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December 21, 2015

To: Capital Markets Regulatory Authority

Submitted by email: comment@ccmr-ocrmc.ca

Dear Sirs/Mesdames:

Subject: Revised Capital Markets Act and Regulations

Independent Financial Brokers of Canada (IFB) is writing to provide our comments on specific content contained in the draft legislation which will affect how our members conduct business.

IFB is a national, not for profit association representing approximately 4,000 licensed financial professionals. Many IFB members are licensed to sell both securities products and life/health insurance, and often in more than one provincial/territorial jurisdiction. They are generally self-employed, operating small to medium sized financial services businesses in their local community. IFB assists in meeting their business needs by providing compliance/regulatory support, comprehensive and affordable professional liability insurance, and continuing education opportunities.

An important part of the work of the Association is to advocate with government and regulators for an efficient, effective regulatory system. Specifically, one that does not place an undue and costly burden on market participants, where there is no corresponding consumer protection need to do so. Regulatory change often places a greater burden on smaller entities, who lack the size, infrastructure and means to respond to such change in a cost-effective and competitive way.

Small financial businesses, like those our members operate, provide valuable advice and personalized service to clients. The importance of saving and preparing for one's financial needs is well recognized in Canada, and has been shown to be more successful when a client works in conjunction with a financial advisor. It is important, then, that any legislative initiatives be considered from a variety of perspectives, so individual Canadians and their families are not deprived of advice from independent advisors.

With this in mind, we have provided comment on two concerns that we addressed in our previous response, dated December 8, 2014, but that have carried forward into the revised legislation. These issues are the definition of a "security", and the lack of information related to the interface between participating and non-participating jurisdictions. In addition, we have identified a new concern, that being an increased requirement for dealing with clients, that appears to contemplate a best interest duty.

Definition of "security"

This draft continues to import a definition of "security" which would permit Individual Variable Insurance Contracts (IVICs or segregated funds) to be captured through regulation, as denoted below in bold:

(f) any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of the proportionate interest in a specified portfolio of assets, other than, **unless otherwise provided by the regulations**, a contract issued by an insurance company governed by the laws of Canada or of a province which provides payment at maturity of an amount not less than three quarters of the premiums paid by the purchaser for a benefit payable at maturity

We reiterate that this provision represents a significant departure from current legislation and does not recognize the differences between securities and insurance products, or the existing oversight of insurance products under insurance legislation and by its regulators. Permitting an insurance contract to be defined as a security under variable circumstances contributes to uncertainty, the potential for duplication, and is contrary to one of the key objectives of the CCMRS, which is to streamline and reduce the regulatory burden for market participants. We recommend then, that the wording in bold be removed.

Lack of information on the interface between participating and non-participating jurisdictions

As noted above, IFB members, like many financial advisors, frequently conduct business in multiple jurisdictions. The current lack of clarity around the interface between participating and non-participating jurisdictions poses the significant concern that our members may face a more fragmented regulatory system than exists today. The success of the Capital Markets Regulatory Authority will rest on meeting its main objective to streamline and reduce the existing regulatory burden.

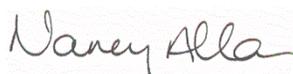
Increased duty of care for advisors

Under current securities legislation registrants, including advisors, are required to deal fairly, honestly and in good faith with their clients. However, Section 55 of the CMA has been amended to include an additional provision to “meet other such standards as may be prescribed.” The intention of this appears to permit moving to a best interest standard in the future. We note that the discussion around a ‘best interest’ standard is ongoing and any direction has not been settled. There are valid reasons, as expressed by IFB and others, for maintaining the current standard. In our view, the language referred to above, will create uncertainty for market participants, and the Authority may be perceived as having adopted a policy position, in advance of the results of the various initiatives underway being received and the attendant public consultation process.

In conclusion, IFB appreciates the opportunity to provide our comments and looks forward to continuing to do so as additional information and drafts become available. In our view, the proposed regulatory framework must demonstrate that it will be more effective and efficient in reaching its objectives than the system currently in place.

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

Yours truly,



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