

PACIFIC INTERNATIONAL SECURITIES INC.

March 17, 2004

VIA E-MAIL  
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Mr. John Stevenson  
Secretary  
Ontario Securities Commission ("OSC")  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, Ontario  
M5H 3S8

Dear Sir:

**Re: Fair Dealing Model Concept Paper - Comments**

Pacific International Securities Inc. is a registered Investment Dealer in the Province of Ontario (among others) and is a Member of the Investment Dealers Association of Canada (the "IDA"). As an IDA Member, we support the general principles espoused in the Fair Dealing Model Concept Paper (the "FDM"). However, we would like to raise the following concerns regarding the FDM as it is currently proposed:

**I. Harmonization**

Our first concern is that there is a wide disparity between the approach taken in the FDM and that taken in existing regulatory systems, and in other regulatory proposals, specifically the British Columbia Securities Commission's *New Concepts in Securities Regulation* and the *Uniform Securities Act*, which the Alberta Securities Commission is spearheading. The OSC apparently supports the principle of harmonization. In the OSC's January 29 2004 News Release on Fair Dealing, Mr. Brown stated "Ontario does not intend to implement the Fair Dealing Model without the participation of other regulators."

In Canada, the need for harmonization is a central theme in regulatory reform and must apply particularly to any proposed structural changes in the financial services industry. We ask that the OSC give priority to considering how the FDM would harmonize with existing regulatory structures and other proposals for regulatory reform.

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## **II. Industry and SRO Input is Needed**

As the Paper correctly states, any rules developed from the Paper's proposals would have to consider the existing IDA rules that regulate the client-advisor relationship. In addition, the FDM would have a significant impact on internal systems, and methods of doing business, for Member firms of the IDA.

Given the impact on systems and methods of conducting business, we are concerned that it would be extremely costly to fully implement the FDM, and that we would be required to pass the incremental costs on to our clients. The Paper states that the OSC has not yet completed its cost-benefit analysis because many of the Model's specific requirements have not yet been finalized.

The Paper states that the urgency of the Model is due primarily to the importance investing has taken on for Canadians in recent years. The FDM's cost-benefit analysis will help to clarify whether accessibility for a wide range of investors to retail advisors can continue under the FDM and will help also clarify whether there could be potential negative impacts to the capital markets.

We understand that the IDA has provided you names of Member firm representatives to participate on the Implementation Working Groups. These individuals will be able to assist in identifying those IDA rules that are consistent with the FDM and those rules that may need to be adapted, extended or otherwise improved. This will ensure that the likelihood of duplicative and potentially inconsistent rules relating to Fair Dealing is minimized.

In addition, the FDM Implementation Working Groups will be able to assist in measuring the costs should the FDM be implemented, as well as potential benefits to clients of our industry, particularly with respect to the risk disclosure and performance measures set out in the Paper.

## **III. FDM Structure**

In our opinion, the FDM is extremely prescriptive, in a time of financial services convergence and constant change. There is a significant risk that the very broad principles the FDM encourages will be undermined by the model's rigidity. Ideally, regulatory models should permit flexibility and individual customization of relationships between advisors and clients. The FDM will freeze these relationships, inhibiting innovation and competitiveness, and change will be governed by the slow and inflexible process of statutory amendment.

Finally, we question whether the FDM can achieve its intended results. More regulations will not protect the most naïve of investors and will not dissuade unscrupulous advisors. In fact, rogue brokers may be able to shield themselves behind the FDM in that they may argue that they are not responsible for certain actions if they have provided their clients with every possible disclosure document, information sheet, risk disclosure profile, etc.

We very much look forward to offering further comments on the Fair Dealing Model and we look forward to the refinements developed by the Implementation Groups. We are also anticipating the release of the second concept paper on licensing of firms and individuals.

Sincerely,  
PACIFIC INTERNATIONAL SECURITIES INC.



Max Meier  
*Chairman & CEO*

MM/rwt/rlr

Cc: Executive Committee, Internal only  
British Columbia Securities Commission, Douglas Hyndman, Chair

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