INVESTMENT DEALERS ASSOCIATION OF CANADA

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

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Fair Dealing Model Concept Paper Comments

We appreciate this opportunity to provide the commissions with our District Council's comments on your Fair Dealing Model.

General

While the principles of the model are exemplary in their attempt to achieve documented evidence of responsibilities it does not recognize that our industry is presently based on relationships between investors and advisors. Greater transparency as it applies to compensation and performance is desirable but must be tempered by the cost of providing both detached accounting of exactly what constitutes the cost of the product and how we wish to measure performance as it relates to longer time objectives.

We strongly believe that we are an industry of professional advice givers. We certainly have an obligation to act in the client's best interests. We agree that the financial services provider in an Advisor relationship should provide the investor with meaningful information about the risk level of the security and how it would affect the investor's portfolio (p. 67 FDM). That is what our clients expect us to do. Your unwillingness to prescribe a simple method for determining risk is not consistent with your willingness to regulate client advice.

Specific Points

While regulation is a tool for setting standards we are not sure that it is a "better tool" (p. 14). It is not possible to regulate experience, judgment and honesty. Ours and other professions have guiding principals and rely on behavior and best practices. Further, our policing is very robust and the decisions of our tribunals are communicated to the public, as are the penalties which tend to be more severe than seen in other professions.

When one considers the number of transactions completed in our Canadian Capital Markets each day, the number of complaints against IDA members is very small; it is most unlikely that more rules will mean fewer complaints. We would argue that more rules may in fact provide the unscrupulous room to hide, rather than discouraging their bad actions.

Further regulation gives a competitive advantage to the 5-10 largest firms. The burden of greater rules will disadvantage the 180+ smaller firms. These additional costs, which the client will end up paying, are certain to see the absorption or disappearance of small firms and an even greater concentration amongst the larger firms.

While we espouse to longer term investment objectives the Fair Dealing Model proposes "personalized performance information…on a daily or real time basis on the internet, as agreed to in the Fair Dealing Model" (p. 70). We strongly disagree that the day-to-day operations of the market are effective measurements of investment objectives as investing should be a longer-term strategy. Moreover, the provision of month-to-month-to-month performance results on a percentage basis as part of monthly client statements will encourage short-term thinking on the part of many if not most clients. This is clearly not a desirable outcome.

Our role is primarily that of providing investment advice; part of advice may be educational but only insofar as the investor wants to learn. A dentist may explain the benefits of a root canal but the patient relies on the training and skill of the professional to achieve the desired result. To expect most clients to understand the fundamentals and levels of market risk, or beta factors, is not practical.

While the education of investors cannot be regulated, perhaps the Provincial Securities Commissions should require that professional designations meet criteria that will be meaningful to investors. We believe that the Province of Quebec has established rules as to what qualifies one to be a financial planner or portfolio manager.

The Fair Dealing Model refers to the fact that "a representative has a general duty to advise carefully, fully, honestly, and in good faith". IDA By-Law 29 outlines, in considerable detail, these duties. The model states "the appropriateness of individual transactions will be evaluated in the context of the investor's overall portfolio. Our District Council is very much in agreement and this is a requirement of our IDA Regulation 1300.

Finally, we suggest that the relationship between an investment advisor and client is of such intensity and so personal that to attempt to quantify and limit the nature of the relationship by regulation is counterproductive and not beneficial. Indeed, the relationship is generally greater than that of any other profession with whom a client interacts. It is a relationship that evolves and changes with the changing of circumstances of a client's life.

We look forward to continuing to offer our comments on the Fair Dealing Model and we look forward to the refinements developed by the Implementation Groups.

Sincerely,

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