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COMMENT SUBMISSION: CSA Proposed Amendments to NI 31-103

September 12, 2018

The Secretary
Ontario Securities Commission
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Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

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Background

My name is Jamie Robb. I have been licensed under an MFDA dealer in the investment industry since 1999 (with Worldsource Financial Management since 2005). As such, I have been a market participant for going on 20 years now. Over that time, I have dedicated myself to continuing education and professional development in order to provide my clientele with the best overall financial planning and wealth management advice that I am capable of. At this point in my career, I am proud to consider myself one of the more educated, experienced and dedicated advisors out there.

In an effort to continue to enhance the service level and overall value I deliver to my clients, I have begun to use a well respected ICPM (Investment Counsellor / Portfolio Manager) to assist in my client's overall wealth management in recent years. As these relationships are structured under a Referral Arrangement, some of the draft wording for proposed changes to NI 31-103 were very concerning to me.

Therefore, I wanted to take this opportunity to provide my comments and, hopefully, to help the CSA understand how the amendments, if enacted as proposed, would prove very damaging to my practice and ultimately, my clients.

I do understand that there are certain aspects of how some Referral Arrangements have been used that are concerning to the CSA (such as payment of large referral fees to non-registrants), but I would submit that the use of Referral Arrangements in my practice serves only to enhance the overall service and value received by my clients.

My Understanding of the Proposed Changes to Referral Arrangements - NI 31-103

For clarity, I would like to reiterate my understanding of the proposed amendments to Referral Arrangements in my own words:

1. Referral Arrangements would only be allowed to be made to registrants.
2. The term of a Referral Arrangement would not be allowed to exceed 36 months.
3. Referral Arrangements would not be allowed to:
 - i. Exceed 25% of the total compensation collected by the party the client was referred to.
 - ii. Increase the amount of fees and/or commissions that would otherwise be paid by a client to that registrant for the same product or service.

These proposed amendments would be effective immediately after enactment for new referral arrangements entered into. Existing referral arrangements would have a 3-year time frame to adjust and adhere to the new regime.

My Practice and Use of Referral Arrangements

Before proceeding, please understand that throughout my entire career I have never entered into any referral arrangement that included compensation paid in either direction outside of a referral to an ICPM to manage the investment portfolio of a client.

In order to help illustrate what I believe to be the added value and advantages to my clients of having access to this structure, I would like to provide an example. Please consider the following that would be representative of many clients that I have transitioned from a traditional mutual fund portfolio to an ICPM Referral Arrangement with Guardian Capital Advisors LP (a Discretionary Money Manager):

Existing Mutual Fund Portfolio: \$500,000

Client Cost Structure with Mackenzie Private Wealth Counsel:

• Fund Management Fee:	0.85%
• Fund Administration Fee:	0.15%
• Mackenzie Statement & Reporting Fee:	0.07%
• Jamie Robb's Fee:	<u>1.00%</u>
○ TOTAL CLIENT FEE	2.07%
○ HST @ 13%	<u>0.27%</u>
➤ AFTER TAX / ALL IN CLIENT FEE	2.34%

Client Cost Structure with Guardian Capital Advisors Under Referral Arrangement:

• Guardian Capital Fee:	1.25%*
• Jamie Robb's Fee Added for Planning Services:	<u>0.50%</u>
○ TOTAL CLIENT FEE	1.75%
○ HST @ 13%	<u>0.23%</u>
➤ AFTER TAX / ALL IN CLIENT FEE	1.98%

** Of the 1.25% base Guardian Capital Fee, 35% is paid to me (through my dealer – WFM) as a referral fee – bringing the total fees/compensation paid to Jamie Robb to approximately 0.9375% (1.25% X 35% = 0.4375% + 0.50%) before dealer fees / grid.*

As you can see, the cost savings to the client would amount to approximately 0.36% / year (2.34% - 1.98%) or a reduction of more than 15% (0.36% / 2.34% = 15.38%).

It is important to note that as client assets increase to \$1M and beyond, both Guardian's fee structure and mine are reduced and overall client costs come down significantly.

In addition to the cost savings I am able to deliver using this structure as opposed to traditional fee based mutual fund programs, there are also several other advantages to the client that I have outlined below.

Advantages to My Clients

- *Lower Costs:* As outlined above.
- *Customized Portfolio Management:* Instead of a combination of mutual fund mandates that are agnostic to end client needs, there is access to a much more customizable Investment Policy Statement (IPS) that is better suited and more adaptable to meet individual client needs.

- *More Effective Tax Management:* Investment decisions effecting taxation can be made in light of the specific goals and situation of the individual client, as opposed to a mutual fund scenario where the fund manager is ignorant of and bears no direct concern to individual client circumstances when making trading decisions.
- *Collaborative Approach:* I attend every meeting with my clients and their Portfolio Manager (PM). This collaborative approach works very well. I am able to serve as a bridge between the PM and my clients, thereby ensuring that their needs are being properly understood by the PM. I use a very highly regarded third-party psychometric risk profiling software to get a better overall understanding of my client's risk DNA and this allows me to help them ensure that their true risk tolerance is understood by their PM - as opposed to the mostly 'demographic risk capacity' focused and self-assessed 'risk-tolerance' that is addressed by most standard client questionnaires. I can help my clients understand some of the jargon often used by PMs and act as an interpreter where necessary. Further, I sit with them at the table to make sure that the purpose of the portfolio assets maintains a proper context in the overall financial plan that we have constructed together.
- *Better Risk Management:* The discretionary nature of the ICPM referral structure provides a significant advantage over an advisor traded/managed mutual fund portfolio. This is particularly true in the realm of risk management. The speed to action advantage that the Discretionary ICPM has allows for a much better risk management opportunity. Consider this comparison:

Client with a mutual fund portfolio

- Presume I decide that markets have entered a correction and that it would be prudent to take a much more defensive stance in client portfolios. To accomplish this, I would like to raise cash levels by 10% in portfolios. How do I accomplish this? Well, there are several logistical issues involved including:
 - I need to contact each individual client and receive approval and often a client signature to effect such a change.
 - Since KYC (Know Your Client) risk profiles under the MFDA framework do not allow for asset class 'ranges', this would also require an updated KYC form to be signed off by the client. This would generally require a face to face meeting with the client to discuss how a changing market

environment has led to a situation where a tactical change in asset allocation would be recommended to ensure that their overall risk exposure is maintained within their tolerance for volatility and potential drawdown.

- Prioritization of clients is also a problem, both logistically and in terms of professional ethics. Whose accounts do you address first when there will be a considerable amount of time required to reach and meet with everyone before processing trades for them to accomplish the rebalancing? I have a relatively small clientele (about 85-90 families) and if I tried to manage such an allocation change across mutual fund accounts it would certainly take me 3-5 months to effectively contact, meet with and execute all these transactions. This would lead to a significant timing difference for various accounts and could mean that many are not dealt with before change in the marketplace would dictate a different course of action. Obviously, this would lead to an inefficient transition and could serve as a detriment to some clients' overall performance and fulfillment of their financial plan.

Client under an ICPM Referral Arrangement

If the PM handling the client's account were to come to a decision to raise cash levels as described above, such a risk management decision could be effectively executed across all clients in a single day – within the parameters of the individual client's IPS and the context of their overall strategy.

This removes the logistical problems noted above as well as the ethical issues involved in determining which accounts to handle first. It also gives me the comfort that these types of decisions can be made and enacted while I am out of the office travelling to and visiting clients to review and update their overall plans.

Full Disclosure

Obviously, it should be a primary concern of any regulatory regime that clients know what they are paying and what products and services they are receiving in return. I also understand that this can be one of the areas where regulators could find some potential problems under a referral arrangement structure.

In my case, as a Certified Financial Planner, I have an Engagement Agreement with these clients that clearly outlines that their investment portfolio will be managed under a referral

arrangement with the ICPM. It further discloses what the ICPM charges, what portion of that is paid to me as a referral fee and what additional fee is being added to provide compensation for other comprehensive financial planning services provided such as: General Financial Planning, Retirement Income Planning, Tax Planning, Estate Planning for Tax Minimization and Efficiency of Estate Distribution, etc.

I would suggest that a requirement for fuller and more detailed client disclosure related to use of referral arrangements would be a better solution than to eliminate them as a legitimate business arrangement that, when used properly, can provide an enhanced service and value proposition to the client.

Current Proposals Effect on My Business

I don't think that I would be overstating the case to say that if the CSA were to enact the proposals relating to referral arrangements in their suggested form, it could effectively put me out of business. At this point, about 2/3 of my revenue comes from the referral arrangement that I use as described above. I would have a very hard time going back to all my clients and telling them that a regular mutual fund portfolio is better for them now as I don't believe that to be the case. Therefore, it seems that the ICPM would simply retain the investment business and I would lose all that revenue. Some would suggest that I could simply set up the infrastructure to bill all those clients directly but as a sole practitioner with only as one assistant, that would present a costly and cumbersome undertaking that would certainly frustrate and complicate things unnecessarily for clients. Further, the loss of the referral portion of the revenue stream would mean that the total cost to the client would be much higher if I were to maintain the same level of compensation myself. These additional costs would have to be flowed through to clients in some fashion leading to them bearing a higher cost in the long run.

From my perspective, it would make sense to restrict payments under such referral agreements to registrants that are continuing to provide some form of additional service or value enhancement to the client's overall situation on an ongoing basis.

Personally, I have spent countless hours and many thousands of dollars investing in my education to be in a position to provide my clients the best overall advice I can. In that pursuit, I have earned the following professional designations over the years:

CFP – Certified Financial Planner (Financial Planners Standards Council)

CLU – Chartered Life Underwriter (The Institute for Advanced Financial Education)

CIM – Chartered Investment Manager (Canadian Securities Institute)

RRC – Registered Retirement Consultant (Canadian Institute of Financial Planning)

TEP – Trust and Estate Practitioner (Society of Trust & Estate Practitioners – Canada)

CHFS – Certified Hedge Fund Specialist (The Strategy Institute)

FMA – Financial Management Advisor (Canadian Securities Institute)

FCSI – Fellow of the Canadian Securities Institute (Canadian Securities Institute)

Based on these points above, it is my opinion that the manner in which I have used these ICPM Referral Arrangements in my practice to enhance the overall service and value I deliver to my clients should be considered as a legitimate business structure.

As such, I do hope that the CSA reconsiders some of the limitations suggested and allows for referral fees to be paid on an ongoing basis and allows for more flexibility in the quantum and structure of the referral fees paid – given that certain conditions such as registration of the individual receiving the referral/other fees, the provision on ongoing services and full and transparent disclosure to the client are met.

Thank you for taking the time to read my submission. I truly appreciate your consideration. The career I have built serving my clients over the last 20 years depends on it.

Sincerely,



Jamie Robb, B. Comm. (Hon), CFP, CLU, CIM, RRC, TEP, CHFS, FMA, FCSI
Principal & Senior Wealth Advisor, Fiducia Wealth Management

