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Mr. Sean Keenan
Director, Sales Tax Division
Finance Canada
90 Elgin Street
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Dear Mr. Keenan:

Re: Request to Update *De Minimis* Financial Institution Definition in *Excise Tax Act*

I am writing on behalf of the Investment Industry Association of Canada (IIAC), representing 165 registered securities dealers regulated by the Investment Industry Regulatory Organization of Canada (IIROC), to request an amendment to *Excise Tax Act* paragraph 149(1)(b) – the definition of a ‘*de minimis*’ financial institution – for the policy reason of fairness. This is in line with the reasoned and efficient regulatory approach evident in, for example, automatically adjusting provisions in the *Income Tax Act* by the increase in the Consumer Price Index (CPI). Such measures provide for appropriate increases in thresholds, in order to maintain the original intent of the relevant legislative provision. Specifically, we request the paragraph 149(1)(b) threshold be updated from \$10 million to \$15.582 million (the increase from 1990, when the threshold was set, until 2014), with annual increases for 2015 and forward being announced by the Canada Revenue Agency, according to the increase in the CPI calculated by Statistics Canada, rounded to the nearest \$500.

Background

The definition of *de minimis* financial institution was introduced, based on recollection of discussion at the time, to ensure a level playing field between firms typically known as financial institutions and those that competed with these institutions in certain permitted areas. The best-known example is credit cards and credit generally – offered by banks and other parties regulated for prudential and market conduct reasons, but also by non-financial institutions, such as gas stations and department stores. Paragraphs 149(1)(b) and (c) of the *Excise Tax Act*, also addressed at paragraphs 6. and 9. in GST/HST Memorandum 17.7 – *De Minimis* Financial Institutions (February 2013), provide that:

Regarding paragraph 149(1)(b)

“6. Generally, a person is a *de minimis* financial institution throughout a particular taxation year if, in the preceding taxation year, the person's revenue from interest, dividends (other than dividends in kind or patronage dividends), or separate fees or charges for financial services ("financial revenue") exceeds **both** 10% of the person's total revenue **and** \$10 million.” (*emphasis in the original*)

Regarding paragraph 149(1)(c)

“9. Generally, a person is a *de minimis* financial institution throughout a particular taxation year if, in the preceding taxation year, the person's income from interest, or separate fees or charges with respect to credit cards or charge cards issued by the person, or with respect to making advances, lending money, or granting credit exceeds \$1 million.”

While most of our members are listed financial institutions under subparagraph 149(1)(a)(iii) of the *Excise Tax Act*, a small number of firms are *de minimis* financial institutions under paragraph 149(1)(b) and/or (c) of that Act. While regulated as dealers by IIROC, their function is to provide services to dealers and they are referred to as ‘carrying brokers’ within the industry. The services they offer are administrative in nature and their principal business is not to be a trader, dealer, broker or salesperson of financial instruments, but to assist those that are in this business – called ‘introducing brokers’ in the industry. Extracting from an IIROC publication on the subject:

“Subject to IIROC’s rules , an introducing/carrying relationship between Dealer Members allows a firm (the “Introducing Broker” or “Introducer”) to enter the industry and provide full service to their clients without bearing the large start-up and maintenance costs of operating a complete full-service back office. While introducing/carrying relationships have existed in the United States since the mid-1970s, the business in Canada began in earnest in the early 1990s. Carrying relationships are playing an increasingly important role for the independent dealer segment in Canada – over half of the current membership in IIROC is Introducing Brokers.” ([What to Consider When Choosing a Carrying Broker](#), July 2013)

We would like the opportunity to meet with you to discuss our proposal. We know that broader efforts assessing more extensive changes to financial services taxation under the *Excise Tax Act* are and have been under way for some time. However, we believe that the amendment we propose is both long overdue and would restore the appropriate and intended level playing field between listed financial, *de minimis* financial and non-financial institutions. While time before the 2015 Budget is short, we believe that the Department of Finance has demonstrated acceptance of the principle of inflation adjustments and that drafting an amendment would be straightforward as it can borrow from existing wording in the *Income Tax Act*.

We will call shortly to find a convenient time to discuss this with you, however, if you or your team have questions in the meantime, please do not hesitate to contact us.

Yours sincerely,

