



THE INVESTMENT
FUNDS INSTITUTE
OF CANADA

L'INSTITUT DES FONDS
D'INVESTISSEMENT
DU CANADA

IFIC Submission

Re: CSA Position Paper 25-404 –
New Self-Regulatory Organization
Framework

October 4, 2021





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October 4, 2021

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British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

The Secretary
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Dear Sirs and Mesdames:

RE: CSA Position Paper 25-404 - New Self-Regulatory Organization Framework

The Investment Funds Institute of Canada (**IFIC**) appreciates the opportunity to comment on CSA Position Paper 25-404 *New Self-Regulatory Organization Framework (Position Paper)*.

IFIC is the voice of Canada's investment funds industry. IFIC brings together approximately 150 organizations, including fund managers, distributors and industry service organizations, to foster a strong, stable investment sector where investors can realize their financial goals. IFIC operates on a governance framework that gathers member input through working committees. The recommendations of the working committees are submitted to the IFIC Board or board-level committees for direction and approval. This process results in a submission that reflects the input and direction of a broad range of IFIC members.

IFIC appreciates the hard work that the Canadian Securities Administrators (**CSA**) has devoted to its review of the current self-regulatory organization (**SRO**) framework in Canada and in developing the framework set out in the Position Paper. We also appreciate that the CSA was able to develop the framework and the Position Paper in a timely manner.

The CSA has decided to proceed with the restructuring of the current SRO framework in a two phase process. Phase 1 will focus on the integration of the existing SROs and Investor Protection Funds (**IPFs**). Phase 2 will consider whether it is appropriate to incorporate into the new self-regulatory organization (**New SRO**) other registration categories, including Portfolio Managers, Exempt Market Dealers, and Scholarship Plan Dealers.

IFIC agrees with and supports this strategy.

Specifically, the CSA aims to structure the regulatory framework to focus on investor protection, promote public confidence and accommodate innovation and change. There are 14 targeted outcomes that are intended to achieve these goals.

IFIC agrees with and supports the 14 targeted outcomes. In achieving these targeted outcomes, we encourage the CSA to ensure that maximum flexibility is maintained to accommodate a variety of business models, business structures and sizes of business, including maintaining current structures and, in various channels, product offerings designed to meet investors' needs.

IFIC agrees with and supports more nuanced proficiency-based registration categories and appropriate proficiency requirements that are aligned with investors' needs and that reflect the relevant complexity of products and services offered/provided to them. Appropriate registration categories and related proficiency requirements should be implemented in a manner that does not diminish the availability of advice for smaller accounts, which has been an issue of concern in other jurisdictions.

Composition of the Integrated Working Committee

We believe the composition of the Integrated Working Committee (**IWC**) outlined in the Position Paper will be integral to the successful implementation of the New SRO. In our view, the IWC should be composed of senior members of the CSA, the current self-regulatory organizations (Mutual Fund Dealers Association of Canada (**MFDA**) and the Investment Industry Regulatory Organization of Canada (**IIROC**)) as well as industry representatives. In addition, the IWC should consider striking one or more industry advisory committees, which would facilitate expedited and organized industry input.

We note that the Position Paper states that the "IWC will be led by CSA staff, and will be responsible to coordinate and work with external advisors and different subject matter experts from within the CSA. The IWC will engage and consult with existing SRO and IPF staff, as well as other stakeholders (including industry and advocacy representatives), as required. Decisions within the IWC with respect to the implementation of the New SRO will reside with the CSA." The establishment of the New SRO, and decisions regarding all governance, operational and technical aspects of the New SRO, cannot be made exclusively by the CSA without appropriate input. These are matters that impact the day-to-day operations of industry members, and expertise resides within the current SROs and the industry. IFIC believes a better outcome can be achieved by drawing on this industry expertise through consultations. IFIC members are anxious to provide meaningful industry participation on these matters. We believe that the establishment of the New SRO provides the CSA and industry with an opportunity to adopt a fresh approach to considering the form and substance of the new regulatory system and its rules.

Further, the areas that the current SROs regulate were delegated from the statutory regulators. As a result, the statutory regulators do not have the same deep operational expertise in areas such as resolving complaints and disputes, registration and oversight of dealers and their members, compliance with SRO rules and, in the case of IIROC, surveillance of market trading. The IWC will develop more effective regulatory solutions by working closely with and receiving/considering advice from those people and organizations with the day-to-day experience in these areas.

In addition, the Position Paper notes that the IWC "will oversee and coordinate harmonization of SRO rules, policies, compliance and enforcement processes, and fee models. In developing the New SRO rule book, a policy initiative will focus on the review of current IIROC and MFDA rules in order to identify differences and, if appropriate, propose changes to harmonize rules, policies and related processes." The current SROs

and the industry have been involved in drafting, implementing, overseeing and complying with these rules, and are intimately familiar with areas where harmonization is lacking or regulatory burden could be reduced. For these reasons, it would be much more efficient and effective to have the current SROs and industry representatives more directly involved in this important process.

Keeping the Self in Self-Regulation – The Appropriate Balance

Ensuring the value of self-regulation can continue to be delivered in the New SRO will always be a question of appropriate balance. And while we agree with many of the governance recommendations to strengthen accountability, we believe there are two instances where this balance has not been achieved and in a third where the CSA should consider greater flexibility.

The Position Paper contemplates governance solutions that are “intended to bolster the New SRO’s accountability to the CSA.” While we recognize the regulatory intent behind these initiatives, we suggest that the requirements noted below impose excessive CSA oversight, particularly in light of the important corporate governance changes the Position Paper contemplates, for example to the number of independent directors, the separation of the CEO and Chair, and the definition of independence for directors.

Appropriate oversight by the New SRO’s Board of Directors will preserve the operational independence of the New SRO and ensure that its business planning processes, for example, are timely and agile. IFIC agrees with and supports the foregoing changes but, as previously indicated, we have significant concerns with the following proposed changes:

1. “Clarifying existing authority in an appropriate governing document, as applicable for each CSA jurisdiction, to direct the New SRO to enact, amend, or repeal, either in whole or in part, any by-law, rule, regulation, policy, prescribed form, procedure, interpretation or practice.” Oversight of the New SRO by a newly-constituted Board that is majority independent is appropriate and sufficient oversight for the matters noted in this solution, other than those matters that are currently within the CSA’s purview. The solution contemplates that each CSA member would act unilaterally to provide such direction. However, without timely and effective CSA coordination, the swift implementation of needed rule changes could be impaired by a cumbersome and complex review process.
2. “Codifying within the New SRO a requirement that it solicits CSA comments and input on annual priorities, strategic plans and business plans (including budget); and that the CSA maintains a non-objection mechanism, including over significant future publications and communications.” We believe the newly-constituted Board’s oversight of annual priorities, strategic plans and business plans etc. is the appropriate governance mechanism, because it provides both the appropriate operational independence of the New SRO and preserves its ability to act in a timely manner on these matters.
3. IFIC is concerned that the planned size of the board may not be adequate to represent all the interests and stakeholders of the New SRO. In our view, a board of 15, while sufficient for each of the MFDA and IIROC, may not be large enough to represent the additional interests of the New SRO. We recommend that the CSA give consideration to greater flexibility in establishing a more fully representative board, particularly during the early phase of the New SRO’s operations.

Publication of Implementation Timeline

In our submissions to and our discussions with securities regulators, IFIC strongly emphasized the importance of establishing and operationalizing a new SRO in a timely manner. Investors will benefit from a more seamless investor experience, the industry will be able to pivot quickly to implement new business models, and SRO staff morale and effectiveness will be maintained with a clear, relatively near term goal in sight. IFIC urges the CSA to set, publish and execute the implementation timeline as soon as possible.

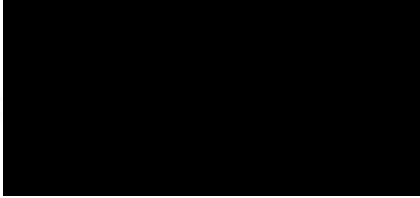
IFIC members stand ready to assist the implementation throughout the process.

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IFIC appreciates this opportunity to provide our input to the CSA on this important initiative. Please feel free to contact me by email at pbourque@ific.ca or by phone at 416-309-2300. I would be pleased to provide further information or answer any questions you may have.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA



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President and CEO