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Policy Counsel

Ministry of Consumer Services

Attention: Luisa Tmej, Team Lead

Consumer Policy and Liaison Branch
Consumer and Business Policy Unit
777 Bay Street, 5th Floor
Toronto, ON M7A 2J3

September 27th, 2013

Dear Sirs and Mesdames:

RE: Proposed Regulatory Amendments to the General Regulation (O. Reg. 98/09) of the Payday Loans Act, 2008 (the “Proposed Amendments”)

The Investment Industry Association of Canada (“IIAC” or the “Association”) appreciates the opportunity to comment on the Proposed Amendments. The IIAC is a professional association representing over 165 Canadian securities dealers serving millions of Canadian clients. IIAC members are regulated by the Investment Industry Regulatory Organization of Canada (“IIROC”) and are subject to provincial securities legislation.

The Association supports the intent of the Proposed Amendments, which is to provide greater protections for Ontarians who use payday loan services. However, the IIAC believes that the broad wording of the Proposed Amendments may unintentionally capture activities that are beyond the scope of payday loan transactions.

Under the current Payday Loan Act, 2008 (the “Act”), margin loans were explicitly excluded from the definition of a payday loan. A margin loan allows a client to purchase securities and potentially benefit financially from the use of leverage; the loan is secured against other securities held by the client. The exclusion of margin loans from the Act is appropriate as margin loans are provided by financial institutions that are subject to a robust regulatory regime which has been designed to provide strong consumer protections, including with respect to margin loans. Margin loans are different in substance and intent from payday loans

and are not the type of activity that the Act was designed to regulate. However, the Act captures not only 'payday loans' but also 'loans, other than payday loans, that are prescribed'. The Proposed Amendments add a new definition of loans that are prescribed, which as currently drafted, will capture margin loans, rendering the exemption previously granted to margin loans irrelevant. Currently, the Proposed Amendments only exempt loans secured by real property. The securities used to secure margin loans are considered personal property. Thus margin loans of \$5,000 or less which are related to legitimate securities transactions would be considered payday loans under the Proposed Amendments and margin loans would no longer be exempt from the Act.

Although we appreciate that the Ministry seeks to provide a framework for payday loan providers who have expanded their product offering or delivery channels, there may be unintended consequences to financial institutions that were intentionally excluded from the Act, which may now be captured under the Proposed Amendments.

Institutions regulated by IIROC or the provincial securities commissions have prescriptive regulations that are intended to protect the interests of consumers, including suitability rules that ensure that margin loans are appropriate for the client, specific disclosure requirements regarding the risks associated with margin loans, and restrictions on the amounts of the margin loan. Credit provided in that context would be negatively impacted by the redefined scope of the Proposed Amendments, which we do not believe is in the best interest of consumers.

We would encourage the Ministry to reconsider wording for the Proposed Amendments and to re-instate an exemption for margin loans. If there are any questions regarding the submission, please do not hesitate to contact the undersigned.

Yours sincerely,

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