IGM Financial

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June 20, 2007

British Columbia Securities Commission
Albert Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marches financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

In care of:

Anne-Marie Beaudoin
Directrice du secrétariat
Autorité des marchés financiers
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John Stevenson
Secretary
Ontario Securities Commission
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Dear Sir and Madam:

Re: Notice and Request for Comment on Proposed National Instrument 31-103, Registration Requirements, Proposed Companion Policy 31-103CP, Registration Requirements, Proposed Amendments to National Instrument 33-109, Registration (Collectively "NI 31-103")

We are pleased to provide comments on behalf of IGM Financial Inc. and its subsidiaries in response to the request for comments by the Canadian Securities Administrators ("CSA") with respect to NI 31-103.

IGM Financial Inc.

IGM Financial Inc. ("IGM") is one of Canada's major financial services companies, and the country's largest manager and distributor of mutual funds and other managed asset products, with over $124 billion in total assets under management. Its activities are carried out principally through Investors Group Inc., Mackenzie Financial Corporation (including MRS Inc.) and Investment Planning Counsel Inc. and their subsidiaries. IGM is a member of the Power Financial Corporation group of companies.

Through its various subsidiaries, IGM is registered in several capacities with all members of the CSA, the Mutual Fund Dealers Association ("MFDA") and the Investment Dealers Association ("IDA"), including the categories of investment counsellor/portfolio manager, mutual fund dealer, investment dealer and limited market dealer.

IGM is therefore very interested in NI 31-103. To that end, IGM employees have participated in a number of policy initiatives and working committees both through the Investment Funds Institute of Canada ("IFIC") and the CSA relating to NI 31-103 and related topics, including the Point of Sale project run by the Joint Forum and the Proposed Relationship Disclosure Document under the Self Regulatory Organizations ("SRO") component of the Client Relationship Model project. We appreciate the willingness of the CSA to meet with industry participants and be responsive to their views.

General Comments

We commend the CSA's efforts to come to an integrated and harmonized approach to the oversight of the securities sector in Canada. In this regard, we support CSA initiatives that would result in an enhanced harmonization of the rules in all jurisdictions.

There are numerous initiatives proceeding simultaneously at the CSA, Joint Forum or SRO level. We would suggest that these initiatives be coordinated in order to avoid duplication or potential inconsistencies that could arise. In particular, the Joint Forum of Market Regulators has recently published its consultation paper on the Proposed Framework 81-406 – Point of Sale Disclosure for Mutual Funds and Segregated Funds. In this letter, we urge the CSA to integrate its work on the Point of Sale project with the work being done by the MFDA and the IDA on the Relationship Disclosure Document due to the significant overlap in the investor experience from these initiatives.

In addition to being supportive of a harmonized approach across Canada, we are also in favor of the principles-based approach described in NI 31-103.

Specific Comments

a. Business Trigger

We support the move to a business trigger for registration. We are, however, concerned that the move can create some uncertainty. We suggest that the CSA provide additional guidance or an enhanced definition, especially concerning the definition of “dealing in securities”.

As currently drafted, financial planners may be caught by the business trigger definition. We do not believe it was the intent of the CSA to regulate financial planners through this definition.

b. Investment Fund Manager

One of the key elements found in NI 31-103 is the new obligation for registration of fund managers. We support this since we believe it will allow the CSA to supervise this function in a more cohesive, direct and comprehensive manner.

We would suggest that the CSA clarify the definition of Investment Fund Manager to ensure that mutual fund trustees are not considered to be Investment Fund Managers. A similar clarification should be made to ensure that the General Partners of Limited Partnerships do not fall under this category where management has been delegated to a separate management company.

c. Conflicts of Interest

We believe that Investment Fund Managers should be excluded from the application of Part 6 of NI 31-103 as long as those conflicts of interest are covered by the rules already in force in National Instrument 81-107 – Independent Review Committees. The Independent Review Committees created under National Instrument 81-107 are in the best position to handle questions relating to conflicts of interest. In our view, duplication of these rules would only serve to create confusion and allow for possible breach of the conflict of interest rules.

d. Ultimate Designated Person and Chief Compliance Officer

We believe that the compliance regime for fund managers needs to be flexible enough to accommodate various business models and support a principles-based approach to compliance which allows registrants to adopt an effective compliance program tailored to their own businesses.

We support the appointment of an Ultimate Designated Person and a Chief Compliance Officer. We agree that the Ultimate Designated Person (section 2.8(1)) should be the person responsible for ensuring that the registered firm has an effective compliance system and that the firm has developed policies and procedures for the discharge of the firm's obligations under securities legislation. The role of the Chief Compliance Officer ("CCO") under section 2.9(1) should be to administer the compliance system rather than just "discharging the registered firm's obligations under securities legislation", as proposed.

The CCO should be a senior position within the firm and we suggest that section 2.9(2) be amended to reflect the view taken by the SEC in the Compliance Plan Rule under the Investment Advisor Act of 1940 ("Compliance Rule") stating that the CCO "**should have a position of sufficient authority within the organization to compel others to adhere to the compliance policies and procedures and…".**

We suggest that the CSA review the current prescribed approach to CCO proficiency and adopt a principles-based approach to proficiency based on the model adopted by the SEC under the Compliance Rule.

e. Mutual Fund Dealers

We suggest that the CSA consider in this rule the ability of registered individuals to incorporate their practice. Most professionals are entitled to incorporate their professional practice to maximize their tax and estate strategies. That is possible without preventing their clients from holding the professional personally responsible for the services rendered. We believe this should also be available to registered individuals of Mutual Fund Dealers.

f. Carrying Dealers

Carrying dealers who act on behalf of introducing dealers should be exempted from the application of Division 1 and Division 2 and section 5.21(1)(h) of Division 5 of Part 5 of NI 31-103 given the absence of direct contact with clients. In our view, the related issuer information is only important to clients with respect to the introducing dealer, and the introducing dealer should be the dealer responsible for carrying out those obligations. As currently drafted, both carrying and introducing dealers will have to meet those obligations.

g. Exempt Market Dealers

We have concerns with the newly created Exempt Market Dealer registration under NI 31-103. Our concerns are threefold.

(i) Educational Requirement

We do not believe that the Canadian Securities Course is the appropriate educational requisite to develop registrant abilities to distribute exempt securities. In many cases, exempt securities, such as principal protected notes, are quite similar to mutual funds. With a compliance system that ensures that registrants are acting appropriately when acting on behalf of the Exempt Market Dealer (also registered as a Mutual Fund Dealer), that dealer is in the best position to correctly evaluate if the registered individual is qualified to distribute a product on its behalf. The dealer would open itself up to review by the CSA and/or the applicable SRO if it failed to properly evaluate its registered individuals. Therefore, we believe that the educational requirements of the MFDA are sufficient to allow exempt securities distribution when approved by the Exempt Market Dealer. We would be supportive of education modules that could be added to the current educational model to specifically cover exempt securities.

(ii) Dual Registration Oversight

We also suggest that a Mutual Fund Dealer that is also registered as an Exempt Market Dealer be subject to the oversight of the MFDA for all its activities, including the exempt market activities. In our view, separation of mutual fund activities and exempt securities activities for oversight purposes is not an efficient or desirable solution. As currently drafted, the dually licensed Mutual Fund and Exempt Market Dealer would have to follow both the MFDA and the NI 31-103 Relationship Disclosure Document obligations, which would result in conflicts. For example, the current MFDA Relationship Disclosure Document proposal does not include Know Your Client information unlike what is proposed at section 5.12(2) for Exempt Market Dealers. Duplication would result in unnecessary costs and administrative burden with no obvious benefit to clients.

(iii) Exempt Securities Definition

We would urge the CSA to adopt a harmonized definition of Exempt Securities to ensure that registration requirements for all individuals distributing the same product will be triggered simultaneously.

h. Solvency

(i) Capital Requirements

We believe the proposed minimum of $100,000 working capital provides for sufficient protection against the insolvency risk of a Fund Manager and acts as a sufficient reserve against incremental expenses that might be incurred should a securities commission intervene in an insolvency situation and decide to appoint an alternate Fund Manager.

We also support the regular reporting of excess working capital as a method of monitoring a Fund Manager's insolvency risk.

The proposal incorporates a calculation of excess working capital calculated based on Generally Accepted Accounting Principles (GAAP) but adjusted for:

1) Current assets not readily convertible into cash (acceptable);

2) Financial Institution Bond deductible (acceptable);

3) Guarantees (acceptable);

4) Unreconciled differences (acceptable);

5) Long term related party debt (desire review); and

6) Market risk (desire review).

It appears that the excess working capital calculations are similar to those applied to other registrants. There are different circumstances to be considered for Fund Managers.

We find that the first four adjustments may be acceptable, however, we do not agree with the adjustments for long term related party debt and market risk as proposed.

We believe treatment of long term related party debt and securities in accordance with GAAP, without any adjustments, for purposes of this calculation is appropriate to achieve the objectives of the capital requirements for a Fund Manager as outlined in the proposal.

A GAAP approach to long term debt and securities is also suggested in the IFIC response to the proposals.

In our discussions with IFIC and regulators, we have indicated that these two adjustments will have a disproportionate and likely unintended impact on certain Fund Managers.

We have outlined below an overview of our concerns. Beyond the overview we are prepared to go into more detail in a confidential discussion with CSA representatives who are drafting these proposals. We feel it is important for these further discussions to take place.

We find the proposed adjustments to excess working capital for long term related party debt and market risk for certain Fund Managers to be very excessive relative to the insolvency risk of the Fund Manager and out of proportion to the objectives of the capital requirements. These proposed adjustments will be inequitable for Fund Managers that have valid business reasons to structure businesses with significant long term related party debt and investments in securities.

The proposed adjustment for long term related party debt does not take into account:

- The nature of the related party (e.g. does the related party qualify as an acceptable institution, acceptable counterparty, acceptable entity or equivalent);
- The credit rating of the related party;
- Any offsetting related party long term assets such as investments in affiliates;

- That the debt subordination alternative constrains the Fund Manager's ability to manage its financial activities and will unnecessarily increase the frequency of the operational interaction between the Fund Manager and regulators which is contrary to the stated intent of the RRP to reduce regulatory burden and increase regulatory efficiency; and/or

- The financial statement capital of the holder of the long term related party debt.

It is important that Fund Managers and their related companies have the flexibility to structure related party debt to optimize their financial performance.

Notwithstanding that we feel the adjustment for long term debt is inappropriate, we would suggest that if such an adjustment is ultimately included, the excess working capital calculation should be amended to allow for further exceptions beyond subordination to the regulator. Further exceptions could include:

- Debt held by a related party that qualifies as an acceptable institution, acceptable counterparty, acceptable entity or equivalent;

- Debt held by a related party with an acceptable credit rating; and

- Debt offset by certain types of related party long term assets.

For example, long term related party debt ultimately held by related parties that would otherwise qualify as a quality counterparty such as an acceptable counterparty as per IDA rules or a counterparty whose debt is rated 'A' or higher from a recognized credit agency, should not be reclassified for purposes of the excess working capital calculation.

The proposed excess working capital calculation also includes an adjustment for market risk. This proposed deduction is to be calculated according to IDA margin rules. In our view, if the adjustment is necessary, rules applicable to a distributor are not completely appropriate for a Fund Manager.

The proposed market risk adjustment does not, in our view, sufficiently take into account the liquidity of the securities, the diversity of the securities portfolio and the Fund Manager's investments in the funds they manage.

We believe that any market risk adjustment should take into account these factors as well as others in order to apply an adjustment that is more appropriate for a fund manager.

The financial statement capital of the Fund Manager could also be taken into consideration. If the financial statement capital is significant then the adjustments for long term related party debt and market risk should not be necessary and GAAP working capital adjusted for the four items we find

acceptable should be sufficient to achieve the objective of the capital requirements for a Fund Manager.

(ii) Insurance

We believe a more principles-based approach is required for insurance. The insurance requirement applicable to Fund Managers should comprise 1) a mandatory requirement to maintain financial institution bond insurance coverage in the minimum amount of $50,000; and 2) an annual requirement of the Fund Manager to consider whether the prescribed minimum is adequate in light of the firm's activities and establish additional amounts if, in their opinion, it is not.

This approach recognizes that management is in the best position to assess the following factors: 1) the risk level of the Fund Manager's nature of operations; 2) insurance coverage availability; and 3) insurance cost (premium and deductible).

The more principles-based approach we suggest has a lower prescribed minimum than is currently proposed. We feel this approach is appropriate as it creates a more flexible regime that will 1) accommodate changes in availability, cost and coverage of insurance over time; and 2) accommodate various structural models under which fund managers operate.

i. Information Sharing

We are concerned about the requirement in Part 8 to share information relating to registered individuals. We believe that this could create legal liability for dealer firms who share such information. Information provided under the proposed Rule would be either softened or presented with enough qualifiers to render it almost useless to the recipient. We suggest that the CSA modify Part 8 to either:

- Make the information available to the CSA. The CSA could then interfere in the transfer of a registrant when it evaluates the situation as warranted; or
- Offer firms a legal protection against lawsuits resulting from the *bona fide* application of Part 8.

j. Client Relationship Model

NI 33-103 introduces a new concept called the Relationship Disclosure Document ("RDD"). We support the transparency that the RDD will bring to the account opening process, but we note that it is being introduced at the same time that a parallel initiative is being undertaken by the Joint Form of Financial Market Regulators on Point of Sale Disclosure for Mutual Funds and Segregated Funds ("POS"). There is a clear overlap between the principles of the RDD and the POS initiatives. As such, we urge the CSA to merge these two initiatives and conduct a full review of all disclosure presently required and provided over the

course of the client-advisor relationship, with the aim of understanding where the gaps are and where duplication can be eliminated.

Conclusion

Thank you again for the opportunity to comment on the Notice and on the proposed NI 31-103, its Policy Statement and the amendment to NI 33-109. If you have any questions on our position, please do not hesitate to contact me.

Yours truly,

IGM FINANCIAL INC.

Murray J. Taylor
Co-President and Chief Executive Officer

/MJT

c.c. Charles R. Sims
Co-President and Chief Executive Officer, IGM Financial Inc.

W. Sian Burgess
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c.c. Joanne De Laurentiis, President & CEO
Investment Funds Institute of Canada

Ralph Hensel, Corporate Secretary & Director –
Policy Manager Issues
Investment Funds Institute of Canada

APPENDIX A

Questions

1. What issues or concerns, if any, would your firm have with the proposed fit and proper and conduct requirements for exempt market dealers? Please explain and provide examples where appropriate.

Answer: See the *Exempt Market Dealer* section of our letter.

2. The British Columbia Securities Commission seeks comments on the relative costs and benefits in British Columbia of harmonizing with the other CSA jurisdictions to create an exempt market dealer category and in doing so, eliminating the registration exemptions for capital-raising transactions and the sale of those securities, referred to in some jurisdictions as “safe securities” (i.e. government guaranteed debt).

Answer: The intent of NI 31-103 is to achieve complete harmonization across all Canadian jurisdictions. We support that intent and don’t believe that the absence of current issues within British Columbia in the Exempt Market Dealers to be a valid reason to justify carving out that province from an otherwise completely harmonized rule.

3. Registration for managers of all types of investment funds (other than private investment clubs) is proposed. Are there managers of funds for which the risks identified are adequately addressed in some other way and therefore registration as a fund manager may not be necessary? If so, please describe the situation.

Answer: No, we do not believe that any Investment Fund Manager should be excluded from the registration as currently proposed.

4. Registration of the UDP and CCO is proposed. As well, we propose that the UDP be the senior officer in charge of the activity carried on by a firm that requires the firm to register. What issues or concerns, if any, would your firm have with these registration requirements? Do you think the registration of the UDP and CCO contributes to or detracts from a firm wide culture of compliance? Please explain.

Answer: We believe that the culture of compliance cultivated by senior and middle management across an organization is more important to the firm wide compliance culture, than mere registration.

5. The Regulation proposes an associate advising representative category for portfolio managers but not for restricted portfolio managers because the restricted portfolio manager category is intended for individuals who have expertise in a specific industry. Is the concept of an associate advising

representative useful in the context of a restricted portfolio manager? If so, why?

Answer: As the position of associate advising representative serves to build the knowledge base of upcoming advising representatives, we believe that the position would be as relevant in the case of restricted portfolio managers. This would allow the CSA to have a history on particular individual and would be useful to evaluate their request for registration as advising representatives in a specific industry.

6. We discussed but have not proposed registration of senior executives and directors (i.e. the mind and management) of a firm. Registration would assist the regulators in being able to deal directly with this group of people rather than indirectly through the firm. Please provide us with comments on what positions in a firm should be considered part of the mind and management and what issues or concerns you or your firm would have with registration of individuals in those positions.

Answer: The registration requirements should be flexible enough to accommodate all business models. We believe that the UDP and CCO registration requirement are sufficient to meet the goals set by NI 31-103 to ensure accountability of the firms through key individuals.

7. The proposed exemption applies to advisers who are actively advising and managing their client's fully-managed accounts. The exemption has not been extended to advisers dealing in securities of their own pooled funds with third parties. If there are circumstances in which you think it would be appropriate to extend the exemption to third parties please describe.

Answer: We have no comment.

8. The Regulation requires dealers, advisers and fund managers to have Financial Institution Bonds. In cases where the owners of the firm also carry out the operations and registerable activity of the firm, usually in small firms, are these bonds prohibitively costly to obtain and will the bonds provide coverage if they are obtained in these situations?

Answer: We have no comment.

9. We propose that some requirements of Division 1 not apply to clients that are accredited investors as defined in *Regulation 45-106 respecting Prospectus and Registration Exemptions*. Is it appropriate to exclude this group, or any other group, of clients from the account opening requirements?

Answer: The content of Division 1 is limited to Know-your-client (s. 5.3), Suitability (s. 5.4) and Leverage Disclosure (s.5.6). Section 5.5 removes the obligation to gather Know-your-client and Suitability information for some of the

accredited investors (another registrant, Canadian Financial Institution, Schedule III Bank, etc), we do not think that the exclusion should be broadened further.

10. What issues or concerns, if any, would your firm have with the proposed relationship disclosure requirements? Is this type of requirement appropriate for some or all types of accredited investors? If so, what information would be useful to have in the relationship disclosure document?

Answer: As mentioned previously, the Relationship Disclosure Document (RDD) must be flexible enough to accommodate various types of delivery of it. That flexibility must also extend to the information contained in it to avoid duplication with other documents available, and provided, to the clients. It is also necessary to have the work being done on Point of Sale disclosure be coordinated with the work being done on RDD.

11. Is the prescribed content for a confirmation the appropriate type of information?

Answer: We believe that the information provided in the trade confirmation document is adequate. We are of the view however that there is a need for harmonization of information provided for on stocks or bond trades. In addition, mutual fund dealers should be allowed to rely on mutual fund companies that provide a trade confirmation if that trade confirmations complies with the proposed rule.

12. The Regulation requires a registered firm to identify and deal with all conflicts. Would a materiality concept be appropriate within the requirement or should that be dealt with at the firm level within the firm's policies?

Answer: We do believe that the concept of materiality relating to conflicts of interest should be enshrined in this Rule. Without this concept actually in the rule, over time, this will be interpreted strictly to mean any and all conflicts which would not be practical.

13. Is our description of the risks of referral arrangements complete and accurate? If not, what is missing?

Answer: We have no comment.

14. One objective of Regulation 45-106 was to have all exemptions in one instrument. As mentioned, we have included the registration exemptions in the Regulation for purposes of obtaining comments on the exemptions that are being proposed under a business trigger. Would you prefer the registration exemptions remain in Regulation 45-106 or be moved into the Regulation?

Answer: We prefer all exemptions remain in Regulation 45-106.

15. Is 120 days sufficient to allow registrants with existing referral arrangements to comply with the Regulation? If not, what length of time is sufficient? Please explain.

Answer: We believe a 365 day transition to be appropriate allowing a complete cycle to take place. Some referral agreements might actually be effective at some specific period of the year, for example in RRSP season.

16. A matter not dealt with in the Regulation but one which relates to registrants and NRD is the annual fee payment date. Comments have been made by some industry participants that a December 31 fee payment date is problematic and that a May 31 fee payment date would be better. Please comment on whether a May 31 or December 31 annual fee payment date is better for your firm.

Answer: We have no preference.