

August 11, 2004

Mr. David Brown, Chairman
Ontario Securities Commission
20 Queen Street West, Suite 1903
Toronto ON
M5H 3S8

Dear Mr. Brown;

Re: OSC Staff Notice 31-712 – Mutual Fund Dealers Arrangements

The above Staff Notice sets out the views and position of the OSC with respect to certain business arrangements between mutual fund dealers and investment dealers that facilitate clients of mutual fund dealers holding non-mutual fund securities in their accounts with the mutual fund dealer.

The Staff Notice advises that *“Certain of these arrangements raise regulatory and investor protection concerns ... accommodating clients’ needs to hold all their securities in one account poses problems for mutual fund dealers since their registration limits the types of investments in which they can trade and for which they can provide advice”* and rightfully it should, where it is applicable.

Cataloguing all of the MFDA dealers with having the above arrangements and allowing their reps to operate in the above manner is incorrect and therefore is off-side. There may be a few dealers, 13 Omnibus Account Arrangements and 3 Joint Service Arrangements out of 193 member firms, which are allowing such arrangements, 7%-8%. This is like cataloguing all lawyers as questionable and not trustworthy as a group due to the activities of a few. This type of communication, to the press and public is wrong and not accountable for a government and regulatory communication in cataloguing everyone together. Perhaps it is time that we started naming names and citing exact examples for the public to become aware of, if public awareness is required before discovering examples of industry practices are established and corrective measures explored through proper dialogue. The cataloguing of everyone together in one blanket is unfair and unjustified in damning those who have taken proper cautions and steps and are not endorsing or practicing the activity.

There should be policy guidelines, standards, practices and models established as principles to be followed; which to date have not been done or addressed or inquiries of such being necessary until

now. The principles and standards should be established as guidelines by the regulators or industry encouraged developing the same before crying out that there is a fox in the hen house and that all hen houses have to be closed or categorically condemned. The cost to the consumers and their ability to be served effectively and efficiently will create the same crisis as the mad cow disease within the beef industry.

There are clear differences in types of RRSP portfolios and self-administered plans and they can not all be addressed as one and the same in today's marketplace, the way they could before the deregulatory environment was established. However, these arrangements should be treated as enforcement matters rather than as the seeds of new policy initiatives.

All RRSP plans have to have a trustee to qualify as a registered pension. The trustee can be paid by an institution with singular trustee costs paid by the institution, whether it is a bank (GIC, RRSP) an insurance company (fixed term RRSP), a mutual fund company with a single fund RRSP and others. The same as there are numerous types and qualifications for self administered RRSPs where there can be multiple products of same types or various types and classes held, it is in this category that has expanded and grown therefore becoming more convoluted in a deregulated environment. There are many prudent and efficient reasons why self-administered programs have been expanded and make more sense for consumers to hold all of their RRSP investments. Whether they hold only GIC deposits, or only mutual funds, or only securities, or a combination of the above needs to be clarified, without one industry or licensed group of people saying that they are better than others, as is reflected in your memo. Inferring that the investment securities people are the only ones qualified, which is not, I am sure, the intention.

Self-administered plans may need to be categorically separated in accordance to the types of investments the plan trustee holds on behalf of the investor. Who or to whom they get direction to the class of assets that the plan holds, e.g. there are self-administered plans that only hold GICs, there are plans that only hold mutual funds, or fixed term investments, or individual qualified stock or securities. There are plans that are controlled by dealers that only allow purchases in fixed-term GICs, mutual funds, some fixed term but limited. Those plans have a far different cost of administration than a plan that has active trading of fixed term and securities of various types; they also do not hold the same risk as one that holds securities with regular trading. This is no different to other pension plans, including CPP, which had losses and return differential showing up. The consumer when establishing an RRSP program needs the accountability, securities and the assurances of the variables, that can and will take place in the future. What risks that are apparent to capital losses.

There are accountable reasons why catalogue reporting of various holdings might want to be kept, such as proper "know your client" risk monitoring.

Yes there are a number of variances that all have a risk impact to account and measure against the consumers' risk and their returns. There are too many variables to mention here. I am prepared to outline on a separate paper, the whole variable and risk factor that not only impacts on the investment return but the capital loss risks and/or manipulation that is not beneficial to the client or investor and their returns. There are many plans that provide accountable returns for the consumer to measure against from the day that they started investing and depositing in the plan, compared to those that only show a portfolio annual return, with many lumped considerations in between. The investor does not get a full measurement of accountable result measurement over the time period for which they started to invest in RRSPs. This is not correct and should be addressed.

Another example is the amount of monies that are held in short-term or non-allocated contributions within the plan, that take away from the long term results of the investment portfolio that holds the plan's assets. Many of these short term unallocated assets within self-administered plans are leveraged out for plan trustees, administrators and investment dealer benefits at the expense of the investor. All of these situations should be addressed if the regulatory bodies are concerned about proper growth and asset accountability for the consumer RRSP programs.

Many of the problems happening today are the result of the various products being heaped together by financial institutions, product manufacturers and their distribution models. They were completely separate and clearly identified by regulatory standards before the deregulation environment occurred. It has been the lack of the regulatory environment or governments responsible for the various licensing, of the sale of financial products; to look at the impact of deregulatory structure within all distribution to the end user and/or the consumer.

Everyone looking for a marketing edge competing for the consumer RRSP dollars have held out uncontrolled and supervised standards. An example is the investment dealers advertising that there are no fees with their self-administered plan. In fact, on the back of the entire trustee indenture of the RRSP forms, which can be changed in future, the trustee is entitled to a fee and the consumer acknowledges such upon opening an account. It is not clearly identified that those fees are being picked up and paid for by the financial institution or more aptly the sales person or advisor. Often time the financial institution or the trustee is not made aware of such arrangements. Therefore, with changes, such as the sales person no longer being there, the trustee has the right, or the institution has the right to charge those fees and collect them when sales person no longer pays or offsets them. Unless things are properly identified, structured and all players are on-side knowing the consumers' expectations of no fees, disclosure going forward has resulted of culture changes, (i.e. salesperson leaves – dealership is sold) do not result in trustee fees being passed back to consumer for those trustees' costs. Lack of standards being followed and laid down by the regulatory bodies and/or association to protect the consumer against practices of various forms are issues that need to be raised beyond the mutual fund industry.

The RRSP marketplace has been there long before the banks and investment dealers became involved; from 1974-75. The primary drivers before that time for the consumer were knowledgeable advisors like me supported by some life insurance companies and mutual fund companies like Investors Syndicate and AGF. Involvement goes back to the 1960s and early 1970s when RRSP programs and investments were invisible and not marketed openly the way that they are today. There were many people who have set up programs and achieved great security and independence as a result of their advisor and institute, advice which is now called financial planning. The banks and investment dealers did not acknowledge and in fact were deterrents to people who wanted to invest in RRSPs through discouragement rather than endorsement at the time. The issues today are driven by Investment Dealers Association and their dealers, along with the banks, by developing and marketing one stop "do it all" as the total solution to financial planning without particularly giving easy to follow accountable reporting. Defining the variable risks and returns within the various portfolio structures and maximizing their fees and revenues through encouraged trading rather than qualified long term third party managed assets which are controlled and accounted for differently.

I understand the initiation of questions and the need to articulate clear differences between the risks and licensing; however, your solution that Investment Dealers Association be given full control over these accounts is not justifiable and restricts the consumers' choice as to who they

want to do business with. I encourage you to separate the industries, their strengths and weaknesses, with proper guidance and proper standards and practices under the various self-administered programs that exist today. We further encourage that you stop damning an industry based on a few examples, without fully knowing or making yourself aware of the principles that the majority seek to operate under. We want to cooperate and work alongside and contribute to strong standards and ethic practices but need to be given the chance before being executed publicly. We would welcome further dialogue.

Sincerely,

Thomas J. Rice, CLU

P.S. We endorse the response by IFIC to your question as well.

Copied to:

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