

June 27, 2022

Alberta Securities Commission  
Autorité des marchés financiers  
British Columbia Securities Commission  
Manitoba Securities Commission  
Financial and Consumer Services Commission of New Brunswick  
Office of the Superintendent of Securities, Digital Government and Services, Newfoundland and Labrador  
Office of the Superintendent of Securities, Northwest Territories  
Nova Scotia Securities Commission  
Office of the Superintendent of Securities, Nunavut  
Ontario Securities Commission  
Prince Edward Island Office of the Superintendent of Securities  
Financial and Consumer Affairs Authority of Saskatchewan  
Office of the Yukon Superintendent of Securities

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Dear Sirs/Mesdames,

**Re: CSA Notice and Request for Comment 25-304 – Application for Recognition of New Self-Regulatory Organization**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments regarding the Canadian Securities Administrators (“CSA”) Notice and Request for Comment 25-304 on the Application for Recognition of New Self-Regulatory Organization (“New SRO”).



## 1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis' motto: *non solis nobis* – not for ourselves alone.

## 2. COMMENTS

We support the regulators' efforts in developing the proposed New SRO's interim rules ("Interim Rules"). We have been a strong supporter of establishing a single national SRO and we look forward to realizing this milestone in the coming months. Overall, we support the Interim Rules, but as set out below, there are certain aspects of the rules we believe can be clarified and improved.

### **Directed Commissions**

We appreciate the CSA for allowing the continuation of directed commissions to unregistered corporations for mutual fund representatives at mutual fund only dealers as well as those representatives at dual-registered dealers subject to Mutual Fund Dealer ("MFD") Rules.

However, we believe the CSA should go further. Merging the SROs provides the perfect opportunity for regulators to expand this practice to advisors who are subject to Investment Dealer and Partially Consolidated Rules. Unlike advisors on the MFDA platform, investment dealers on the IIROC platform have been unable to enjoy the benefits of directed commissions including tax advantages, the ability to reinvest money into their practices, and clearer succession planning. Maintaining more than one set of books also creates an unnecessary regulatory burden for advisors who are dually-licensed with an insurance practice.

To our knowledge, there is no evidence of retail investors being negatively affected as a result of MFDA advisors directing their commissions. In a public consultation, the MFDA concluded that allowing payment of commissions to unregistered corporations would not compromise



consumer protection and would not be detrimental to capital markets.<sup>1</sup> In a 2015 white paper, IIROC also proposed a change to allow firms to direct commissions.<sup>2</sup> IIROC noted that in adopting such a proposal, the practice would be subject to investor protection provisions similar to, or more stringent than, those under the MFDA rules.<sup>3</sup> The MFDA rules ensure that this practice does not affect the duties, obligations or liability of the dealers or the dealing representatives in any capacity. Expanding this practice to investment advisors would level the playing field between all professional advisors.

Lastly, we urge the CSA to consider an endorsement of a true advisor incorporation model for both investment and mutual fund dealing representatives. True incorporation would address the uncertainty regarding the tax treatment of directed commissions and could be structured in a way that strictly ensures consumer protections are not compromised. We recognize that advisor incorporation requires legislative changes in many provinces, which is beyond the scope of the CSA.

Incorporation is a common practice for many professionals including doctors, lawyers, accountants, and real estate agents. We believe it is reasonable to level the playing field between financial advisors and other professionals. Further, there is wide support for advisor incorporation among policymakers, regulators, and industry participants.<sup>4</sup> We recognize the tremendous respect CSA members command with their respective Ministers of Finance. By coming out in support of a true incorporation model, we believe the CSA could meaningfully move this discussion forward and hasten the move towards fairness for securities professionals and ensure the competitiveness of Canadian securities markets.

### Continuing Education

We are staunch supporters of promoting a high level of skill and knowledge for professional advisors. Completing continuing education (CE) requirements is an efficient way for advisors to improve their skills and ensure that their knowledge is up to date. We appreciate the CSA for recognizing the importance of CE requirements and leveraging the established MFDA and IIROC CE programs as the New SRO becomes operational. However, we believe that certain aspects of the current CE framework can be further improved.

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<sup>1</sup> Mutual Fund Dealers Association of Canada, Proposed Amendments to MFDA Rule 2.4.1. (June 19, 2009). At: [www.osc.ca/en/industry/market-regulation/self-regulatory-organizations-sro/mutual-fund-dealers-association-canada/mfda-rule-review/proposed-amendments-mfda-rule-3](http://www.osc.ca/en/industry/market-regulation/self-regulatory-organizations-sro/mutual-fund-dealers-association-canada/mfda-rule-review/proposed-amendments-mfda-rule-3)

<sup>2</sup> IIROC Notice Request for Comment [15-0260], IIROC White Paper – The Public Policy Implications of Changes to Rules Regarding Proficiency Upgrade Requirements and Directed Commissions on the IIROC Platform (Nov 25, 2015) page 6. At: [studylib.net/doc/18434390/iroc-white-paper](http://studylib.net/doc/18434390/iroc-white-paper).

<sup>3</sup> *Ibid.*

<sup>4</sup> Provincial/Territorial Council of Ministers of Securities Regulation, “Consultation on Possible Options for the Incorporation of Individual Representatives of Registered Dealers and Advisers in Canada: Summary of Consultation Responses,” page 4: <https://securitiescanada.org/incorporation-sales-reps/2011-0728-consultationincorporation-dealers-summary-of-responses.pdf>; Provincial/Territorial Council of Ministers of Securities Regulation, “Provincial/Territorial Council of Ministers of Securities Regulation (Council) Annual Progress Report January 2012 to December 2012,” page 3, <https://securitiescanada.org/2013-0411-progress-report-english.pdf>



The MFDA's CE program mandates that, other than the two MFDA Compliance credits which are created exclusively by the MFDA, the other 28 credits be accredited through recognized and competitive third parties, such as The Institute for Advanced Financial Education.<sup>5</sup> Unlike the MFDA's CE program, IIROC's CE Program does not mandate that CE courses be accredited. The current IIROC Rules and their successors, the *Investment Dealer and Partially Consolidated Rules*, permit dealer members or external course providers to accredit their CE courses through IIROC's accreditation process on a voluntary basis. Those course providers that choose to obtain accreditation have no choice but to utilize IIROC's in-house accreditation service.

Upon the harmonization of the rule books, we encourage the New SRO to mandate that CE that satisfies program requirements be accredited. We believe that accreditation is critical for ensuring that the education taken by an advisor is of high quality, current and ultimately satisfies the underlying aims of the CE program. Accreditation also gives advisors comfort that a prospective CE course or program will satisfy the New SRO's scrutiny, if and when the advisor is audited. We also recommend that the New SRO take a note from the MFDA's program and recognize third-party accreditation services rather than accrediting programs in-house. There are several existing, well-respected accrediting bodies, and the New SRO should leverage this existing market infrastructure. Overall, mandating accreditation and supporting a more competitive CE space will lead to a higher quality of CE courses, standards of professionalism, and consumer protection.

### **Proficiency Requirements**

Per the Interim Rules, the new registrant class of mutual fund-only representatives at dual-registered firms will need to complete the Conduct and Practices Handbook ("CPH") course. We are not convinced that this requirement is appropriate for this category of registrants.

Currently, MFDA advisors must complete the Investment Funds in Canada ("IFC") course or the Canadian Investment Funds Course ("CIFC") as a component of their licensing. These requirements will remain under the Interim Rules for the new class of registrants, as well as for mutual fund representatives at mutual fund dealers. But much of the content covered in the CPH course is already covered by IFC and CIFC. Further, the CPH course was developed for IIROC-registered advisors; it covers topics related to transacting in non-mutual fund securities that are not relevant for advisors dealing strictly in mutual funds.

Therefore, we believe that the requirement for mutual fund only advisors with dual-registered firms to complete the CPH course creates a burden without a commensurate benefit to advisor

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<sup>5</sup> The Institute for Advanced Financial Education is the designation-granting and standard-setting subsidiary of Advocis. It has recently been recognized under Ontario's Financial Professionals Title Protection framework as a credentialing body.



professionalism or consumer protection. Adding to this burden is the high cost of the CPH course compared to the IFC or CIFC courses.<sup>6</sup>

It is true that the CPH course contains elements related to ethical training. While we fully support ethics training as a component of licensing, we believe the CSA must proceed cautiously before mandating that the CPH course is the only way to satisfy this requirement. We would be interested in having a better understanding of the ethical training that is wanting in current mutual fund licensing courses, so that we can assist in suggesting whether alternative courses might also be suitable. But as presented in the Interim Rules, through the specific identification of the CPH course as the only option for these mutual fund representatives, the CSA is effectively favouring one offering by one specific course provider.

It is important that the New SRO fosters a competitive landscape that promotes quality and choice – in all facets. The CSA should avoid “picking winners” and creating *de facto* monopolies whenever possible, including in regard to the educational courses that allow entire classes of registrants to be licensed.

Lastly, we invite the CSA to clarify whether a mutual fund representative at mutual fund only dealer who has successfully completed the required training as well as the 6-month supervision period pursuant to MFDA Rule 1.2.4 would be required to complete a new 6-month supervision period should their firm become a dual-registered firm.

### **3. CONCLUSION**

We recognize the complexity involved in consolidating the SRO rule books and we appreciate the efforts made in facilitating this transition through the development of the Interim Rules. We believe that as the CSA continues its work on the consolidation, the New SRO can be strengthened by considering the points above regarding directed commissions, accredited CE and a competitive landscape for course providers.

We look forward to further productive discussions with the CSA as the New SRO project moves towards commercial close. Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at [jryu@advocis.ca](mailto:jryu@advocis.ca).

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<sup>6</sup> The CPH costs \$900 whereas the IFC costs \$470 and the CIFC costs \$385.



Sincerely,

*“Greg Pollock”*

*“Rob Eby”*

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