September 30, 2016

Alberta Securities Commission
Authorité des marches financiers
British Colombia Securities Commission
The Manitoba Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Nova Scotia Securities Commission
Ontario Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan

Josée Turcotte, Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8

Me Anne-Marie Beaudoin, Corporate Secretary
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Delivery via email to: comments@osc.gov.on.ca and consultation-en-cours@lautorite.qc.ca

Dear Sirs and Madams,

Re: CSA Staff Consultation Paper 33-404 – Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives towards their Clients

I am making this submission on behalf of Tri View Capital Ltd. ("TriView") in my capacity as President, CEO, UDP, and CCO. TriView is an Exempt Market Dealer registered in British Colombia, Alberta, Saskatchewan, Manitoba, and Ontario. We thank the individuals and authorities named above for reading and considering our comments towards the consultation paper. We are always eager to work towards continually improving our industry and better serving our clients.

Overall, TriView is concerned the proposed changes will create an environment where clients will have unrealistic expectations of their representatives, and representatives will not be able to perform their required duties. Furthermore, we feel it is would be premature to be making these changes given the

recent implementation of CRM2 and changes to National Instrument 45-106 *Prospectus Registration Exemptions*. We have elected to answer the questions outlined below.

Response to Consultation Questions

4. Do all registrants have the proficiency to understand their client's basic tax position? Would requiring collection of this information raise any issues or challenges for registrants or clients?

We do not feel the majority of registrants possess this proficiency. The Income Tax Act is a complex and lengthy document, making it difficult for individuals who are not experts to provide even basic advice.

We feel it would be more prudent for clients to obtain tax advice from professionals who have registration in that area. Dealing Representatives should provide advise on the area on which they are experts, the Exempt Market, and advise clients to seek professional advice on other aspects of their financial portfolio elsewhere. Expecting representatives to provide this type of advise could result in incorrect information being provided to clients, which would be contrary to the intent of this proposed reform.

7. Is this general approach to regulating how representatives should meet their KYP obligations optimal? If not, what alternative would you recommend?

While we agree with the general premise representatives must match product knowledge with KYC information about the client to determine suitability, we feel it would be a regulatory burden to require proficiency for every product the firm offers. Not only is KYP time consuming, but it is also difficult when EMDs are constantly adding and removing products from their approved product lists. EMDs are constantly assessing updates from issuers on their products to determine how the products are serving clients, so changes to the firm's approved product list does occur frequently. We believe clients like the opportunity to invest locally to help their local community as well as monitor investments. Canada is a large nation with multiple regulators based on the needs of the people living coast to coast to coast. By offering variety, it provides investors better choice and understanding of local investment opportunities.

Instead, we recommend maintaining the current requirement of proficiency for every product a representative sells. Representatives can and should still maintain a high level understanding of every product offered by an EMD, but should only need to be proficient in the products they choose to sell.

17. Will there be challenges in complying with the requirement to ensure that a purchase, sale, hold or exchange of a product is the "most likely" to achieve the client's investment needs and objectives?

Clients must always be placed into suitable investments based on analysis from their representative and review from an EMD. However, some aspects of the proposed targeted reforms will prove difficult to carry out.

For example, in regards to product suitability selection, it is unreasonable to expect representatives to be experts not only in every product on the firm's approved list, but also other securities held by the client or those the client asks about. Not only is this requirement incredibly time consuming, the nature of the exempt market makes this task nearly impossible. Unlike public securities, there are limited resources for representatives to research products that are not on the firm's approved product list. Most issuers have limited documents that are publicly available for review, and may not respond to requests for information from a representative.

In regards to basic financial suitability, representatives are not necessarily experts in all areas of financial planning. Clients may have an expectation gap where they assume that receiving this type of advice means the representative is qualified to provide it, when in fact the representative may not have any additional training or capabilities of doing so. We would recommend clients speak to different experts for the various components of their financial portfolio.

20. Will the requirement to perform a suitability analysis at least once every 12 months raise challenges for specific registrant categories or business models? For example, a client may only have a transactional relationship with a firm. In such cases, what would be a reasonable approach to determining whether a firm should perform ongoing suitability assessments?

Given the illiquidity of most exempt products, we do not feel it is necessary to perform a suitability assessment every 12 months unless there is a material reason to do so. We agree that a suitability assessment should take place after a change in representative or firm, material changes to the KYC, a significant market event, or material change to the risk profile of an issuer held by the client.

28. To what extent should the CSA explicitly heighten the proficiency requirements set out under Canadian securities legislation?

We are in favour of implementing the suggestions from these proposed targeted reforms. Specifically, the firm agrees with the idea of developing continuing educational requirements for representatives. The firm feels the Private Capital Markets Association ("PCMA") would have the knowledge and experience to work with the CSA in developing what those requirements should specifically entail.

29. Should any heightening of the proficiency requirements for representatives be accompanied by a heightening of the proficiency requirements for CCOs and UDPs?

The firm would be in favour of increased requirements for CCOs and UDPs. The current requirements provide a very high level overview of the information requires for these positions. Both positions play a critical role in protecting not only the firm, but also in conducting due diligence of products to ensure they align with the needs of investors. Increased proficiency requirements would ensure that only people who are qualified to perform these duties could hold those positions. We stress that proficiency is not only education but experience. It should also be noted that EMDs in good standing with strong policies and procedures should be recognized for ongoing best practices. Similar to Canada Revenue Agency (CRA) policies, regulators should focus more on chronic, non compliant EMDs and spot audit good standing EMDs to ensure heightened proficiency and policies are ongoing in any firm.

30. Will more strictly regulating titles raise any issues or challenges for registrants or clients?

We agree with the general idea titles should not be misleading to clients. However, we do not feel it is appropriate to provide a blanket title that all representatives must use when facing clients. Each firm has a different approach on how they would like to market their representatives, and using a blanket approach would limit their ability to do so.

Instead, we would recommend firms develop their own policies regarding which titles are acceptable for representatives to use.

31. Do you prefer any of the proposed alternatives or do you have another suggestion, other than the status quo, to address the concern with client confusion around representatives' roles and responsibilities?

While we do not believe titles should be regulated to this extent, between the three options provided we prefer the third option of using the individual category of registration. As explained in question 30, we would prefer firms are given the discretion to develop policies regarding title use depending on their unique circumstances. Titles are used to denote representatives with more experience, hierarchy and perhaps increased responsibility within the firm.

36. Please indicate whether a regulatory best interest standard would be required or beneficial, over and above the proposed targeted reforms, to address the identified regulatory concerns.

We support the position of representatives acting in the best interest of their clients. However, we are of the view a regulatory best interest standard would not achieve the intended outcomes. We also have concerns on how the best interest standard would impact the wide range of businesses found within the financial industry. Regulators should be focused on fraud and misleading information that may take

advantage of uninformed investors. Regulators cannot protect investors from loss but should focus on education and holding registrants and issuers accountable for misinformation and lack of suitability review.

The proposed targeted reforms are addressed to specific issues in the financial industry, whereas a regulatory best interest standard is broad and aspirational. We agree with many of the comments put forth by the British Colombia Securities Commission ("BCSC") regarding how the implementation of such a standard may have the opposite of the intended effects. These consequences could include an increased expectation gap between representatives and clients, and creating legal uncertainty due to lack of clarity.

We feel some of the targeted reforms would better address the concerns of the securities commissions. Furthermore, the effects of new legislation such as CRM2 and amendments to NI 45-106 have not yet been evaluated. It would be premature to introduce such broad sweeping reforms before reviewing the effectiveness of these items.

41. What challenges and opportunities could registrants face in operationalizing: proposed targeted reforms? A regulatory best interest standard?

Many of the proposed targeted reforms would be difficult, if not impossible, to operationalize. For example, the requirement for representatives to understand the basic tax position of their clients would require extensive training due to the complex nature of taxation; even understanding taxes on a basic level is complex. Furthermore, many clients may not want to disclose the necessary information for a representative to make an accurate assessment. This scenario is particularly prevalent with high net-worth clients, who may only want to disclose the minimum amount of required information due to privacy concerns. Generally speaking, most of the targeted reforms could be addressed in ways more congruent with the realities of the financial industry.

Implementing a regulatory best interest standard would dramatically alter how players in the exempt market conduct business. As pointed out by the BCSC, this would be particularly onerous for registrants that sell a limited range of products, or are affiliated with businesses that create the investment products they sell. That is not to say there are not issues that arise as the result of these type of business models, but we feel those could be addressed using specific targeted reforms rather than a regulatory best interest standard. We feel this is particularly important given the current business environment.

45. Are there other specific situations that should be identified where disclosure could be used as the primary tool by firms in responding to certain conflicts of interests?

There are many cases where clients should be able to make an informed decision based on disclosure. For example, when a representative is dually licensed in the exempt market and insurance industry, this should be disclosed to the client but is not a conflict that is material enough to require avoidance. Another example could be additional fees a represented receives (i.e., backend participation in a product); investors should be made aware but because it aligns with the aims of investors, it does not need to be avoided altogether. These are just a couple examples where disclosure should be an adequate method of managing conflicts of interest. However, we recognize that in instances that are specifically contrary to the interests of the client, then disclosure may not be an appropriate method to employ.

49. Are specific prohibitions and limitations on sales practices, such as those found in NI 81-105, appropriate for products outside of the mutual fund context? Is guidance in this area sufficient?

The Exempt Market has a context that varies greatly from that of mutual funds. While we agree that certain aspects of sales practices could be limited, we do not feel the mutual fund model would work well in this industry. We would recommend further consultation on this area so that regulation can be crafted specifically to the needs of this industry.

56. Should additional guidance be provided in respect of risk profiles?

We are not opposed to further guidance in regards to risk profiles. We would add that although all exempt product is considered to be high risk, there is clearly varying degrees of risk between products. For example, factors that may make a product higher risk than others would include lack of liquidity, a lengthy holding period prior to exit, high growth, and risky business models. We would encourage some consideration of the degree of risk for various products within respect to risk profiles.

66. Do you believe that the Standard of Care is inconsistent with any current element of securities legislation? If so, please explain.

Although it is clear the intent of a Standard of Care would not be to impose a fiduciary responsibility, clients may be unclear on that distinction. This could increase the expectation gap between clients and their representatives where they would have unrealistic expectation on the conduct their representative would be required to demonstrate.

We thank the CSA for the opportunity to provide input towards this proposed consultation paper. Should you wish to clarify the points we made, please contact the undersigned.

Sincerely,

Craig Burrows, ICD.D
President, UDP, CCO, CEO