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Director, Policy

**VIA EMAIL**

Mr. Frank Allen  
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Dear Mr. Allen:

**Re: Financial Planning Consultation**

The Investment Industry Association of Canada (the "IIAC" or "Association") appreciates the opportunity to provide input on the Ontario government's examination of the merits of more tailored regulation of financial planners.

The IIAC is the national association representing the investment industry's position on securities regulation, public policy and industry issues on behalf of our 160 investment dealer member firms employing approximately 22,000 securities professionals in the Canadian securities industry that are regulated by the Investment Industry Regulatory Organization of Canada ("IIROC"). These dealer firms are the key intermediaries in Canadian capital markets, accounting for the vast majority of financial advisory services, securities trading and underwriting in public and private markets for governments and corporations that is fundamental to economic growth.

The IIAC supports the government's initiative to provide some additional clarity and standardization for the provision and supervision of unregulated financial planning individuals. We recognize that there are individuals who hold themselves out as financial planners but may not have the necessary proficiency requirements and appropriate oversight, which negatively impacts their clients and the financial planning industry in general.

For those firms and individuals not subject to regulation by IIROC or a self-regulatory organization (SRO) with similar rules and client recourse mechanisms, some clarity and protection for investors being served by the wide variety of people who call themselves financial planners would be welcome. It is imperative to ensure that those involved in financial planning have the necessary proficiency and adhere

to minimum acceptable standards, thereby increasing confidence in the Canadian capital markets, which would be beneficial for all industry participants and, most importantly, for Canadian investors.

IIROC deems financial planning to be a securities-related activity and thus requires that dealer members supervise this activity. IROC conducts regular business conduct examinations of its members which includes a review of financial planning activities and evidence of appropriate dealer supervision.

IIROC registered representatives (advisors) currently have stringent proficiency and regulatory requirements, including rigorous entrance requirements, training and ongoing continuing education.

We are concerned that these advisors may be captured if a new regulatory regime is introduced and applicable to financial planners without recognizing IIROC's parallel organization. A new regime might, perhaps, mean that IIROC advisors would be required to meet different education requirements, obtain some recognized designation and be subject to oversight from a new and separate SRO. This unnecessary duplication would be extremely burdensome and ineffective from a cost perspective. It would not address the primary concern of adequate investor protection and ensuring that clients are served by appropriate professionals with the requisite skills, knowledge and conduct.

We support good securities regulation and accept the costs that come with it. We are, however, extremely concerned by increasing regulation of IIROC advisors, when data on the nature of infractions by registrants published by IIROC, the Ontario Securities Commission/Canadian Securities Administrators and Ombudsman for Banking Services and Investments, remains in the same very low band. In contrast, CSA data suggest considerable client losses through fraud and unregulated advisors. As such, we would be pleased to work with the Ministry and Ontario Securities Commission to better convey to Ontarians the importance of dealing with regulated advisors

Additionally, if our advisors are subject to such an additional regulatory regime, member firms would have to develop a separate framework of supervision to ensure their advisors comply with any new regulatory requirements. Our members today are increasingly struggling to survive in this market and tell us the cost of compliance has become unsustainable. These costs not only affect member firms, but directly impacts access to affordable investment advice for middle-income Canadians who are in most need of advisory services.

The rise in operating costs over the post-crisis period illustrates the impact of the regulatory burden on the bottom line. Operating costs are up strongly across-the-board in the past six to seven years at all member firms. In the past six years, inflation grew by 12%, in contrast, integrated members' non-salary cost per dollar of revenue almost doubled to 21% and more than tripled to 39% – 61 cents of every revenue dollar – for retail dealers. Adding additional regulation on top of existing IIROC requirements would only increase costs to firms and further jeopardize their viability and the ability to offer options and choice to investing Canadians.

During one of the roundtable sessions hosted by the Ontario government earlier this month, some discussion occurred surrounding the perceived distinction between *financial planning advice* and *product advice* and that today's regulatory focus is on product-based regulation. Furthermore, the

request for comment document issued by the Ontario government stated that regulation is “focused primarily on regulating the sale of the product and not on the planning/advisory service provided.”

While that may have been true years ago, it is no longer the case, especially given the extensive client relationship model (“CRM”) requirements developed by the securities commissions and SROs. CRM is meant to shift the focus of regulation from products to advice, mostly to update the regulations to reflect the current reality in the marketplace. CRM regulates on the basis of the relationships formed between investors and financial services providers, rather than on the basis of the products they buy and sell.

CRM recognizes that people seek advisors not for the primary reason of transaction execution, but in today’s financial markets, advice – including with respect to taxes, estates, retirement and risk management financial – is what most people seek.

This is a move towards a much more holistic approach to advice. Any new requirements that segment out financial planning from the selling of products and regulate them separately would be a step backwards from this more holistic approach.

Advice is the core of any IIROC advisor client relationship. Due to demographic changes, it has become more critical than ever before. When an individual holds him or herself out as a financial planner, but does not have the tested knowledge, proven experience and oversight of IIROC advisors or other regulated parties, he or she should be licensed and regulated. Before extending regulatory changes that target advisors who are already regulated, we strongly encourage ensuring that the advice Canadian investors need remains accessible and affordable.

We fully endorse a regulatory approach that does not add unnecessary and/or duplicate administrative burdens for entities and professionals already subject to supervision via SRO regulation. We support a requirement that any individual using a financial planning title and/or holding themselves out as a financial planner be subject to the jurisdiction of a self-regulatory organization to address existing regulatory gaps. As such, in addition to the existing SROs of the Mutual Fund Dealers Association (MFDA) and IIROC, we suggest that a Financial Planning SRO be created for those individuals who are not currently regulated by an SRO.

In this way, a regulatory framework for financial planning could effectively function within the existing regulatory framework in Canada. This new Financial Planning SRO would have the mandate of supporting professional standards in financial planning and have a role in education, certification, enforcement and oversight of financial planners.

We suggest the relevant organizations work cooperatively to determine the necessary initial and ongoing proficiency requirements and acceptable designations for all individuals who offer financial planning services. This would provide certainty and consistency for clients regardless of whether their advisor is a registrant of the MFDA, IIROC or a Financial Planning SRO. It is also recommended that these organizations jointly determine acceptable definitions of “financial plan” and “financial planner” for further clarity for investors.

We suggest that the previous IIROC draft Proposal Financial Planning Rule<sup>1</sup> be used as a launching point for discussions among the relevant organizations. While there may have been some issues with this original draft, it can be used as a useful outline for the application and purpose of a financial planning rule, the appropriate definitions and the proficiency and supervision requirements that would be deemed acceptable. The IIAC and our members would welcome an opportunity to be part of this group to develop financial planning standards that are acceptable for all industry participants.

We would be more than pleased to meet with you and your staff and discuss this response to the Financial Planning Consultation request.

Yours sincerely,



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<sup>1</sup> ((2008) 31 OSCB 7859).