30 Eglinton Avenue West, Suite 740
Mississauga ON L5R 3E7
Tel: (905) 279-2727
Website: www.ifbc.ca

September 30, 2016

To:
Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Manitoba Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Nova Scotia Securities Commission
Ontario Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan

Attention:
Josée Turcotte, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto ON M5H 3S8
Email: comments@osc.gov.on.ca

Anne-Marie Beaudoin, Corporate Secretary
Autorité des marchés financiers
800, rue du Square-Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal QC H4Z 1G3
Email: consultation-en-cours@lautorite.qc.ca

Submitted by Email

Dear Sirs/Mesdames:

Re: **CANADIAN SECURITIES ADMINISTRATORS CONSULTATION PAPER 33-404: *PROPOSALS TO ENHANCE THE OBLIGATIONS OF ADVISERS, DEALERS, AND REPRESENTATIVES TOWARD THEIR CLIENTS***

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to comment on the CSA proposals outlined in Consultation Paper 33-404.

Who we are

IFB was established over 30 years ago and is the only professional association dedicated to representing licensed, independent financial advisors. Today, our membership is comprised of approximately 4,000 licensed financial advisors who serve clients and their families in communities across Canada. An important part of the work we do is to advocate on behalf of our members for a well-regulated industry that recognizes the value that independent advice brings to clients of all financial means and communities across Canada. We regularly work with other industry stakeholders to develop coordinated, practical tips and information that advisors in all sectors can access.

IFB supports the professional needs of its members through compliance support, a professional liability insurance program that is comprehensive, leading edge and affordable, and highly-regarded educational events in various locations across Canada several times per year. IFB members subscribe to a voluntary code of conduct which requires them to put the interests of their clients first.

IFB members are individuals, not corporations or firms, who have chosen to operate on a self-employed basis. Our members are not employees or career advisors of an insurance or financial services company. The majority of our members are licensed to provide advice and products related to life and health insurance and/or mutual funds. A significant number provide complementary financial services such as mortgages, exempt products, securities, deposits, general insurance and financial planning. IFB members feel strongly that their ability to access the products and services of a variety of companies, to meet the needs of their clients, sets them apart from those who work under more restrictive employment arrangements.

We note, as we have in the past, that it is already difficult for small, and medium sized, financial service firms to compete with large integrated financial firms, often due to the increasingly high cost of compliance. Illustrative of this, is the number of mergers, acquisitions or exit from the market of smaller firms. As an example, the number of firms regulated by the MFDA has declined from 250 when it was established in 2000, to 95 as of June 30, 2016. By far, the largest mutual fund assets are held by Level 4 firms, with $445B in assets. In comparison, Level 2 and 3 firms hold $29B in aggregate. Many of our members operate or work with these small firms.

Financial inclusion has become an issue of interest to financial regulators internationally, and relates to the ability of firms and households to access financial products and services, given the constraints of costs, time and distance. Pricing and other terms and conditions of financial products and services are relevant factors which can limit access to financial services for certain groups. Canadian regulators must be cognizant of how a lack of personalized advice from smaller, locally based firms, will reduce the overall ability for small investors, and those located in small and rural communities, to achieve their financial goals.

General comments

IFB supports initiatives which contribute to a fair, robust well-regulated market for investors and registrants. We acknowledge and appreciate the level of detail the CSA has provided in its explanatory notes to further explain the proposed regulatory reforms.

We are concerned, however, with the practical implications of some of the targeted reforms, and more specifically, the proposed best interest standard. The lack of agreement on a best interest standard amongst CSA members will create divergent regulatory and legal requirements, based on jurisdiction. Many registrants currently adhere to a consistent set of standards under IIROC and MFDA regulation. Lack of harmonization in financial regulation between jurisdictions will contribute significantly to the complexity and cost for participating firms, advisors and, ultimately, investors. We discuss these concerns in greater detail below.

Many financial firms are investing in technology that may well change how products are made available to the public, and that may impact the sales process. Consumers, and in particular younger people, expect to be able to transact, review account information, and correspond in an increasingly mobile way. Many financial institutions and firms are making these investments in technology to better position themselves to respond to this expectation.

IFB supports a principles-based approach to regulation because it provides the flexibility to adapt to changing market conditions, technological advances, and oversight of new and innovative products. Regulations which are not flexible enough to accommodate both a digitized environment and the more traditional, paper-based one may limit innovation and growth. Today's investor expects to interact with their advisor using multiple platforms, and to do so seamlessly. A principles-based approach defines the expected outcome applicable to all advice/transactions, while allowing flexibility on how this is achieved.

Our specific comments follow, and are limited to issues related to the provision of retail advice from individual advisors.

Conflicts of Interest

IFB supports disclosure and transparency in client relationships, including the proper management of conflicts of interest. Disclosing conflicts of interest to clients is already a standard practice for most financial advisors. Many IFB members are subject to conflict of interest rules and the disclosure requirements, under MFDA Rule 2.1.4. A smaller number would be subject to IIROC Rule 42.2(3). Most provincial insurance regulators also require written disclosure to the client of any actual or potential conflicts of interest, and that this be updated as required. If there is a gap for registrants operating outside of these SROs, then that should be addressed in NI31-103 in order to ensure clients receive similar treatment regardless of the business platform.

The financial advice that a client seeks from an advisor can range from little or no input, to full discretionary account management. Any standard governing conflicts of interest should reflect that advice can be scaled, depending on the needs and wants of the client.

In practical terms, we expect that the enhanced disclosure required by CRM2 related to client accounts, fees, and performance will prompt deeper discussions between clients and advisors, effectively bolstering the disclosures already required, and allowing clients to evaluate their level of satisfaction with the advice and services they have received.

Recently, the CSA announced that it intends to undertake a study to measure and research the impact of the most recent mutual fund Point of Sale changes and changes arising from the CRM2, over the next 3 years. Given the impact full implementation of CRM2 is expected to have on advisory relationships, it

may be prudent for the CSA to consider the results of this study, rather than pursue widespread reforms at this time.

Know Your Client

The KYC process is a fundamental component of establishing suitability. Substantial requirements already exist in the KYC obligations for MFDA and IIROC firms and advisors. The proposal that "registrants be required to ensure the KYC process results in a thorough understanding of the client…" appears to significantly broaden these requirements, beyond the MFDA Rule that refers to gathering "essential facts". Further guidance would be helpful to better understand the CSA's expectations as to how successfully meeting the KYC proposals would be assessed. There needs to be recognition that clients want to have some flexibility in deciding on the amount of detail they must divulge, and perceive its pertinence to their particular advisory relationship.

It is also important to recognize that advisors sometimes deal with clients who do not wish to have a complete risk assessment done, or refuse to provide detailed information, or to respond to repeated attempts by the advisor to contact them. Such circumstances create risk for the advisor. IFB has recommended in past submissions that there should be a regulatory solution which recognizes the responsibility of the client in the advisory relationship.

Q. 4. Most advisors would have some training on basic tax information. The advisor's ability to understand the client's basic tax position is, of course, predicated on the client providing knowledgeable, accurate information to the advisor. We are concerned, however, that the requirement to understand the client's financial circumstances, including the basic features of a client's indebtedness and tax position, is straying into more comprehensive financial planning. As well, some clients could have more complex tax situations, for example if they are non-residents. This proposal would risk advisors acting beyond their proficiency or their license, and increase the possibility of professional liability. Advisors should be encouraged to seek the assistance of qualified experts rather than risk providing incorrect advice.

Q. 5. Consistent with our remarks above, we do not see the need for the CSA to codify a specific KYC form.

Q. 6 and Q 55. KYC forms and risk profiles prepared at account opening, and when updated, should be dated and signed by the client and advisor, with both retaining copies. It may be appropriate under certain circumstances to have the KYC signed by the advisor's supervisor, such as if the client's situation is unusually complex, the client refuses to provide detailed KYC information, or the advisor is inexperienced. Such circumstances, however, could be dealt with through regulatory guidance, rather than a rule.

Know your Product – Representative

We agree that advisors should understand the products they advise on, or recommend to clients. The proposal to expand this to require the advisor to understand every aspect of every product on their firm's approved list is unrealistic, as some firms offer access to a wide array of products. If this requirement was put into place, it could, as Q 12 anticipates, result in firms narrowing their shelves.

Appendix C suggests a scenario where an advisor wants to recommend a product not on the firm's approved product list, and must obtain approval from the firm before proceeding with a purchase or

sale of the security. It is unclear to us under what circumstances such a situation would occur. Further clarification of this would be helpful for us to comment.

As IFB represents individual advisors, not firms, we do not intend to comment on the KYP proposals aimed at firms, other than to observe that the label of mixed/non-proprietary product list is likely to be confusing for consumers. The term "Proprietary" may be less so. In our view, it is important that clients understand if they are dealing with a firm whose product shelf is limited to proprietary products or one that offers a broader selection from a number of competitive companies. As mandated under the CRM rules, this should form part of the Relationship Disclosure documentation.

Suitability

Where appropriate, there should be general alignment of NI31-103 with similar requirements that exist for MFDA and IIROC members. MFDA Rule 2.2.1 codifies the suitability obligation for its members and has often been relied upon in disciplinary hearings to adjudicate misconduct. However, the increased suitability obligations appear to be applicable to all investor accounts, irrespective of the level of service or advice provided. We would argue that not all investors want the kind of comprehensive financial planning advice that this section appears to envision. Some investors will want the broker to execute a trade, with minimal advice. Again, we recommend more flexibility for investors to receive scaled advice.

We are concerned that the requirement to identify a "target rate of return" may inadvertently lead to clients perceiving this as a guaranteed rate of return. Investments serve different purposes in the structure of a portfolio beyond achieving an identified a rate of return. For example, fixed income investments may offer a lower rate of return but provide a safety net in the event of a market downturn.

One of the recognized strengths provided by advisors in their personalized advice is to help clients work toward setting reasonable financial goals, and a structured means of reaching these goals through a disciplined savings strategy. We caution against inadvertently promoting a 'beat the market' attitude, whereby a lower actual rate of return will lead clients to believe their advisor failed to deliver the expected results.

For these reasons, we think that target rates of return should not form part of the suitability obligation, but should be discussed more broadly in the context of the investor's goals for investing, as part of the KYC. Again, the explicit account statement information provided under CRM2 will facilitate conversations between clients and advisors which we expect will include discussions about the overall performance of the account and tracking against goals, and is a more appropriate forum for this to occur.

If fully implemented, the proposed suitability requirements are likely to lead to higher costs for all investor accounts, which in turn will limit access to personalized advice, especially for smaller accounts.

Relationship Disclosure

IFB supports efforts aimed at improving financial literacy and education so clients' gain a better level of knowledge and understanding of financial products. IFB members act as educators when they meet with clients to more fully explain their services and any recommendations.

Any relationship disclosure should be concise and provided in plain language to be meaningful.

We agree that clients should be made aware of the limitations of advice received through proprietary firms, and the implications these limitations have on the personalized service such firms can provide.

Proficiency

IFB strongly supports a common, defined and appropriate level of proficiency to become a registrant, supplemented by a requirement for continuing education. CE should be applicable to anyone providing financial advice, and we welcome the MFDA's more recent move to establish a mandatory CE requirement for mutual fund advisors. IFB supports the delivery of high quality education, delivered in a competitive marketplace.

Titles and Designations

IFB supports meaningful and appropriate use of titles that reflect the registrant's proficiency and license. Significant guidance exists through the MFDA and IIROC, including a requirement for firms to pre-approve the use of an advisor's title. Of course, advisors should not be discouraged from taking steps to broaden their proficiency or undergo training to address a specific area of interest.

We encourage the CSA to apply principles based guidance to assist registrants, rather than attempting to develop a static list of prescribed titles and designations, which would have to apply to a diverse number of situations, and endure over time. This would not preclude the development of more specific guidance to assist firms when adjudicating the appropriateness of a title or designation.

Q. 32. Many IFB members are dually-licensed as securities registrants and as life insurance agents, in order to more comprehensively address the needs of their clients. Both licenses are attained through their provincial regulators, require successful completion of entry level and ongoing proficiency requirements, and are subject to ongoing regulatory oversight. Provided that the 'dual license' shares similar attributes and the pursuit of it does not create a conflict of interest, we see no need for guidance other than to recognize that, to be acceptable, the above tests have been met. Securities and insurance regulators already have jurisdiction to determine if an outside business activity creates a conflict and deny a license if the conflict is material.

Best Interest Duty (BID)

We understand the CSA's concern that consumers may be confused about their advisor's regulatory duty of care, and the desire to address this confusion in a meaningful way. However, we agree with the viewpoint of the BCSC, and other "Jurisdictions with Concerns about a BIS", that the imposition of a best interest standard on all registrants is likely to exacerbate the confusion for clients.

In addition, the potential consequences of introducing a best interest duty in some jurisdictions, but not in others, will increase regulatory disparities between jurisdictions and financial sectors, to the detriment of investors and the entire industry. The result will be increased risk of litigation and confusion for registrants licensed in multiple jurisdictions, and an uneven regulatory standard for investors, based on their geographic location.

As a concept, the 'best interest duty' is loosely defined and not well understood. Investors are likely to equate it with a fiduciary duty, which as presented it is not. We observe that the terms are frequently interchanged in public forums and media coverage. How a BID will impact every day practices, complaint resolution and legal challenges is unknown. It may give consumers a false sense of reliance on the standard of care owed to them, and advisors and firms may become more vulnerable to frivolous claims.

There are other complications around introducing a BID, and some of these more fundamental issues should first be addressed. For example, how would a BID apply to sellers of proprietary products, those in registration categories which restrict the products/services they can advise on, and the structural conflicts inherent in the industry (e.g. related financial institutions which cross-sell between their retail brokerages and investment/lending banking, and their compensation arrangements)?

Q. 35 IFB agrees that a statutory fiduciary duty should apply to registrants who have been granted discretionary authority by the client to manage their investment portfolio.

Many elements of a best interest standard of conduct exist today, as evidenced in insurance and securities legislation, harmonization of practice standards by regulators and SROs, and its history of application in common law. In our view, this provides the flexibility to address particular situations, while not imposing it across all client relationships.

Concluding remarks

IFB supports initiatives aimed at addressing gaps in consumer protection, where such gaps are identified. Investors and registrants must have confidence that the industry is well-regulated and accountable.

Many robust regulations are in place, tailored to the registrant's registration category. Securities regulators, today, permit specialized registration categories, in recognition of the different proficiencies and restrictions associated with advising on certain types of investment products. The targeted reforms make no change to these restrictions, yet they would apply in most instances across all registration categories. We think this will make compliance, particularly for those selling restricted products, like mutual funds, unworkable.

There have been significant improvements to transparency and disclosure brought about by CRM2. IFB believes it would be prudent to actively monitor the success of these changes before imposing more onerous requirements that may not achieve the regulatory outcomes the CSA desires.

Not all investors are novice or vulnerable and many already chafe at the number of disclosures and amount of personal and financial information that is required to be exchanged before they even get to the purchase or sale of an investment.

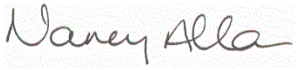
Many of the proposals contained in this consultation paper aim to regulate all aspects of the client/advisor/firm relationship, in an industry characterized by risk and market shifts, and where the outcome cannot always be predicted.

It is our view that if the targeted reforms are fully implemented there will be an even greater number of advisors and firms, particularly smaller ones, who will be forced to exit the market entirely, consolidate or merge. The result will be a smaller number of increasingly large players which will dominate the industry. We fail to see how a less competitive marketplace will contribute to a better consumer outcome.

IFB appreciates the opportunity to provide our comments on these proposals, and looks forward to contributing further as these discussions progress.

In the meantime, should you wish to discuss our comments further or have questions, please contact the undersigned, or Susan Allemang, Director Policy & Regulatory Affairs (email: sallemang@ifbc.ca).

Yours truly,



Nancy Allan
Executive Director
Email: allan@ifbc.ca