INVESTMENT INDUSTRY ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

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July 23, 2009

Manager, Market Regulation
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- And -

Mr. Richard Corner
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Investment Industry Regulatory Organization of Canada
121 King Street West, Suite 1600
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RE: Client Relationship Model Proposed Rules

Dear Sirs and Madames:

The Investment Industry Association of Canada (IIAC) is writing on behalf of our membership to express concerns regarding the Client Relationship Model (CRM) proposed Rules and amendments (proposed Rules) as published in the OSC Bulletin on April 24, 2009.

This comment letter has been drafted with the assistance of the IIAC CRM Committee, which consists of numerous members from across Canada, representing a broad cross-section of firms. The industry professionals on this Committee are knowledgeable and experienced in the wealth management business, and many of them have been involved for numerous years in this rule-making exercise.

The IIAC Committee has commented extensively on early versions of the CRM in detailed submissions to the Investment Industry Regulatory Organization of Canada (IIROC) in November 2006, April 2007, January 2008 and May 2008. There have also been a number of meetings with senior IIROC staff where there have been detailed presentations and discussions of industry concerns.

We understand that IIROC staff has developed and revised the proposed Rules based on comments received. However, although the IIAC acknowledges that certain changes have been made to provide flexibility and to respond to consistency issues as among the Canadian Securities Administrators (CSA) and the Mutual Fund Dealers Association (MFDA) proposed CRM rules, we believe that there are still serious deficiencies remaining and further improvements can and need to be made to the proposed Rules to address these concerns and some of the outstanding fundamental issues raised in previous IIAC submissions.

As the IIAC has stated in the past, the members of the IIAC support the core principles under CRM and believe improvements should be made in the areas of account opening documentation; costs, conflicts and compensation transparency; and performance reporting. The IIAC recommends that greater effort be made to achieve consistency in the proposed CRM Rules as between IIROC and MFDA members in order to achieve equal standards of investor protection and a competitive playing field.

Our members' general concerns are outlined below:

Relationship Disclosure Document (RDD)

Our members maintain their view that the revised RDD is still overly onerous and requires the preparation of a lengthy and detailed document which will demand an unreasonable amount of member time and effort to complete and which clients will not likely read. The intended objective of the CRM, to have the client understand the relationship with their adviser, will therefore not be achieved. The current regulatory regime in Canada is already far too detailed and complex with rules that govern the adviser relationship with clients as well as the internal operations of firms. The proposed CRM simply adds to this regulatory burden.

Furthermore, by requiring such specific requirements in the RDD such as a client signature or acknowledgment, the RDD would not be simply a disclosure document but may end up being used against firms in every type of client complaint or litigious situation. Although not the intended purpose of the RDD, the prescriptive, specific requirements which require individual customization depending on the type of account and type of client could lead to this type of use and, as such, we reiterate that an approach more consistent with the MFDA of not requiring a specific document is preferred.

There is also a requirement that every completed RDD must be approved by a partner, director, officer or designated supervisor. The requirement goes on to state that if the RDD is a standardized document, the completed RDD must be approved by head office. The definition of a head office in the RDD has created confusion for members. As such we are seeking clarification as to what is meant by a head office?

The current mandated disclosure outlined under the proposed Rules would result in an intricate and excessively detailed disclosure document. This detail cannot replace comprehensive, dynamic and ongoing discussions that already exist between the adviser and the client, where the adviser reviews the client's investment objectives, suitability and risk tolerance in the context of their relationship. In this relationship, the adviser

must deal honestly and in good faith with his/her clients. The adviser is required to comply with know-your-client and suitability requirements and to observe high standards of ethics and conduct in dealings with their clients. These obligations and responsibilities on the part of the adviser are well-entrenched in the industry today. Existing clients have already been provided with significant disclosure materials on the investment process. Providing this additional information is essentially redundant and hugely costly to member firms and ultimately to clients. Furthermore, existing clients may find it confusing to obtain additional documents about the relationship considering that they may have a long standing relationship with the firm or the adviser and feel that the relationship is being "redefined" for them with the new RDD.

Prescribing a relationship in the detail required by the RDD will not change these principles, nor can it replace the fulsome, consultative process that advisers currently engage in with their clients. This is especially true given that the prescriptive items required to be contained in the RDD will result in a lengthy document, likely to be ignored by the client. Some studies, such as those surrounding the point of sale initiative, have questioned the efficacy of detailed disclosure documents and continue to look for means to ensure investors have the access they want to information on a clear and concise basis.

Further, due to the highly prescriptive nature of the proposed RDD, significant and unnecessary costs will result both in terms of members complying with the strictures of the rule and the related regulatory oversight by IIROC sales compliance staff.

As a result, we would suggest that many of the proposed provisions might be better suited as best practices as opposed to minimum standards mandated in the IIROC Rulebook, especially where the costs of certain provisions will be enormous without any clear benefit to clients.

Consistent Application of IIROC and MFDA CRM Proposed Rules

The IIAC is pleased that the MFDA and IIROC released their proposed Rules simultaneously in this round of requests for comment. However, as in previous submissions to IIROC, the IIAC continues to raise concerns regarding some of the discrepancies between proposed IIROC and MFDA requirements. Such discrepancies create a separate standard of investor protection and impose a heavier cost burden on IIROC member firms.

It is important that both the content of the MFDA's and IIROC's proposed CRM Rules and the implementation process are harmonized, to ensure clients with MFDA firms receive the same protections in terms of mandated services and disclosure as the clients of IIROC firms. If there are differences in the content or the timing of implementation, these differences must be resolved before the proposed Rules are promulgated.

The CSA could play a useful role in promoting uniformity and standardization in the MFDA and IIROC rules related to the CRM. Moreover, a lack of uniformity in the proposed Rules and differences in the timing of implementation create unnecessary inconsistencies between MFDA and IIROC member firms. The regulators have an

obligation to ensure the equity of regulatory treatment among investment dealers and mutual fund dealers, given the substantial burden of regulatory compliance.

Comparison with Relationship Disclosure Information in National Instrument 31-103

There are some fundamental differences between IIROC's proposed Rules and the relationship disclosure information provisions in section 14.2 of proposed NI 31-103. Proposed NI 31-103 no longer requires a relationship disclosure document. Instead, section 14.2 provides a basic list of information items which will be required to be given to clients. This requirement is flexible in how it is met. In fact, the CSA states that they "anticipate that, in many cases, registrants will be able to satisfy this requirement using existing documents." Separate documents, therefore, can collectively, satisfy the information requirements. This is a far different approach than that found in the IIROC proposed Rules which specifically requires a document entitled "Relationship Disclosure".

Further, section 14.2 of NI 31-103 does not require a client signature, acknowledgment or audit trail to evidence the provision of information to the client. The Instrument also does not require partner, director or officer approval or the creation of an audit trail to ensure that the information has been provided to a client.

The requirement for relationship disclosure information in proposed NI 31-103 allows for an exemption for permitted clients, a new subset of the accredited investor category. We would recommend a similar waiver or exception in the IIROC RDD document.

Rules with a common regulatory focus need to be harmonized as much as possible to achieve efficiencies and reduce compliance costs. Regulators should focus their efforts on achieving these harmonized standards as it is not apparent why different standards occur for different registrants. It is imperative that the RDD is consistent and harmonized for all registrants before implementation. Canadian investors should receive the same disclosure across the regulatory spectrum.

Implementation Costs

We believe that the implementation and ongoing costs associated with the CRM will be significant across the industry. It does not appear that IIROC yet fully appreciates these enormous burdens. IIROC's proposal to develop transition plans will not fully alleviate these issues.

The CRM rule proposals, if adopted, will have a considerable impact on the operational aspects of members. In order to comply with audit trail requirements and enhanced supervision requirements, various start-up and ongoing maintenance costs will be expended in areas relating to reporting, systems, data analysis, documentation, operations, supervision and compliance.

Further, there will be operational and supervisory challenges as a result of the new requirements for enhanced cost disclosure and performance reporting. This includes

establishing standards around the cost amounts to be reported and the designing and building of substantial new supervisory systems.

In addition, since the RDD will be mandatory for firms, it is unclear whether decentralized generation and delivery at the branch level will be acceptable or whether such documents will need to be produced and mailed to clients from a centralized area in the same manner as for transaction confirmations and account statements.

The implementation of CRM, particularly the prescriptive rules around the RDD which result in disclosure redundancies, will add significant and unnecessary costs to the industry which are ultimately passed onto clients. These costs are coming at a very difficult time when investors are coping with significant financial losses and trying to rebuild their savings. At the same time, firms, especially smaller ones, are dealing in an uncertain financial environment. It is therefore imperative that IIROC carefully consider the major costs and operational challenges resulting from the implementation of the proposed CRM Rules.

General Comments on the Proposed CRM Rules

Description of the Services *Not* Offered

The proposed Rules outline that the ongoing suitability review and account percentage return information are optional on the part of the firm. However, the proposal mandates that the RDD disclose to clients whether or not the member will provide this information to the client. As stated in previous submissions, our members believe it is inappropriate to require firms to advertise the services that a firm does not offer as opposed to what they do offer. We question the benefit of such a provision and suggest it be removed.

In the alternative, we support the provision, as included in the February 2008 proposed Rules that statements which outline whether or not the provision of suitability reviews or percentage return information will occur, be accompanied by the annual cost of providing such services. We suggest that this be included in a revised Guidance Note.

Incorporation by Reference

The MFDA proposal does not require an RDD and allows for the required disclosure to be disseminated in a variety of documents. This approach is a cost effective way of meeting the disclosure objectives for investors and is the preferred method of delivery for all required relevant disclosure. While incorporation by reference is an improvement over the previous IIROC proposal we still believe that the MFDA approach should be adopted and we request IIROC consider amendments to ensure both proposals are consistent.

Client Signature or Acknowledgment

There remains very little clarification surrounding the suggestion for a client signature or acknowledgment of receipt of information, other than the mention of the possibility of negative confirmation. What will occur in situations where clients refuse or forget to sign

or return documents to the firm? Where a client refuses to sign, does the account need to be closed? During the time it takes to receive the signature from the client, can transactions continue to take place?

It may also be unrealistic to expect existing clients who have an established relationship with their adviser to sign an acknowledgement as many have expressed reluctance in obtaining more documents.

Further, the MFDA CRM proposal does not include a requirement to document that the client has been provided with the required information. Requirements for all securities registrants should be consistent and there is no justification for a different requirement for IIROC members.

Updating the RDD

Member firms need guidance from IIROC on the frequency with which the RDD must be revised and updated. For instance, must a new RDD be sent every time the client informs the firm of a material change? There has been no discussion of this key issue. Further, would a new client signature or acknowledgment be required every time a revised RDD is sent to the client?

Furthermore, the Guidance Note discussed electronic delivery only in general terms and sets out that members must satisfy the requirements in IDA Member Regulation Notice MR-008. The IIAC suggests that as part of the IIROC Rule Re-write, this Notice be revised and updated as it is almost 10 years old and in need of revisions.

Transition Periods

Although the IIAC is generally supportive of the three-year transition period to address challenges dealing with providing the RDD to existing clients, our members wish to ensure that the general transition plan for implementation of the CRM rules is appropriate and well thought out. Members have expressed concern that since the CRM rules have been in development for so long, members will not be given the necessary time for implementation issues including new processes, systems, supervisory and general operational challenges.

As IIROC has stated in its Notice, there will be a number of significant costs incurred by members in order to satisfy the proposed CRM Rules. As such, we recommend at least an 18 month transition period in order to comply with all of the requirements in the proposed Rules. Firms will need time to plan, to ear mark the funding required and to implement and make the necessary technology and system changes.

The IIAC CRM Committee would be pleased to offer their assistance in developing the transition plan.

Notice and Access - For Existing Clients

In order to ensure, as IIROC articulated in its Response to Comments, that industry standards are created "in a way that is consistent with the best interests of both investors and industry participants," we believe that there should be an examination of the principle of notice and access as it relates to existing clients of member firms.

A notice and access provision is different than the concept of an "access equals delivery" model where information is simply made available to clients through a website. Notice and access goes a step further by ensuring that information is effectively brought to the attention of the client.

We appreciate that IIROC has recommended a three-year transition period to address the enormous logistical issues involved in distributing RDDs to existing clients. However, as the IIAC has outlined previously, the repapering of existing client account documentation is a huge burden for all firms, especially for those firms that have hundreds of thousands of clients. The costs of distributing this documentation will ultimately be a cost to clients. Clients will be required to (1) receive more paper; (2) acknowledge it; and (3) ultimately pay for it when they already complain that they receive too many documents. Existing clients would have already received extensive account opening documentation and are experienced in the investment process. Therefore, the furnishing of an RDD and receiving the necessary client signature or acknowledgment from these clients would be unnecessary, expensive and time consuming. This is not in the best interests of the client, as other less intrusive and less costly methods are available. Further, it is important to be cognizant that unwanted paper contributes to environmental costs.

As a result, a notice and access approach is beneficial to both for clients and member firms. Clients would receive the RDD in a timely fashion and, at the same time, costs would remain under control. Further, by employing the principles of notice and access, clients would have easy access to the RDD without worrying at some later date that they have misplaced a paper version that was sent in the mail.

A notice and access approach is currently being developed by the CSA with the assistance of industry participants, as it relates to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (NI 54-101). Under the proposals being contemplated, issuers would be permitted to deliver information circulars and other meeting materials by posting them on a website and sending a notice to beneficial owners. Such delivery would be on an opt-out or implied consent basis, where beneficial owners must request paper if they choose to receive it in that form.

We suggest that a similar approach be taken to the delivery of the RDD to existing clients. As quarterly account statements are required to be sent to all clients, the account statement could include a notice that the RDD is available at a specifically outlined website. Reminders could be included in all future account statements for the following year. As there will be physical changes to account statements with the implementation of CRM, members could include a note on the statement explaining that changes have been made as a result of the proposed Rules. That Note could include an explanation of the

requirement to provide all clients with an RDD and the means to obtain such RDD through the member's website. The link provided would directly access the appropriate RDD, to ensure clients need not search for the RDD from the member firm's homepage.

To avoid the necessity of obtaining client signatures or other acknowledgements from existing clients, which would require enormous time and effort, we would suggest instead that, assuming the member can demonstrate that notice has been provided to clients regarding how and where to access the RDD, the delivery requirements would be met. Obviously, the notice contained in the account statement would advise clients that they may contact their adviser should they wish to receive a paper copy of the RDD.

Detailed Comments on the Proposed CRM Rules

The IIAC is pleased that the drafting of the proposed Rules has been improved and the provisions re-organized to be clearer and more concise. However, we believe there are still some substantive issues that should be addressed.

Customer and Client

The IIAC notes that in the proposed Rules relating to Relationship Disclosure and Conflicts of Interest, the term "client" is used. On the other hand, the proposed amendments to Rules relating to Supervision of Accounts and Minimum Records, the term "customer" is used. We hope that in the course of IIROC's Rule Re-write a consistent term will be applied throughout the Rulebook.

Description of Products and Services

The RDD requires a description of the types of products and services offered by the dealer, however, the degree of detail the description requires is not clearly set out. For example, would it require a description of foreign exchange rates?

In addition, what would occur in a situation where some advisers only offer fee-based products and not commission-based products, but the firm-wide RDD provides a description of both types of accounts? Would the firm be required to develop different RDDs for these advisers?

We would suggest that these issues be discussed in the accompanying Guidance Note that IIROC has drafted.

Description of Approach Used to Assess Client's Investment Suitability and KYC Information

The proposed Rules require a description of the approach used by the member to assess investment suitability, including a description of the process used to assess the client's KYC information, and a statement that the client will be provided with a copy of the KYC information that is obtained.

The difficulty with such a requirement, especially where the firm uses a customized document, is that every adviser engages in this process differently. The process to assess the client may occur through a detailed interview, a questionnaire or via the account opening document. Even in a face-to-face interview, no two advisers will pose the exact same questions. Therefore, how is such a description possible?

As a result, we question the utility of this requirement and, in the alternative, suggest further discussion in the Guidance Note.

Suitability Reviews

Any Investments in the Customer's Account

The proposed Rules dealing with suitability have been substantially modified from the previous versions. Proposed Rule 1300.1(p) states "each Dealer Member shall use due diligence to ensure that the acceptance of any order from a customer is suitable for such customer based on factors including the customer's financial situation, investment knowledge, investment objectives, risk tolerance *and any investments in the customer's account.*" Including this last phrase significantly broadens the current suitability review requirement and makes this provision an unrealistic and unworkable standard, essentially requiring a portfolio review for every trade. This language is further re-iterated in 1300.1(s). No guidance or explanation for this revision has been provided in the Guidance Note.

In the alternative, we would suggest that a suitability review for the entire account be implemented as a best practice. Moving to a best practice would not mean that advisers would not look at the client's suitability from the perspective of the account as a whole. In fact, simply because the current rules are based on a suitability review when an order is accepted does not mean that the adviser looks at that order in isolation. To accurately determine if a particular transaction is appropriate, the adviser examines the account as a whole and reviews client holdings in light of the client's financial situation, investment knowledge, investment objectives and risk tolerance.

Trigger Events

The proposed Rules introduce the concept of suitability reviews based on prescribed triggers. Currently, Rule 1300.1(p) requires that a member use due diligence to ensure that the acceptance of any order from a client is suitable. The proposed Rules would not only require a suitability review when a transaction occurs but also when one of the trigger events occurs.

However, as the IIAC has previously pointed out, our members believe this is also a significant change to the current suitability requirements and, as such, will result in substantial modification to the operations of member firms.

For example, in order to ensure that a suitability review is conducted when one of the triggers occur, members will need to have systems designed to monitor these triggers and ensure the suitability review did in fact occur and was documented in some fashion.

Members have stated that there are continuous updates to clients' KYC information that would constantly trigger a suitability review. The operational and tracking systems that would be required will be a considerable cost for firms. As a result, the IIAC continues to suggest that the trigger suitability requirements be implemented as a best practice recommendation rather than a strict regulatory requirement. This suggestion made previously by IIAC members was not addressed in the latest Notice or Response to Comments issued by IIROC.

With respect to the actual provisions contained in the proposed Rules, the IIAC has concerns with the specific drafting of some of these provisions, specifically the suitability triggers in Rule 1300.1(r).

Firstly, the language states that the member is required to "ensure that the positions held in a customer's account" are suitable. In a non-discretionary account an adviser can recommend that a client change the holdings in his or her account if they appear no longer suitable, either due to a change in the client's circumstances or a change in the characteristics of the securities previously purchased. However, beyond making such a recommendation, there is nothing that the adviser can do to "ensure" that positions in an account remain "suitable" for the client.

Secondly, as noted in IIROC's Response to Comments, one commenter stated that a member cannot "ensure" that positions transferred in are suitable for the client. The commenter stated that the member can only ensure that a review is conducted and the client is provided with advice. IIROC responded that it agreed with the comment and "revised the proposed rule to clarify that the responsibility of the Dealer Member is to use due diligence to ensure that investments are suitable". However, the language in Rule 1300.1(r) remains unchanged and would still technically require ensuring that positions transferred in are suitable. Consequently, the IIAC is unclear how the proposal has been revised and requests clarification.

Further, in practice, any competent adviser will take the opportunity to review positions transferred in and recommend appropriate changes to the client. Is it necessary to enshrine this industry best practice as a rule?

We do appreciate that the draft Guidance Note outlines a "reasonable time" standard for the timing of the suitability review, such as where there has been a transfer in of a block of accounts to a new adviser.

The IIAC is also pleased that the draft Guidance Note clarifies that IIROC would not expect firms to perform suitability reviews where a change in client information is not material or the firm is not made aware of the change in circumstances. However, we suggest that examples be provided regarding what is a "material change."

For example, "know-your-client" information includes income, net worth, employment, investment objectives, etc. The proposed Rule would require a new suitability review every time any component of this information is changed as it is likely seen as "material". As a result, if the client's income increased from $60,000 to $70,000 and the KYC was amended to reflect this change, would a suitability determination be required? The IIAC

would suggest some guidance be provided as to changes that IIROC would view as minor and changes that would be considered material.

Appropriate Advice

To require that a member "ensure" that appropriate advice is provided in response to the suitability review conducted as outlined in Rule 1300.1(s), would require operational systems to track and monitor advice provided further to each suitability review. How exactly would this occur? Firms currently conduct daily and monthly reviews and raise flags when it appears that a suitability issue has occurred. We suggest that this provision be removed.

Optional Suitability Reviews

This provision has been expanded to include the requirement that where such a review is conducted, it occur at the very least "in the event of significant market fluctuations."

In today's current economic climate, such reviews would have to be conducted on a weekly basis, at a minimum. When the market goes up, a suitability review would be conducted, when the market goes down, a suitability review would be conducted. How much of a market fluctuation is considered significant? The definition of significant market fluctuation is clearly open to interpretation and will expose firms to risk. There has been no discussion of this in the Guidance Note.

Further, simply because the value of a particular security goes down during a market fluctuation, does not automatically mean that the investment is no longer suitable.

Where firms choose to conduct an optional suitability review, we suggest that the firm itself determines the basis upon which it occurs.

Conflicts of Interest

We appreciate that IIROC has revised some of the provisions of the conflicts of interest proposed Rule to provide greater clarity with respect to the expectations of members to deal with conflicts of interests, especially in the areas of addressing conflicts and disclosure of conflicts, which cannot be avoided.

We support much of the guidance in the draft Guidance Note related to conflicts of interest. While it is mentioned in the Response to Comments that IIROC has amended the proposed Rule to address issues of materiality, it is not apparent, however, that such amendments have been made from the previous version of the proposed Rule. The IIAC requests some clarification if, in fact, such changes have been made.

Furthermore, while the Guidance Note does contain a discussion as to which conflicts may be considered material and those which may simply arise in the regular course of business, for example, the method that an adviser is compensated, it is still key to include a materiality provision in the proposed Rule itself. The proposed Rule should be

amended to specifically indicate that the responsibility to identify potential conflicts of interest applies only to material conflicts.

There is a great deal of confusion with respect to the term "potential conflict" as this term is very vague and may cast a net so wide that there is no clarity as to what could potentially be a conflict. Furthermore, it could potentially require another large operations change, including monitoring and tracking output. For instance, is it required that each time a spread is taking (for which there is general disclosure), that a firm report this as a conflict of interest and address it? As such, we request some clarification as to how a "potential conflict" should be determined.

The RDD also requires that "future conflicts of interest situations where not avoided, will be disclosed to the client as they arise." Such a requirement is extremely subjective and far reaching. We also request further guidance with respect to the term "future conflicts." This requirement is extremely difficult for firms to determine given the number of advisers and clients they represent. Questions arise from our members with respect to how this should be monitored for individual advisers, what type of record keeping would be required and how firms could supervise this given that some firms have thousands of advisers. Further guidance on how to establish a "future conflict" and monitor this would be useful.

However, the Guidance Note is particularly helpful in outlining the timing of the disclosure of conflicts and the substance of such disclosure to ensure that it is meaningful to the client. Further, the discussion of informed consent and how this, along with disclosure, may be sufficient to discharge the firm's obligation to address a conflict is also useful.

Lastly, the IIAC would like to reiterate the importance of ensuring that the approach to conflicts in the proposed Rules is consistent with the approach adopted under proposed National Instrument 31-103.

Responsibilities of Clients

In previous versions of the proposed Rules, IIROC included in the RDD a number of provisions relating to recommendations for the role and responsibilities of the client. These provisions have now been removed from the proposed Rules and placed in the Guidance Note. We agree that the Guidance Note is the appropriate means of emphasizing the client's role in ensuring a successful relationship with their adviser.

Account Security Position Cost Disclosure

Account performance reporting presents numerous difficulties for firms. Firstly, there are operational difficulties for firms in collecting and organizing the data. For instance, problems exist with securities that are transferred in from other dealers or are deposited in kind, securities that undergo a re-organization event, securities that pay a distribution composed of a return of capital, securities that are tax advantaged and securities transactions that are not taxable events. Secondly, there are significant cost issues for firms that must adjust their systems in order to ensure that the information they retrieve

from their systems is physically organized into some sort of report. Thirdly, there are liability issues concerning the accuracy of the information where the information is used for tax reporting. Finally, there are concerns surrounding the adviser's role in providing and reviewing this information with their clients.

The IIROC Notice accompanying the proposed Rules states that no consensus was reached on members' preference to require the disclosure of original cost or tax cost, but IIROC has determined that original costs provides the most useful information for the purpose of account performance and therefore has mandated this form of disclosure. The IIAC CRM Committee is of the view that IIROC should not dictate which form of cost should be disclosed and instead leave that up to each firm to decide.

As a result of the operational difficulties and lack of consensus, we suggest that the proposed Rules for account performance reporting be revised in order to allow for the optimum flexibility in what firms provide to clients and how firms provide the information. For example, some firms might feel that using book cost information is most valuable to clients, while other firms, for example, those that deal primarily in mutual funds, might believe that a net invested measurement is more appropriate. When a one-size fits all approach is mandated it can create many issues for firms. Some of the information to calculate original cost would need to be provided by the client or by a third party. Questions arise as to what liability the firm would have in the event that the information proved to be incorrect. What disclaimers would be allowed given that this would now be a statutory obligation? In such instances some firms may prefer not to use this method. Clearly, a one-size-fits-all approach will not work in a dynamic relationship where there are constant market changes and system changes.

Allowing firms to choose their own methodology and provide the appropriate disclosure to clients will benefit clients and firms alike. Firms can make their own choices that best suit their technology and business model and clients can choose a firm that provides them the information they want.

Furthermore, the implementation time of any new requirements in the area of performance reporting needs to be as long as possible to allow firms to ensure operational and systems issues are addressed.

The Notice states that the MFDA performance reporting proposal does not require individual position cost disclosure. Consistency between SRO requirements is not only desirable but critical in order for the CRM initiative to be successful.

However, the IIAC is pleased that dealer's retroactive cost information is no longer required under the proposed Rules. As such, firms will only need to report the required information as of the implementation date of the Rule.

As raised in a previous IIAC comment letter, IIROC has stated that issues relating to reporting of client name positions on customer statements will be addressed as a transition issue and IIROC will be working with CIPF on the disclosure related to CIPF covered holdings.

The IIAC welcomes the statements in the draft Guidance Note on performance reporting, including when cost information for securities cannot be reported or may be subject to adjustments.

Account Activity Disclosure

The IIAC is pleased that activity reporting has been simplified from the previous proposal so that dealers will be required only to disclose the cumulative realized and unrealized income and capital gains/losses on the customer's account annually. Again, the expectation is that this information will be reported on a go forward basis to avoid issues with historical data. We would appreciate however, if such terms could be defined in the Guidance Note with respect to what they entail as members find the terms vague and open ended.

We would also like to note that while the MFDA proposes to mandate account activity disclosure for the current year only, the IIROC proposed Rules will require cumulative activity reporting. The IIAC would like to re-iterate the importance of consistent requirements for the entire industry.

Account Percentage Return Disclosure

We welcome the news that the proposed Rules have been amended to allow for percentage rates of return to be calculated by any method acceptable to IIROC and that IIROC confirms the position that the proposed Rules do not mandate percentage return reporting to clients.

While this flexible approach is similar to the MFDA proposal, the requirement to disclose percentage return information, if reported on a 1, 3, 5 and 10 year basis, has been maintained. This is not required in the MFDA proposal and again, we request a consistent approach for the capital markets as a whole. We further request some guidance with respect to reporting when the account has existed for more than one and less than ten years. The proposed Rule states that in that case, the firm needs to report the account's annualized compound return information since inception. We would appreciate some further details in the Guidance Note as to what this means.

In its Notice, IIROC stated that it is intending to move to mandate percentage return reporting in the future. The IIAC and its members would welcome an opportunity to engage in consultations with IIROC to address the issues and challenges in providing this information to clients.

Conclusion

In closing, while the IIAC and our members support the principles behind the CRM and recognize the significant time and resources spent by IIROC in preparing the CRM documents, we believe that many concerns and issues previously raised by the IIAC have not been adequately addressed.

We suggest that it would be beneficial to the CRM rule-making process to discuss our proposals with your staff. We look forward to meeting with you at your convenience.

Yours sincerely,

cc: Larry Waite, President and CEO, Mutual Fund Dealers Association of Canada

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