all transaction slips and client statements for signs of unauthorized actions like adviser forgery.

Canadian Fund Industry still in denial.

A recent Morningstar report suggested that Canadian mutual fund investors were content being nickel-and-dimed by fees, and gave the industry a failing grade on expenses. The report concluded that Canadian mutual fund investors were paying exorbitant fees, largely because they were being driven by their advisors into funds that pay better trailing commissions. ...A recent study by PricewaterhouseCoopers found that most Canadians who use advisors are pleased with the service they receive, suggesting that the costs associated with financial advice are considered acceptable. "Otherwise, we would see them leave in droves," says Joanne di Laurentiis, president of investment fund industry lobbyist IFIC. "I think the fact that they are staying the course, and staying in [their funds], I think they like all the aspects of mutual funds."... Professional advisors and investor advocates take exception to the strong, repeated inferences that client contentedness is all about "service" (i.e. as if cost is immaterial). Source: S. Lamb, Advisor.ca, May 15, 2009 This industry is in denial like now defunct Polaroid and troubled GM. If they don't change, ETF's and other competitive products will eat their lunch. The high embedded commissions don't just hurt returns, they cause bad portfolio design, increase risks, encourage unnecessary borrowing and limit loss mitigation. They also shield clients from lower cost alternatives. Why is the industry fighting the inclusion of a benchmark in Fund Facts? - because it will reveal that value for money is not there? Why is the industry proposing a ridiculous disclosure of risk in Fund Facts? - to keep clients in the dark. It's time for change.

Banerjee speaks the truth-industry won't listen-may try to stifle A pressing message for IFIC

"With billions upon billions of dollars generated in trailer fees and commissions every year in Canada, it should come as no surprise that there are a lot of people making a lot of money selling active management. Active management costs more because you have to compensate managers and research staff, and you have to pay for more transactions (either directly if you own individual stocks, or indirectly if you own mutual funds which themselves trade positions). You also have to pay for advertising, marketing and ancillary services (in some cases).

If you have been reading up on investing for a while now, you will have seen the mountain of academic research which indicates that passive investing (investing in ETFs or index mutual funds) will outperform the majority of active investors (on a dollar-weighted basis). You will have seen how fees can kill performance. You will have seen how lower portfolio turnover reduces tax drag, and so on. **Yet when financial advisors promote passive investing, there is a tonne of backlash both from within official channels from financial advisory firms, and**

indirectly from other financial advisors who have built their careers peddling active funds and active management exclusively.

The problem is that the rebuttals are rarely based on academic support (because there is none). So it's a sad commentary on the state of affairs that the advisors who stand behind science, common sense and due diligence get ostracized by their colleagues. Shouldn't it be the other way around? Shouldn't anyone who promotes active management be subject to the same direct and indirect scrutiny (and quite frankly, malice) for supporting a philosophy that has failed for decades when applied in most advisor-client relationships? To be clear, I believe there is room for passive AND active management within investor portfolios - it's not an either-or proposition. For some people, active is the way to go. For others, they are 100% passive. The massive middle will probably be better served with a mix of the two." Source: <http://www.wheredoesallmymoneygo.com/advisors-ostracized-for-passive-investing-opinions/>
Preet Banerjee, B.Sc., FMA, DMS is a former stockbroker and financial advisor in Toronto.

Assante quote contains a number of provisos seldom met in practice

"People are happy to pay the fees as long as they are aware of them, and they are fair and justifiable. Fees aren't the first thing people talk about. I think fees are a real factor when you've got some of these one-man-shop mutual fund dealers out selling products on a DSC basis."

—Joe Caravan, chairman and CEO of Assante Wealth Management, a unit of CI Financial.

Source: S.Lamb, *Fund Fees lower than they appear*, May 15 2009

http://www.advisor.ca/advisors/news/industrynews/article.jsp?content=20090515_150807_5084
[According to Mr. Caravan, while there are some fund companies paying what he calls "egregious" trailer commissions of up to 150 basis points, he says a reasonable ceiling for such a sales commission is no more than 100 (1%). He says an advisor would be ill-served jeopardizing a client relationship for marginally higher compensation. Our big issue is that we're still looking for hard evidence that the embedded- commission "advice" provided is a value-add rather than a detractor]

IIROC imposes a fine for "misappropriating" client funds

A hearing panel of the Investment Industry Regulatory Organization of Canada has fined a Vancouver Island broker \$220,000 for **misappropriating** [regulatory doublespeak for stealing] client funds for his personal use. Charles Kamal Dass was a registered representative with the Port Alberni, B.C., branch of Dundee Securities Corp. Following a disciplinary hearing held on April 6, 2008 in Vancouver, the panel found following IIROC by-law contraventions:

- in May and June 2003, Dass engaged in personal financial dealings with his client, GN, without the knowledge or consent of Dundee);
- in May 2004, Dass engaged in personal financial dealings with his clients E & JK, without the knowledge or consent of Dundee;
- in March 2004, Dass misappropriated monies from his clients, EK and JK, without the

knowledge or consent of those clients (this involved supposed \$132,000 and \$132,945 investments in a technology company via a private placement) and;

- in January and February 2005, Dass attempted to frustrate and/or obstruct the regulator's investigation by asking his former client, EK to make misrepresentations.

The hearing panel permanently banned Dass from approval with IIROC, and ordered him to pay \$220,000 in fines and \$83,184 in IIROC costs. He likely will never pay these amounts. IROC formally initiated the investigation into the Dass's conduct on Jan. 14, 2005. As usual, the "adviser" has left the industry-He voluntarily left his employment with Dundee on July 21, 2004. He has not been registered in the securities industry since July 21, 2004. The notice of hearing in this matter was issued in May 2006. At that time, Dass made a preliminary motion asserting that IIROC (the Investment Dealers Association of Canada at the time) no longer had jurisdiction over him as he was no longer a registrant in the industry.

An IDA hearing panel determined in a decision dated July 19, 2006, that the IDA in fact had jurisdiction to pursue disciplinary action over former registrants. Dass appealed that decision to the British Columbia Securities Commission (BCSC) who upheld the IDA hearing panel decision. Dass then appealed the decision of the BCSC to the British Columbia Court of Appeal. That appeal was heard in May 2008 and in a decision dated October 23, 2008, the Court of Appeal determined that the IDA (now IIROC) had jurisdiction to pursue disciplinary action against former registrants in B.C.. Dass did not seek leave to appeal the Court of Appeal decision to the Supreme Court of Canada. The notice of hearing was sealed until the issue of jurisdiction was finally determined. The hearing panel issued its decision and reasons on May 5, 2009. The 11 page Hearing Panel's Decision and Reasons are available at <http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=D94C03BF7865464397F209CB8BB5A50A&Language=en> Note the lengthy timelines and the size of the fine vs. the "misappropriation" involved in this case. IIROC can announce fines but do not provide investor restitution.

"For many investors, especially those who prefer an easy, low-risk solution to investing, I recommend bowing to the wisdom of the market and using index funds for the entire investment portfolio. For all investors, however, I recommend that at least a portion of the investment portfolio - especially the retirement portion - be invested in index funds" --
Burton J. Malkiel

Courtesy of Retirementaction.com – Seniors Beware!

Free lunch and an "educational" seminar? Well not quite according to Jennifer Levitz writing in the WSJ's "[Laws take on financial scams against seniors](#)" and states are cracking down with doubling civil penalties. Examples where seniors were sold inappropriate investments through free lunchtime seminars are increasing with the recession. An example of an 82 year old lady who "was sold a complex annuity by a broker at a senior seminar, when she thought she was buying a certificate of deposit. "I had never been involved in handling the finances -- my husband did all that. I guess I was just too trusting of this fellow," she says. She says the investment restricted access to her nest egg so much that she couldn't afford to replace the drafty windows in her house". Questions to ask before you fall for the sales pitch include: risk, total

(ongoing) investment commitment, liquidity, surrender charges, suitability. The article also provides a number of educational links on financial fraud, such as [North American Securities Administrators Association](#). Product sold in seminars and one-on-one sessions with ‘advisors’ include ones which often come with punishing fees such: reverse mortgages, deferred annuities, variable annuities and other products promising to protect the downside while allowing participation in the upside. (You can read about these elsewhere at this website: [reverse mortgages](#), [annuities](#) and [GMWB](#) –like products.)

CFP licensees are supposed to represent higher quality advisors, yet so few of them are fee only. Indeed, only 6% of CFP licensees are ‘fee only’ (42% by commissions) –The link below also shows that 18% of CFP licensees have no product license. ; 13% of CFP’s are employed by fundcos. Thirty-two percent earn over \$ 150,000 p.a.

http://www.fpscscanada.org/files/FPSC_Profile_Brochure-Lowres.pdf *A statistical Report on CFP Professionals 2007-2008*

If you can't lick 'em, join 'em. This expression dates from about 1940 and originally alluded to political opponents; now applies to fundcos who finally recognize that indexing can’t be ignored

ALERT: Don’t overpay for “active” investing. According to an article in the G&M, a number of fundcos are now using low-cost index funds/ETF’s in portfolios but may not be passing on the cost savings. The shrewd move also gives salespersons at mutual fund dealers, which are not licensed to sell ETFs, a legal way to bypass securities regulations. Manulife Mutual Funds recently launched three index funds - Manulife Canadian Equity Index, Manulife U.S. Equity Index and the Manulife International Equity Index - but they are not sold as standalone funds. They are being incorporated into its existing Simplicity asset allocation program, which offers actively- managed fund portfolios ranging from conservative to aggressive. "We have value and growth [equity styles] because they perform differently at different times," said Jeff Ray, an assistant vice-president of mutual fund products at Manulife Mutual Funds. "We felt that adding a passive or index fund ... would be a good complement to those active styles."But the management fees, which currently range from 1.6 per cent in the conservative portfolio to 2.35 per cent in the aggressive portfolio, are not expected to decline because of the index funds, Mr. Ray said. The percentage of index products being added to the portfolios will not change the fee structure, he said. "We look at them to make up about 20 per cent of the overall equity weighting in the portfolios." Because index funds and ETFs have low stock turnover there are potential tax advantages if held outside a registered retirement savings or other plan.

Fund analyst Dan Hallett cautioned that there can be too much diversification in a portfolio that will "doom you to mediocrity." And adding passive index products can make a portfolio look more like an index fund, he suggested. "You are going to have a harder time standing apart from [the index] performance-wise."It doesn't make sense to jump aboard fund portfolios using ETFs or index funds unless "the cost advantages of indexing are passed along to the end investors, Mr. Hallett said."Indexing's fat cost advantage is what makes it an attractive option," Mr. Hallett said. *"But if you sell indexing as part of a pricey package, you've not done a thing to help investors if its cost advantage is eaten up by fund of fund fees."*Source: S. Won, *Retail funds take cue from pensions: Actively managed fund portfolios adding low-fee index funds and ETFs to diversify*, Globe and Mail, May 20, 2009 pg B10

“I have little confidence even in the ability of analysts, let alone untrained investors, to select common stocks that will give better than average results. Consequently, I feel that the standard portfolio should be to duplicate, more or less, the DJIA.”

-Benjamin Graham in [*The Memoirs of the Dean of Wall Street*](#)

<http://www.fivecentnickel.com/2009/04/10/benjamin-graham-and-the-wisdom-of-index-funds/>

ALERT : If you've ever purchased an ETF labelled as Ultra, 2X, Double Long, or Inverse, please read this article by Morningstar's Paul Justice It will take only a few minutes of your time, and it just might save your retirement. *Warning: Leveraged and Inverse ETFs Kill Portfolios* <http://news.morningstar.com/articlenet/article.aspx?id=271892>

Acuity money market fund earning ZERO : With a whopping 1.83 % MER it's no wonder the \$100 million in this fund is yielding ZIP. It's a solid 4th quartile performer ; Globefund gives it it's lowest rating –One Star. The stated investment objective of the Fund is to provide a steady flow of income with reasonable safety of capital and liquidity. We can't find the steady stream of cash.

The Investment Industry Regulatory Organization of Canada (IIROC) has announced the launch of a whistleblower hotline. The hotline will allow those with first-hand knowledge of wrongdoing in the securities industry to report it to the SRO. This service will permit individuals who believe that they have significant information to convey deal directly with IIROC senior staff who will ensure that each tip is properly evaluated and promptly dealt with .The service includes a toll-free telephone number - 1 (866) 211-9001) – as well as an email address: whistleblower@iiloc.ca. We're not sure what, if any, controls are in place to guarantee privacy and security.

Interesting article on controlling Charities operating outside Canada

http://www.gowlings.com/resources/PublicationPDFs/20090505_Charities_Operating_Outside_Canada.pdf

New Book : *The Lucifer Effect : Understanding How Good People Turn Evil* (Random House, 2007). In this book, Dr. Phil Zimbardo summarizes more than 30 years of research on factors that can create a "perfect storm" which leads good people to engage in evil actions. This transformation of human character is what he calls the "[Lucifer Effect](#)," named after God's favourite angel, Lucifer, who fell from grace and ultimately became Satan. There is now a lengthy video (just under two hours +/- providing an on line lecture by the aging professor. We recommend it to you all highly - well work the hour plus - very graphic in parts, but you can always use the slider to move past them: <http://mitworld.mit.edu/video/459> Thanks to a referral from Jim Roache .

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