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Re: National Instruments: 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Exemptions,* 33-109 *Registration Information* and Related Policies and Forms (the "Proposed Amendments")

The Investment Industry Association of Canada (the "IIAC" or the "Association") appreciates the opportunity to comment on the Proposed Amendments. The Association supports the elements of the Proposed Amendments that promote a more consistent approach to regulation in respect of registrants that deal with retail investors.

The Proposed Amendments take significant steps in addressing gaps in regulation which have lead to concerns about investor protection and non-level playing field between registrants. There are, however, a number of additional provisions that would advance this objective and create a more consistent and cohesive regulatory framework.

Our specific comments are as follows:

Section 3.10 Exempt Market Dealer – chief compliance officer and chief financial officer

We support the addition of the requirement for a CCO of an EMD to have relevant securities experience. Given the concerns expressed in various reviews undertaken by the ASC, BCSC and OSC in respect of regulatory compliance by EMDs, it is critical that CCOs have sufficient proficiency and experience to deal with issues that arise when such firms are dealing with retail investors.

EMDs often deal with retail investors in the exempt market, which, by its nature, has fewer regulatory safeguards, both in respect of disclosure and dealer oversight. As such, in order to ensure adequate investor protection, it is appropriate that EMD CCOs have 36 months of experience, which is consistent with the requirements for Portfolio Managers and Investment Fund Manager CCOs.

We note that in the Notice and Request for Comments for the Proposed Amendments, at Part 3, paragraph (e), there is an attempt to harmonize the experience component of the proficiency requirement of EMD CCOs with that of Portfolio Managers and Investment Fund Manager CCOs. This was based on compliance reviews of EMD CCOs who lacked relevant experience and therefore did not adequately perform their responsibilities. As a result, in the proposed experience requirements for PM and IFM CCOs, it appears that the CSA expects either:

A) 36 months of relevant securities experience while working at a registered dealer, a registered adviser or an investment fund manager, or

B) provided professional services in the securities industry for 36 months and also worked in a relevant capacity at an investment fund manager for 12 months.

We believe the proposed experience requirements for the EMD CCOs at 3.10(a)(iii) should reflect the expectations in (A) and (B) above.

In respect of proficiency requirements, we believe that in addition to the Canadian Securities Course Exam, the CCO of the EMD be required to take the Exempt Market Products Exam, as this is specific and essential to the business of the EMD. In addition, we believe the PDO Exam does not sufficiently cover the elements necessary to undertake the duties of a CCO. As such, we recommend that the PDO Exam and the Chief Compliance Officers Qualifying Exam (perhaps adjusted to remove the IIROC specific elements) be mandated for EMD CCOs.

CCOs should also be required to maintain their proficiency by obtaining a specific number of Continuing Education credits on a three year cycle, similar to what is detailed in Part III of the IIROC Continuing Education Program in Rule 2900 of the IIROC Rules.

In addition, given the importance of CFOs in ensuring regulatory compliance, they should also be subject to proficiency and experience standards. We believe the appropriate standards should be similar to what is required for IIROC registrants.

Section 7.1(d) Dealer categories

The IIAC strongly supports the restriction of activities that may be undertaken by an EMD. We believe that the Proposed Amendments more appropriately reflects the scope of transactions that entities dealing in the Exempt Market should be able to undertake. Given that EMDs are not subject to the comprehensive and robust regulatory and oversight provisions that govern IIROC members, EMDs that are not also registered in another category which provides an appropriate regulatory framework, such as Portfolio Managers, should not be able to undertake brokerage activities, such as trading listed securities and underwriting securities offerings, particularly where retail investors are involved.

Further, we believe that any distributions to retail investors under prospectus exemptions to retail investors should be conducted through IIROC dealers. Given the shortcomings in suitability and KYC compliance noted in various securities commission reviews, it is clear that retail investors continue to be compromised by the lack of EMD compliance in these areas. If EMDs continue to be permitted to sell securities to retail clients in the exempt market, regulatory oversight should be significantly increased.

Section 8.0.1 General condition to dealer registration requirement exemptions

We support this provision, which appears to prevent regulatory arbitrage and inconsistency within and between registration categories. We question how, and if this provision applies to the ability, or inability of IIROC dealers to set up separate EMDs. Currently we understand that IIROC dealers have not been permitted to create separate EMDs, although we cannot find any explicit prohibition of this activity.

Section 8.5 Trades through or to a registered dealer

We seek clarification as to whether this provision is intended to prevent fees being paid for referrals in a situation where a non-registrant effectively sets up a trade; therefore conducting an activity for which they should be registered, then has a registrant conduct the actual trade. If this is the intent, we support the provision. If not, the purpose should be articulated. In any event the objective of this provision should be clarified.

Section 8.18 International Dealer

This provision appears to allow non-registered foreign institutions to sell foreign and non-foreign exempt products to a Canadian investment dealer purchasing as principal. We do not object to the provision if the intent is to allow foreign institutions to sell securities that are not available in Canada, to Canadian investment dealers and permitted clients. It should not permit non-registered foreign institutions to sell other exempt products to Canadian clients that are not investment dealers purchasing as principal.

The exemption appears to allow foreign dealers with an office in Canada to provide advising services to clients outside Canada. This should not be permitted without registration. If a foreign dealer operating in Canada is conducting their primary securities business outside the specific exemptions, it may have a negative impact on the reputation of the Canadian securities industry if the firm is not acting in accordance with the safeguards provided in Canadian regulation that applies to registrants.

Section 11.9 Registrant acquiring a registered firm's securities

Further to our January 16, 2013 correspondence on this issue, we believe that for IIROC dealers, this section represents unnecessary and costly duplication regulation. Currently firms are required to notify and obtain approval from IIROC for changes in ownership representing 10% or more of the voting securities of a firm. A separate review by the provincial regulator(s), which in many cases involves a fee, does not serve a regulatory purpose and merely adds delays and costs to these often ordinary course transactions.

As a minimum, IIROC Dealers should be exempted from any securities commission fees as IIROC Dealers already pay IIROC for oversight, including significant shareholding change review.

If the requirement for filing with the provincial regulators remains, we propose that rather than requiring that Notices must be filed with the principal regulator of the acquirer and the target registered firm, the filing should be only with the principal regulator of the target registered firm, which should in turn coordinate the review with other relevant regulators.

We note that the share acquisitions that are subject to the notice requirement, are restricted to an initial acquisition of a direct or indirect ownership interest, beneficial or otherwise, in 10% or more of the voting securities of a firm registered in Canada or in any foreign jurisdiction. We therefore propose the repeal of certain exceptions to the notice requirement, in both sections 11.9 and 11.10 of the Rule, considering that these exceptions would no longer be relevant or required.

Section 12.1 Capital Requirements

To the extent that EMDs are permitted to undertake financings that are underwritten by the firm, such as bought deals, the firms should be required to have capital requirements consistent with IIROC requirements for such underwritings.

Section 13.4 Identifying and responding to conflicts of interest

In order to prevent over-reporting of matters involving Outside Business Activities, we suggest that the disclosure be confined to situations where the registrant is actively involved in the activity. As such, we recommend the provision requiring disclosure exclude "passive investments" as below. It should be noted that this is consistent with US regulation in respect of Outside Business Activities.

> "Required disclosure includes any employment and business activities outside the registrant's sponsoring firm, *excluding passive investments*, and all officer or director positions and any other equivalent positions held, as well as positions of influence, whether the registrant receives compensation or not."

Thank you for considering our comments. If you have any questions please do not hesitate to contact me.

Yours sincerely,

Susan Copland