

April 30, 2004

Mr. John Stevenson  
Secretary  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, Ontario  
M5H 3S8

Dear Sir,

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

On behalf of Bieber Securities Inc. I am pleased to provide our comments on the Fair Dealing Model (FDM) Concept Paper.

Bieber Securities Inc. has been in business since September 1995, is an IDA member firm located in Winnipeg and is 100% employee owned. We have 22 total staff and offer wide range of services ranging from tradition style brokerage to fully managed accounts. We also provide clients financial planning, insurance, and tax services. Our corporate finance department raises capital for small Manitoba businesses.

As an IDA Member Firm, we support the general core principles outlined in the Fair Dealing Model (FDM) Concept Paper, including those areas of managing conflicts of interest, full transparency of fees, and a clear allocation of responsibility. However, there are areas of the concept paper that give us great concern, for example the lack of harmonization with existing regulation and current initiatives for harmonization, the lack of coordination with existing Self-Regulatory Organizations, costs of implementation, the impact on small firms and the impact on small clients.

**Harmonization**

A primary concern is the lack of harmonization between the FDM, existing regulatory systems and current regulatory proposals, specifically The BC Model's Draft Legislation and Guides, and the *Uniform Securities Legislation*, proposed by the Canadian Securities Administrators (CSA), including the OSC. The OSC apparently supports the principle of harmonization. In the OSC's January 29 2004 News Release on Fair Dealing, David 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 regulations in the financial services industry. We ask that any further considerations of the FDM focus first on how the FDM would harmonize with existing regulatory structures and other proposals for regulatory reform.

As a small regional dealer, located only in Manitoba, but licensed in six provinces, it is already almost impossible to keep up with the current regulatory burden and the existing inconsistencies between provincial regulations. The FDM would only serve to increase the inconsistencies that already exist.

### **Co-ordination with Self-Regulatory Organizations**

We want to underscore the importance of co-ordination with SROs, like the IDA, in the implementation of the FDM. 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. As the SROs are responsible for regulating the advisory and sales activities of registrants dealing with the public, it is important that these organizations play an integral role in the development of the FDM.

### **FDM Structure**

The FDM is extremely prescriptive, in a time of financial services convergence and constant change. It is crucial therefore that the very broad principles the FDM encourages not be undermined by the model's rigidity. The FDM should instead permit flexibility and individual customization of relationships between advisors and clients.

We hope that in formulating the Fair Dealing Model, the Ontario Securities Commission will bear in mind that more rules will not necessarily result in increased investor protection. Indeed, strict compliance with the detailed prescriptive requirements under the FDM should not be used as a shield against responsibility. We suggest that greater emphasis should be placed on enforcement of existing regulations and enhanced investor education and protection.

Specific concerns in the FDM are as follows:

1. With respect to third part compensation, we would support the concept of enhanced transparency. It makes total sense to make sure the client knows exactly what fees are being paid to their advisors and from where. However, we do not understand why the OSC would want to restrict third party compensation and make the client pay these fees out of their own pockets. We are quite confident our clients would not be in favour of this proposal.
2. In regard to the proposal where a client would have to choose a relationship type when they open their account seems very restrictive to us. Under current regulations clients can have self-managed and advisory relationships within one account, which allows the client flexibility and the ability to have all their investments reported to them on one statement. Clients purposely consolidate their investments with one firm and one advisor so as not to receive multiple monthly statements. Under the FDM clients will be forced to have multiple accounts by relationship type. In addition, a number of the introducing firms in the country are charged by their carrying brokers on a per account basis. This is just one of the ways the FDM will increase the costs to the small dealer dramatically.
3. The Fair Dealing Document requirement for all accounts, no matter what the size or purpose, in our opinion is excessive. Clients already complain that we make them

fill out too many account forms as it is. A longer document for every account does not make sense. For example, if a client has in their possession a certificate for a stock and they want to sell and receive a cheque, will we need to do a Fair Dealing Document when no real relationship will exist. For small less active investors there needs to be a shorter form that can be filled out with ease. If this is not the case then firms will be forced to refuse to do business with the smaller investor because it will be too costly to spend the time with them. In effect this model will make it impossible for the middle-income investor to find an advisor willing to work for them. And in many cases these are the unsophisticated investors that need advice the most.

4. The requirement of having every client view an educational video before they open an account is a nice idea but impractical. The majority of clients will not want to spend the time watching it. We are certainly willing to make a CD or videotape available to all clients to watch at their convenience, but the reality is that most will not watch them.
5. The recommendation of a standardized information sheet regarding the type of security or investing in general be given to new clients is no problem. It can be provided in the New Account Opening Package where they receive all other required material. However, just because it is provided is no guarantee that the client will read it.

### **Costs**

Considering all of the above, one of our major concerns is that to fully implement the FDM would be extremely costly, costs that would be at least to some extent passed on to our clients. This cost burden also would not necessarily be less for the smaller dealer, in fact if these are primarily fixed costs the burden could be excessive. If the small dealer is not viable because of the extra costs then there will not be local dealers available to raise capital for small local firms to grow and prosper. We feel that an unintended consequence of the FDM will be the decreased profitability of the local investment dealer and therefore less capital raised for smaller businesses. We do not feel the restriction of capital markets in Canada is a benefit for anyone.

We very much 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.

Please do not hesitate to contact me to discuss any of the above further.

Sincerely,  
Bieber Securities Inc.

Deborah Metcalfe, B.Comm(Hons) CMA, CIM, FCSI  
Chief Financial Officer

c.c. Mr. Donald Murray, Chair Manitoba Securities Commission