



2005 FAS ANNUAL CONFERENCE
THE FAIRMONT HOTEL VANCOUVER, VANCOUVER
SEPTEMBER 22 – 25, 2005

FAIR DEALING MODEL

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Fair Dealing Model (FDM)

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FDM - Agenda

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- Objectives
- Initial conceptual model
- Policy development process to date
- “Direction Document” recommendations
- Unresolved / unaddressed issues
- Planned SRO rulemaking process





FDM - Objectives

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- To regulate on the basis of the relationship the client has with the financial services provider rather than on the basis of the financial services products that the client buys and sells
- To make clear the roles and responsibilities of both the client and the financial services provider / advisor irrespective of the type of account relationship (i.e., self-managed, advisory, managed-for-you)



FDM - Objectives

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- To make transparent all dealings the financial services provider / advisor both at the time of a transaction and on an ongoing basis (including the essential features of individual investments, risk, compensation and account performance)
- To manage and/or disclose financial services provider / advisor conflicts

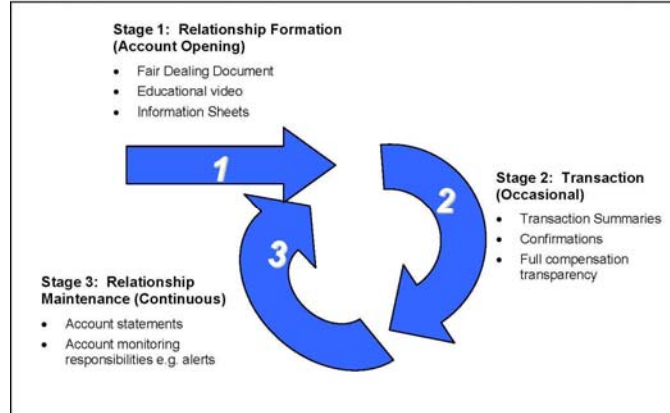




FDM – Initial conceptual model

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Tracking the Fair Dealing Model through the three stages of a relationship



FDM – Policy development process to date

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- FDM commenced in February 2000 with the establishment of an OSC Fair Dealing Model Committee
- The core ideas of FDM were presented in April and May 2002 at a series of focus group meetings; focus groups were comprised of industry participants with compliance, marketing and operations expertise
- Committee work culminated in the publication of the FDM Concept Paper in January 2004
- OSC Working Groups met during the first half of 2004 to try the flesh out the rulemaking required to implement the FDM





FDM – Policy development process to date

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- OSC announced in August 2004 the creation of the CSA Registration Project Steering Committee to oversee the CSA implementation of the FDM and other registration related projects
- Three working groups were established to deal with:
 1. Account opening documentation
 2. Costs, conflicts and compensation transparency
 3. Performance reporting
- Direction documents were finalized and approved by the CSA in May 2005



FDM – Policy development process to date

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- A joint IDA/MFDA rulemaking committee, the SRO Rulemaking Committee was established in June 2005 and has met on three occasions to date
- To enable proper review of any rulemaking proposals, three subcommittees have been established as follows:
 1. Compliance Subcommittee
 2. Operations / Technology Subcommittee
 3. Retail Sales Advisers / Managers Subcommittee





FDM – “Direction Document” recommendations

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1. Account opening documentation

- The current account classifications should be retained (self-managed, advisory, managed, discretionary); it was acknowledged that specific account relationships were not easily categorized nor should rulemaking try to limit the number of account types
- In addition to addressing the existing know your client and suitability requirements at time of account opening, the client should be provided with written information that describes the roles and responsibilities of the financial services provider / advisor and the client



FDM – “Direction Document” recommendations

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1. Account opening documentation (con't)

- The recommendations of the CLS Form No. 2 Subcommittee were adopted with respect to the information to be provided by the client at the time of account opening

2. Costs, conflicts and compensation transparency

- Product (i.e., equities, debt, investment funds, foreign exchange) and account (i.e., managed, fee based and registered accounts) specific recommendations were provided with respect to cost disclosure





FDM – “Direction Document” recommendations

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2. Costs, conflicts and compensation transparency (con't)

- ➔ No recommendations were provided with respect to conflicts other than that they should always be resolved in favour of the client

3. Performance reporting

- ➔ The provision of additional performance information was recommended but it was felt that detailed performance information was unnecessary for accounts with few positions



FDM – “Direction Document” recommendations

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3. Performance reporting (con't)

- ➔ Recommended that all clients be given enough information to enable to determine whether they are making money or losing money on a specific investment
- ➔ Recommended that clients with a large portfolio of assets also be provided portfolio performance return information





FDM – “Direction Document” recommendations

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3. Performance reporting (con't)

- Recommended that performance information only be provided for positions that the client leaves with the dealer (i.e., nominee named securities and client named securities that are held in custody by the dealer for the client)
- Recommended that aggregated cost and compensation information be provided to the client at the same time as performance information to enable the client to compare portfolio returns to the costs incurred in achieving the returns



FDM – “Direction Document” recommendations

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3. Performance reporting (con't)

- The use of a prescribed numeric risk assessment approach was not recommended – **the OSC recommends this approach**; rather the client could be given a risk information document outlining the key risk factors that are considered in assessing portfolio risk (i.e., asset mix risk, interest rate term risk, industry sector risk and geographic risk)

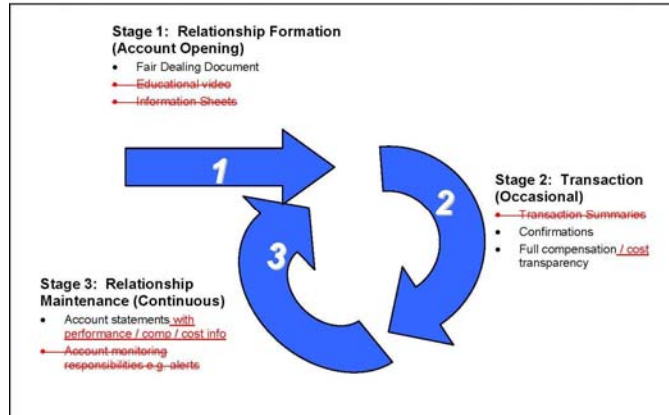




FDM – “Direction Document” conceptual model

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Effective revisions to conceptual model



FDM - Unresolved / unaddressed issues

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- Cost versus benefit analysis
 - Framework for performing CvB has been established; CvB has not yet been performed
 - Determining the benefit of FDM will be subjective and determining the true cost may be difficult / expensive
- Grandfathering – no recommendations were provided on the phase in of:
 - Any new account documentation requirements
 - Performance reporting information (i.e., cost information for portfolio assets may not be available)





FDM - Unresolved / unaddressed issues

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- No specific recommendations on conflicts; only general requirement that conflicts must be resolved in favour of the client
- Disclosure responsibilities – The recommendations assume that the distributor will provide the necessary conflict, cost, compensation and risk disclosures to the client; there is no recognition of the need to address inadequate product manufacturer disclosures in these areas



FDM - Unresolved / unaddressed issues

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- No specific recommendation as to whether compensation disclosure (transaction or account) should be what the advisor receives or what the financial services provider receives and shares with the advisor
- No specific recommendations on annual cost / compensation disclosures (i.e., will they be on the same basis as transaction disclosures?)
- No specific recommendations on whether there will be any additional ongoing account monitoring responsibilities





FDM - Unresolved / unaddressed issues

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- No consensus as to positions / accounts that would be subject to performance reporting (i.e., nominee versus client name, advised versus non-advised)
 - ➔ One view is that performance reporting should be limited to nominee named securities and client named securities that are held in custody by the dealer for the client [**WG Recommendation**]
 - ➔ Another view is that performance reporting should be provided for all securities for which financial services provider / advisor continue to earn fees



FDM – Planned SRO rulemaking process

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- Initial rule drafting to be performed by the SRO Rulemaking Committee
- Drafting to be performed in four components
 1. Account opening documentation
 2. Costs, conflicts and compensation transparency
 3. Performance reporting
 4. Drafting to address results of gap analysis
- As each component is completed it will be circulated to each of the three subcommittees for review and comment

