

April 29, 2004

**Via Facsimile**

Mr. John Stevenson  
Secretary  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, ON

Dear Sirs:

**Re: Fair Dealing Model**

**Introduction**

I am writing on behalf of Quadrus Investment Services Ltd. (“Quadrus”) regarding your request for submissions on “The Fair Dealing Model Concept Paper” of The Ontario Securities Commission, dated January, 2004. Quadrus is one of the largest mutual fund dealers in Canada by number of registered sales representatives, is a subsidiary of London Life Insurance Company and an affiliate of the Power Financial Group.

We generally concur that there are several aspects of the current regulatory environment that would benefit from reconsideration and revision, including:

1. Appropriate allocation of responsibility for investment decision making;
2. Appropriate allocation of responsibility for investment education between regulators, product providers, registrants and investors;
3. Developing useful point of sale disclosure materials;
4. Reconsideration of the current “KYC” approach to investment suitability;
5. Elimination of duplication in securities regulations;
6. Provision of useful and desired information for investors, including personal rates of return.

However, we have some serious concerns about the proposal, and the manner in which it is being developed, circulated and potentially implemented.

We have had the benefit of review of the submission provided by Investors Group Inc. and substantially support their position. With respect to the need for a comprehensive approach that would include individual variable insurance products (segregated funds), we agree that a harmonized approach would be appropriate, but note that such an exercise should be done by cooperation with the Canadian Council of Insurance Regulators through the established Joint Forum process, and should bear in mind the unique features of life insurance products relative to securities.

Our initial reaction to the paper is that it is a solution in search of a problem. As noted above, there are areas within the securities regulatory environment that would benefit from a detailed review with an open mind and a view to the best interests of the investing public. Unfortunately, the approach taken by the Fair Dealing Model is so broad and all inclusive, and so prescriptive, that we do not believe it would benefit the public or the industry to any substantial degree. In fact, moving ahead on such an initiative unilaterally would significantly disrupt the industry to the detriment and ultimate cost of investors, with little or no additional value added as a result.

The following are some of our thoughts on the proposal, for your consideration:

1. Without national agreement by the Canadian Securities Administrators we cannot support the implementation of this concept. Unilateral implementation of an “advice based” model would be worse than unhelpful at a time when the considered opinion of involved persons is that some degree of rationalization and integration would be appropriate for the Canadian securities regulatory structure. Such a move would further complicate an already cluttered provincial regulatory scene, increasing the cost of compliance for national firms and leading to more – not less - confusion. The federal Wise Persons Committee has pointed out challenges with the current system: unilateral implementation would only exacerbate our current regulatory burden, without any clear “wins” for the consumer.
2. It is artificial to limit the types of relationships developed between clients and dealers to three. In fact, the “Advisory” channel comprises a broad spectrum of interactivity between client and dealer, from slightly more involvement than in the Self-Managed Model, to slightly less reliance than in the Managed Model. Applying the same restrictions, rules, duties and obligations to this entire spectrum in the Advisory Model is neither instructive nor helpful to either the client or the representative.
3. It is not appropriate for the industry to carry the burden of educating financial consumers. Certainly it should not mislead consumers regarding financial services or products, but investors themselves should, and must take personal responsibility for their investment knowledge. There is no excuse in our society to not be aware of the basics of investor education. It should not be an obligation of the representative to provide the client with “Investments 101” at the point of sale – indeed, that is the worst place for such education to take place. We believe that education is a personal obligation first, and a societal obligation second. This would imply that any mandated minimum investment knowledge should be addressed by the regulator, and not by industry. As long as information is freely available to clients, it should be up to the client to determine the level of investment knowledge they wish to acquire. No one can force education on those who choose not to enquire or understand.
4. It is the representative’s responsibility to enquire as to the investor’s state of knowledge, and assist the client to invest appropriately, but any decision to invest must ultimately be the investor’s responsibility. The proposal confuses this responsibility to the point of obfuscation in the Advisory model, where it states that the final investment decision is the responsibility of the investor, but goes on to state that in some instances it will be the duty of the advisor to refuse to process a trade at the investor’s request. The decision to invest is the investor’s to make. If the advisor has properly advised the client, the investor should be free to take whatever level of risk that they wish.

5. We agree that compensation for the sale of financial products should be transparent. We do not agree that methods of compensation should be prohibited or mandated in any way. To do so interferes with the development of efficient methods of providing investment products in our society. Specifically, it is not clear why trailer fees are in any way inappropriate. The representative is responsible for continuing to service the client's account, and is paid for that work. If representatives are not compensated for these services, they will not be provided – this is a practical reality that must be reflected in any regulatory environment. We also object to the inference throughout the paper that any type of compensation other than fee income somehow takes advantage of the consumer. Nothing could be further from the truth. A large portion of consumers will not pay a fee for advice. They expect, and will accept, advice if it is given in the context of a product sale where the representative is compensated by the issuer, but they will not pay for it directly. The “fee only” approach is an interesting academic exercise, but it shuts out the reality of a huge portion of the investing public.
6. Suitability of the sale is an important issue and we agree that the current KYC approach is in need of updating. The concept of “suitability of portfolio” is unreasonable outside of the “managed for you” approach. Investment suitability should be assessed at the point of each sale, if the selection is unsuitable but the client wishes to invest, there should be no requirement that the dealer or representative “override” the clients wishes – as long as the client has been appropriately warned.

We are encouraged to see that the Commission is willing to make changes to address current issues. We understand that the Commission believes that the industry is providing advice based solutions in a product based regulatory environment, and the regulators need to somehow adapt to this new world. It is not clear to us that the perceived problems in the current structure are insoluble without completely revising the structure. Such a wholesale revision will inevitably bring with it additional problems not currently apparent, and unless there is a clear need for such an approach, why not simply fix the things that clients and the industry agree are problematic? We are concerned that the Commission seems to be bent on throwing the baby out with the bathwater rather than moving forward in incremental changes that consumers and the industry agree are needed.

Please do not hesitate to contact me if you have any questions on any of these points.

Yours Truly

A handwritten signature in black ink, reading "David Farrish". The signature is written in a cursive, flowing style with a large initial 'D'.

David Farrish  
Provincial Government Liaison