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DELIVERED VIA EMAIL

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Re: CSA Consultation Paper 92-401 – Derivatives Trading Facilities

The Investment Industry Association of Canada ("IIAC") appreciates the opportunity to provide comments on CSA Consultation Paper 92-401 – Derivatives Trading Facilities (the "Paper"). Our comments reflect the views of the IIAC Derivatives Committee which is comprised of senior professionals with responsibilities for derivatives markets activities and compliance for dealer members of the Investment Industry Regulatory Organization ("IIROC").

The IIAC is the professional association for the securities industry, representing close to 150 investment dealers regulated by IIROC. Our mandate is to promote efficient, fair and competitive capital markets for Canada and to assist our member firms across the country.

Our comments pertain exclusively to products offered by IIROC registered IIAC members and are not meant to reflect the views of their non IIROC affiliates dealing in other products.

IIAC members participate in the over-the-counter (OTC) derivatives market, primarily in contracts for differences (CFDs) and foreign exchange (FX). IIAC members offer CFDs and FX contracts ("IIROC Regulated OTC Derivatives") primarily to retail investors in Canada, an activity which is subject to strict terms and conditions of their registration, including capital, segregation, supervisory, reporting and proficiency requirements and benefits from protection of client assets through the Canadian Investor Protection Fund ("CIPF").

IIROC Regulated OTC Derivatives are traded on single-dealer platforms of a handful of IIAC members that offer full transparency, client documentation and reporting and a complete audit trail to regulators for surveillance purposes. Despite the fact that, in many cases, their dealer also offers access to listed products that provide the same exposure, clients often prefer to trade on CFDs and FX on their dealer's platform for a variety of reasons.

IIAC members also occasionally offer bespoke OTC derivatives contracts to high net worth and institutional clients. Although they originate from IIROC dealer member clients, these transactions will often be effected in an account opened for the client with a non-IIROC banking affiliate.

General Comments

The IIAC has argued in past submissions to members of the Canadian Securities Administrators ("CSA") that IIROC Regulated OTC Derivatives should be excluded from the scope of the CSA's OTC derivatives reform initiative. We have engaged discussions with IIROC on that subject. Meanwhile, we will continue to comment proposed rules and consultation papers as they are published.

We note that the "…proposed definition (of a derivatives trading facility ("DTF")) is not intended to capture…single-dealer platforms." And that "A participant providing trading services to its clients via a single-dealer platform would instead be subject to dealer registration requirements." We are supportive of this approach as our members are already subject to registration requirements as noted above.

Answers to selected questions from the consultation paper

As our comments pertain to IIROC Regulated Derivatives traded on single-dealer platforms which the definition of DTF does not intend to capture, we will address the specific questions in the paper only to the extent that our answers provide relevant information to members of the CSA.

Question 1: Is the DTF category appropriately defined? If not, what changes are needed and why?

From the point of view of our members' activities, we believe the DTF category is appropriately defined in that it does not capture single dealer platforms.

Question 23: Are the proposed criteria for determining whether a derivative will be subject to a DTF-trading mandate appropriate? Should other criteria be considered?

We believe the proposed criteria are appropriate. However, in considering "…whether the class of derivative is…mandated to be traded on a regulated venue in other jurisdictions…" the CSA should take into consideration differences in regulatory structure. In particular, the absence of a self-regulatory organisation in certain jurisdictions may lead to a different approach to contracts offered on single-dealer platforms.

Question 24: Are there existing OTC derivatives that should be considered suitable for mandatory trading on a DTF? Are there classes of OTC derivatives for which a mandatory trading obligation would be detrimental to market participants?

Consistent with our above comments, we believe a mandatory trading obligation of IIROC Regulated OTC Derivatives would be detrimental to market participants. IIROC Regulated OTC Derivatives are bilateral in nature, with the dealer continuously quoting a two-sided market for clients to execute online. Transactions are conducted between dealer and client on a principal basis under strict IIROC rules in accounts that benefit from CIPF protection.

In practice, trading on a DTF would require a CCP in order to clear transactions executed against orders represented by a dealer other than the client's. This would bring no benefit to clients who currently trade on tight and visible spreads. However, the cost of building and maintaining the required trading, market data and clearing infrastructure would clearly harm the regulated industry's competitiveness against unregulated entities.

We welcome the opportunity for an ongoing dialogue with the CSA on this important initiative and would be pleased to discuss this submission should you have any questions.

Best regards,

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