

December 18, 2015

comment@ccmr-ocrmc.ca

Re: Comments on Draft Initial Regulations for the Cooperative Capital Markets Regulatory System

## Dear Sir or Madam:

Please accept this comment letter in response to the publication of the Draft Initial Regulations for the Cooperative Capital Markets Regulatory System published August 25, 2015 regarding the work to harmonize provincial and territorial capital markets legislation. While the motivations of a cooperative regulator including potential market efficiency and enhanced harmonization are well documented, our Association has a few major concerns that will be detailed here.

## **Prospectus Exemptions**

Page 6 of your publication states that there will be a separate comment period in the near future with a "harmonized set of prospectus exemptions that strike the appropriate balance between access to capital and investor protection." While we look forward to commenting on this future publication, we request that you actively seek out industry feedback in a formal or informal advisory committee before the paper is published, this would help increase the pragmatism od the policy proposal, reducing the amount of responses from industry during the comment period.

Our membership will be active during the future comment period proposed, but our membership has general concerns highlighted in this letter you may want to take into account in your policy formation for this area of the market. In the most general terms, our industry (the exempt market) would like to see not only geographic harmonization, but a registrant category harmonization as well, or fairness in terms of policy creation and implementation and the feeling in industry is that there are more onerous standards on our industry.

One example of such unfairness is the recently published <u>CSA Staff Notice 31-343</u> called *Conflicts of Interest in Distributing Securities of Related or Connected Issuers* that communicated that the regulators have concerns about the related party issuer EMD model and managing conflict of interest within this registrant category. The CSA staff notice 31-343 has new arduous guidelines that may be very expensive and difficult to comply with, that are not applied to any other registrant category. Since other registrant categories as well as banks and insurance companies are deemed able to manage the conflicts associated with distribution of proprietary products, it is unfair to single out the EMD space, especially where the scale of damage that could potential be done to investors with proprietary product bias is much larger in other categories, most notably the banks.

The second example is the treatment of prospectus exempt product as 'high risk' despite the underlying qualities of the security itself. This can be misleading to investors, especially when venture exchange traded securities or other 'high risk' securities are not treated the way exempt product is (in terms of the high risk classification and risk acknowledgement form). As data is collected about our industry and the performance of securities types, this 'high risk' classification will become more and more unsuitable as a globalized classification of exempt products.

## NI 31-103

In terms of the proposed changes to NI 31-103, we would like an addition to the changes outlined in your publication to reflect an ability for Dealing Representatives in the Exempt Market to be compensated in their corporations. For background, NI 31-103 came into being September 28, 2009. A little over a year later, on December 20, 2010 a consultation paper was published named *Consultation on Possible Options for the Incorporation of Individual Representatives of Registered Dealers and Advisors in Canada*. This comment period was open until February 25, 2011. A "Summery of Consultation Responses" was then published June 2011where 63 formal stakeholder wrote in and 59 of them were in favor of adopting a statutory incorporation model for Dealing Representatives. The next steps were for the "working group plans to report back to the Ministers responsible for securities regulation across Canada early this summer on results of the consultation together with recommendations for proceeding." NEMA supports these findings and recommends that NI 31-103 be amended to accommodate for incorporation of individual representatives (Dealing Representatives) as the insurance industry and MFDA currently allows, and IIROC is contemplating in their recent white paper published November 25, 2015 called *The public Policy Implications of Changes to Rules Regarding Proficiency Upgrade Requirements and Directed Commissions on the IIROC Platform*.

## **Concluding Remarks**

In conclusion, we support efforts to increase harmonization and ease of capital raising across jurisdictions. In these efforts, we request cross registrant harmonization as well as cross jurisdictional harmonization, while ideally minimizing the additional costs to our members (in time and resources) when these new policies are implemented, as they are small businesses. We feel there is more work to be done on fairness in terms of the treatment of the exempt market and its registrants, and we hope you find our suggestions helpful. If you have any questions about this submission, please feel free to contact Cora Pettipas at: 403-992-9809.

Regards,

Craig Skauge

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