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**Re: Canadian Securities Administrators Consultation Paper 33-404  
Proposals to Enhance the Obligations of Advisors, Dealers, and Representatives toward their Clients**

Dear Sirs/Mesdames:

**Fisgard Asset Management Corporation ('FAMC')** thanks the CSA for the opportunity to comment and provide feedback to the CSA's Consultation Paper 33-404.

This response to the CSA is authored by FAMC's Exempt Market Dealer (EMD) executive team, including CEO, COO, and CFO with input from the CCO and Dealer Representatives.

FAMC participated in the process of drafting the Private Capital Markets Association of Canada ("PCMA") response and has studied the response of The Investment Funds Institute of Canada ("IFIC"), and will refer to these responses throughout this submission. FAMC agrees with the vast majority of the positions and responses articulated by these two industry groups.

The object of FAMC's independent submission is to frame responses in some instances contradictory in nature to the trade association positions specific to FAMC's considerable EMD market experience and position, particularly FAMC's limited (two-product) investment offering, and the way the investment process is handled.

FAMC neither represents nor speaks for any other firm, trade organization, SRO or EMD; however, we feel that, given the wide variety of products in the world of exempt offerings, it may be helpful and instructive for the CSA to have a close-up look at a particular EMD, its offering, and how it functions in the day-to-day business environment. We hope that this perspective will be useful.

### **What is Fisgard Asset Management Corporation (FAMC)?**

FAMC is an Exempt Market Dealer registered and licensed with all required Mortgage Broker/Lender authorities and Securities Commissions in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario. FAMC is a niche proprietary product EMD.

Fisgard is a member of the following organizations:

Private Capital Markets Association of Canada ('PCMA')  
National Exempt Market Association  
Mortgage Brokers Association of British Columbia  
Alberta Mortgage Brokers Association  
Independent Mortgage Brokers Association  
Mortgage Professionals Canada  
Mortgage Investment Association of British Columbia  
British Columbia MIC Managers Association  
Canadian Real Estate Association  
British Columbia Real Estate Association  
Victoria Real Estate Board  
Better Business Bureau

Under a Management Services Contract FAMC manages and administers the day-to-day affairs of two Section 130.1 Mortgage Investment Corporations (MICs), both of which are Mortgage Investment Entities (MIEs) and both of which issue shares under Offering Memoranda:

**Fisgard Capital Corporation** [quarterly dividends, 1-3-5 year liquidity, approximately 5% net yearly return]

**Fisgard Capital II Corporation** [monthly dividends, monthly liquidity, approximately 7.5% net yearly return]

Shares of the two funds are not publicly traded, nor do our investors want them to be. Our investors are satisfied with the degree of liquidity that is offered in terms of each fund's redemption provisions. The two funds are near identical, both being Section 130.1 MICs and both investing exclusively in Canadian mortgages. The maximum degree of differentiation between the two funds is:

- the risk (Loan-To-Value ratio on mortgage loans, mortgage priority) and commensurate return (with relative risks clearly detailed in Offering Memoranda)
- the frequency of dividends (monthly or quarterly)
- liquidity (daily or 1-3-5 year fixed redemption)

FAMC's customers invest in one or the other (or both) of the Fisgard funds to receive regular dividend income. It is strictly an income investment, with little or no possibility of capital gain and a possibility of a capital loss.

FAMC has been raising capital under the Offering Memoranda since 1994 during which time the enterprise has dealt with over 4,000 investors, accumulated paid-up share capital in excess of \$200 Million and paid regular

dividends and made all qualified redemptions without fail since that time. Both Fisgard 'Mortgage Investment Entities' (MIEs) are bonded and carry E&O and Directors liability insurance.

FAMC, the manager of the Fisgard Issuers, carries real estate and mortgage broker licenses and registrations to better facilitate identification of mortgage investment opportunities in the market-place and more effectively value mortgage investments through its real estate sales, property management, appraisal and mortgage industry networks.

Wayne Strandlund, the founder and CEO of FAMC, has been a real estate and mortgage broker registrant and licensee continuously since 1968. For twenty years he taught the Canadian Securities Course to cohorts from Mainland China at the Canadian College for Chinese Studies in Victoria, British Columbia. He also founded United Homes Inc., a real estate developer/realtor that was listed on the Vancouver Stock Exchange in 1983.

Wayne's daughter, Hali, is FAMC Senior Vice President Residential Mortgage Broker Relations and is an inductee of the Canadian Mortgage Hall of Fame, Past President of the British Columbia Mortgage Brokers Association as well as Past President of the Canadian Association of Accredited Mortgage Professionals (now Canadian Mortgage Professionals). She is the co-founder and a director of 'Women in the Mortgage Industry', a national trade association of more than 2,000 licenced and registered mortgage brokers.

Over the years the enterprise has evolved from a family business to one that now enjoys a much wider degree of expertise. FAMC's Chief Operating Officer, for example, spent twenty-two years as a senior VP with the second largest credit union in Canada, several years as its Chief Information Officer and eight years as Chief Operating Officer. FAMC's Chief Financial Officer has been with the firm for twenty-two years. FAMC's Chief Compliance Officer has been with FAMC for twelve years. Six staff come to FAMC from senior positions at a number of banks and credit unions.

It is fair to say that we are familiar with the Fisgard mortgage investment product and the securities/mortgage lending processes involved. We are a reputable respected firm – experts on the investments we offer and their suitability for our investors.

The sole occupation and responsibility of FAMC is to identify qualified mortgage investments for its two Fisgard MICs and to raise capital to fund these mortgage investments. FAMC does not raise capital for any other purpose, does not promote, manage or administer any other investments, and does not provide information and advice on any external investments. At this time FAMC does not manage other funds and is a classic example of a proprietary EMD.

FAMC accepts investments via cash as well as through the array of Canadian Registered Savings and Registered Pension Plans, examples being:

RRSP | RRIF | TFSA | LIRA | LIF | LRIF | RESP | RDSP

For over two decades Fisgard has provided mortgage financing in excess of \$2 Billion to homeowners, home buyers, builders, renovators, land developers and commercial businesses. In accordance with the regulations contained in Section 130.1 of the Income Tax Act, Canada, Fisgard only invests in mortgages secured by real estate property located in Canada. We do not invest outside of Canada.

The vast majority of Fisgard investors are individuals as opposed to corporate entities. The average investment is approximately \$66,000. The minimum investment is \$1,000 and there is no maximum investment except that no investor (or group of related investors) is permitted to hold more than 25% (for CASH investments) of any class of shares (or 10% for registered investments) and no more than 25% (for CASH Investments) of the aggregate of all shares issued or (10% for registered investments).

Investors and prospective investors (who we refer to as ‘customers’, not ‘clients’) come to Fisgard already knowing the type of investment Fisgard offers – specifically investment in mortgages that produce regular dividend income and are secured by Canadian real estate property. Our customers do not come to FAMC seeking investment advice, portfolio advice and management, financial advice or tax planning; nor do we offer that type of service. By regulation as well as company policy FAMC’s Dealer Reps are prohibited from offering such service.

FAMC is not a trustee, nor does it hold money, assets or other securities on behalf of its customers/investors. Our investors purchase shares, and the deal is done. The share purchase is transactional. FAMC’s investors may receive their dividends in cash or they may reinvest their dividends. They may also invest periodically via Pre-Authorized Payment Contribution (PAC). Aside from providing dividends, providing regular statements, dealing with PACs, providing qualified redemption requests and reinvestment of dividends, there is no ongoing relationship nor trading of shares.

FAMC complies with the securities regulations in Canada’s western provinces, from BC to Ontario. We have a fully trained, qualified and licenced Compliance Officer, as well as additional staff that are competent in that position. In each and every investment transaction FAMC Dealer Reps and CCO must be satisfied that the customer knows the FAMC product, we must be satisfied that we know the customer and that the investment is suitable. We are familiar and compliant with KYP and KYC requirements, and we support these fundamental concepts. Suitability of product to the customer is paramount at FAMC.

Our relationship with the various securities commissions, particularly with the BCSC (our home province commission), is congenial, courteous and respectful. The BCSC has always been most cooperative when we’ve asked for guidance, and FAMC has been pleased to reciprocate when the commission has inquired as to how the ‘MIC’ actually works in day-to-day business.

Perhaps because of the narrow focus and proprietary nature of the investment we don’t as readily recognize the extent of the problem that has led the CSA to CP 33-404. Given the copious amount of regulation already in place, we find ourselves wondering why it is that an EMD such as FAMC needs more regulation when we’ve already got more than enough. We feel that the CSA have sufficient authority to enforce the regulations already in place. We favour improved enforcement over increased regulation.

While we wholeheartedly support reasonable regulation and enforcement, FAMC’s concern with CP 33-404 is that the CSA appear to treat the Exempt Market as a one-size fits all scenario, which it clearly isn’t. That is why several of the proposed ‘enhancements’ are neither appropriate nor necessary, and won’t work in the real world. It must be clearly recognized that there are at least two types of EMDs.

1. the multi-product (mixed/non-proprietary) EMD that sells several investment products that likely differ materially from one product to another.
2. the EMD – Fisgard being a perfect example – that offers two products, both of which are identical in terms of their being investment in mortgages secured by Canadian real estate property, and that differ only in degree of liquidity, dividend frequency and degree of risk.

The difference between these two types of EMDs is that while No. 1 may require shelf development of a variety of products offered to the public, No. 2 is likely to have one, or at most a very small number of, like products, and does not require shelf development. FAMC is an example of EMD No. 2 above.

CP 33-404 frequently uses the term 'client'. We wish to draw attention to the important difference between 'client' and 'customer'. At Fisgard we refer to our investors/shareholders as 'customers', not 'clients'.

The Oxford Encyclopedic English Dictionary defines:

Client: a person using the services of a lawyer, architect, accountant, social worker or other professional person; a plebeian under the protection of a Patrician; a dependant or hanger-on  
Customer: a person who buys goods or services from a shop or business

The Funk & Wagnalls Standard College Dictionary defines:

Client: One in whose interest a lawyer acts; one who engages the services of any professional advisor; a dependant or follower  
Customer: One who buys something; one who deals regularly at a given establishment

Webster's New World Dictionary defines:

Client: follower; retainer; to lean, incline; one leaning on another for protection or patronage; a person or company for whom a lawyer, accountant, advertising agency, etc. is acting  
Customer: a person who buys from or patronizes an establishment regularly

The Third Edition of Roget's International Thesaurus refers to:

Client: dependant; charge; ward; trust; protégé; encumbrance; public charge  
Customer: patron; patronizer; contact; business contact; prospect

In short, FAMC recognizes that there is an important difference between a 'client' and a 'customer', ever more so when it comes to labelling someone a fiduciary.

In describing the essential difference between the two types of EMDs it is worth noting that at this point in time over 91% of FAMC's 2,900 investors invest in five-year redeemable shares, the rest choosing to invest in either three-year or one-year redeemable shares. When a prospective investor (customer) comes to FAMC and makes a Fisgard investment it is almost always a five-year investment. Although (adhering to securities regulations) our Dealer Reps 'contact' ('touch') each investor on a regular basis, the absurdity remains that the Dealer Rep, after the transaction is made, is not likely see or hear from the investor for five years, unless the Dealer Rep contacts the client. FAMC investors are likely to reinvest at the end of five years for a further five years, many of our investors having held the same investment for twenty years or more. Why would such investors have to be 'contacted' every year? Frankly, most find it annoying. At any rate, in compliance with the BCSC, our home commission, FAMC Dealer Reps contact our investors every two years. It is worth noting that many FAMC investors regard this regular 'update' as an aggravation and annoyance since the vast majority of investments are five-year maturities. Obviously, if their chosen investment is a one-year maturity, FAMC Dealer Reps will contact these investors every year prior to the maturity date. Contacting our investors prior to maturity is an FAMC policy. At that point of contact, investors are advised of upcoming maturity date(s).

The FAMC investor is a 'customer', not a 'client' and is not someone seeking financial planning, portfolio management or tax advice. In fact most FAMC customers/investors already have their own financial planners, tax planners, investment brokers, etc. FAMC raises capital and does not dispense advice on anything else. The FAMC customer has simply made an investment in a product he or she most often already knows about, is familiar with, and expects to receive a regular dividend and statement.

FAMC simply manages two near-identical proprietary funds and does not dispense advice beyond the Dealer Rep's knowledge of these two products, both of which are Canadian mortgage investment products. In the case of FAMC the Dealer Reps knowledge of the product is extensive. The suitability test is whether or not the FAMC Dealer Rep and CCO feel that this type of investment is suitable for the particular customer, and whether or not the amount of investment proposed is also suitable.

Unlike other EMDs, FAMC Dealer Reps are primarily salaried staff who have raised 98% of all capital. There is no monetary incentive for a FAMC Dealer Rep to recommend one of our two products over the other. Dealer Reps focus on KYC, information about the product(s) and suitability.

FAMC is also paid a uniform 1% per year of capital raised. Each of FAMC's two Issuers, Fisgard Capital Corporation and Fisgard Capital II Corporation, pays the very same amount (1%), so there is no capital raising advantage or incentive between FAMC's two Issuers.

Although FAMC has been asked to manage and act as EMD for other proprietary products, particularly mortgage products, we have declined the business opportunity based on our policy regarding conflict and compensation.

FAMC recognizes irreconcilable conflicts in several other Mortgage Investment Corporations (MICs) when it comes to compensation. We find it an irreconcilable conflict that a MIC or its manager can charge a mortgage brokerage fee (always based on risk; i.e. the higher the risk, the higher the fee) while at the same time collecting a management fee for managing the MIC investors' money, supposedly keeping the investment as safe as possible. Such a compensation arrangement simply doesn't square. In contrast, FAMC is a manager only, and has never collected mortgage broker fees, so there is no incentive to recommend one mortgage over another based on the amount of mortgage procurement fee a borrower is willing to pay. At FAMC all fees, be they administration fees, mortgage discharge fees, mortgage renewal fees, even NSF charges, are passed through to our investors and form part of investor dividends, and are not held for the benefit of the 'manager'. This appears to be a singularly rare case amongst mortgage lenders, including mortgage lenders that are EMDs.

Additional information on Fisgard can be obtained at [www.fisgard.com](http://www.fisgard.com)

## Consultation Paper 33-404 Questions

- 1) Is this general approach to regulating how registrants should respond to conflicts optimal? If not, what alternative approach would you recommend?**

FAMC believes that the CPMA and IFIC responses adequately address this question.

- 2) Is the requirement to respond to conflicts "in a manner that prioritizes the interest of the client ahead of the interests of the firm and/or representative" clear enough to provide a meaningful code of conduct? If not, how could the requirement be clarified?**

FAMC believes that the CPMA and IFIC responses adequately address this question.

- 3) Will this requirement present any particular challenges for specific registration categories or business models?**

FAMC believes that the CPMA and IFIC responses adequately address this question.

**4) Do all registrants currently have the proficiency to understand their client’s basic tax position? Would requiring collection of this information raise any issues or challenges for registrants or clients?**

FAMC believes that the CPMA and IFIC responses adequately address this question.

Most FAMC customers have their own tax planners and financial advisors. FAMC customers neither want nor expect this service from FAMC. The closest to a conversation regarding ‘tax’ may be is a discussion regarding the RRSP, RRIF, TFSA and that type of Canadian registered savings or registered pension plan as well as income received from the investments being categorized as interest income and not dividend income; but the extent of such a conversation would be explanatory, possibly involve providing relevant pamphlets on the subject, and process, but would not constitute advice as to tax treatment.

FAMC prohibits its Dealer Reps from providing tax advice or tax strategy. Without exception, we actively encourage customers to seek independent legal and tax advice.

CSA proposals regarding providing tax advice would likely be unworkable and probably result in EMDs being denied E&O as well as Directors Liability insurance.

**5) Should the CSA also codify the specific form of the document, or new account application form, that is used to collect the prescribed KYC content?**

FAMC believes that the CPMA and IFIC responses adequately address this question.

FAMC agrees that there is no compelling reason for mandating a standard form, and that mandating a specific form would curtail advancements already made by registrants in the private capital markets. We agree with the PCMA that flexibility of principle-based regulation is of value in this area.

**6) Should the KYC form also be signed by the representative’s supervisor?**

Fisgard follows this recommended practice today in that the CCO reviews every trade relative to the clients KYC and the suitability as determined by the Dealing Representative of the proposed investment. If the CCO is in disagreement the trade is cancelled and if the CCO approves they provide their signature for the trade to continue.

While the process is time-consuming and subject to extensive supervision it provides a secondary review to confirm suitability which improves investor protection and provides protection for the Dealer in regard to compliance risk.

**7) Is this general approach to regulating how representatives should meet their KYP obligation optimal? If not, what alternative approach would you recommend?**

Not all registrants are the same. Some sell proprietary products, some sell non-proprietary products and some a sell a mix of proprietary and non-proprietary products. The “one size fits all approach” is not appropriate, and doesn’t work.

For example, FAMC is a boutique EMD that focuses strictly on income-producing mortgage investment products, and is experienced, qualified, professional, licensed and registered in that field. Our Dealer

Reps have the knowledge, experience and skill to market the Canadian mortgage investment. Our customers expect us to deal with the mortgage product and no other investment. The FAMC EMD does not seek to investigate, let alone offer, other products to our customers.

FAMC agrees with the PCMA.

- 8) The intended outcome of the requirement for mixed-non-proprietary firms to engage in a market investigation and product comparison is to ensure the range of products offered by firms that present themselves as offering more than proprietary products is representative of a broad range of products suitable for their client base. Do you agree or disagree with this intended outcome? Please provide an explanation.**

FAMC agrees with the responses of both the PCMA and the IFIC, particularly the PCMA observation that the “one size fits all” approach is unworkable.

An EMD such as FAMC which sells only two near-identical mortgage investment products; i.e. shares in income-producing mortgages secured by Canadian Real Estate property, should not be compelled to compile and provide a comparative analysis of other directly competitive products. We believe it could be potentially dangerous (suable) to compare our proprietary product to the neighbor’s similar product. FAMC is does not seek to investigate, let alone offer, other products to our customers.

We stress that boutique firms such as FAMC differ materially from mixed/non-proprietary firms, and should not be subjected to the same Mixed/non-proprietary ‘product list’ requirement.

- 9) Do you think that requiring mixed/proprietary firms to select the products they offer in the manner described will contribute to this outcome? If not, why not?**

FAMC agrees with the responses of both the PCMA and the IFIC.

- 10) Are there other policy approaches that might better achieve this outcome?**

FAMC agrees with the responses of both the PCMA and the IFIC.

PCMA: *“The PCMA believes that the current approach is working where market forces dictate supply and demand for product optimization.”*

- 11) Will this requirement raise challenges for firms in general or for specific registration categories or business models? If so, please describe the challenges.**

FAMC agrees with the responses of both the PCMA and the IFIC.

The fact that CSA compliance teams have expressed their distrust and discomfort with a number of reports and analyses speaks volumes to the efficacy of the targeted reform proposal.

- 12) Will this requirement cause any unintended consequences? For example, could this requirement result in firms offering fewer products? Could it result in firms offering more products?**

FAMC agrees with the responses of both the PCMA and the IFIC.

**13) Could these requirements create incentives for firms to stop offering non-proprietary products so that they can fit the definition of a proprietary firm?**

Even though FAMC is a limited (two-product) proprietary EMD we agree with the responses of both the PCMA and the IFIC, particularly the PCMA's observation that all registrants should be encouraged to sell the products that fit their business models.

**14) Should proprietary firms be required to engage in a market investigation and product comparison process or to offer non-proprietary products?**

FAMC agrees with the response of the PCMA.

The Section 130.1 MIC example used by the PCMA is appropriate. The MIC should not have to do a head-to-head comparison with a reasonable universe of its competitors and then provide it to investors. There are legal issues to consider. Imagine the implications of attempting a head-to-head comparison to competitors and publishing that to customers?

Where would such an EMD gather enough reliable information on competitor MICs to make a reasonable comparison? Such a database does not exist.

An EMD that only sells its own product should provide investors with the requisite disclosure so they understand the relationship and conflict of interest.

**15) Do you think that categorizing product lists as either proprietary and mixed/non-proprietary is an optimal distinction amongst firm types? Should there be other characteristics that differentiate firms that should be identified or taken into account in the requirements relating to product list development?**

Although FAMC cannot confirm what happens with other EMDs, particularly mixed/non-proprietary EMDs, we agree with the PCMA response.

FAMC customers do not ask about other products, and they do not expect our Dealer Reps to provide information, let alone advice, on other products. Obviously they ask about FAMC's two Fisgard MIC products, which is as it should be, and all of which answers are not only provided by FAMC Dealer Reps, but are also detailed in Fisgard Offering Memoranda which address the nature of the funds, risks, financial state, relationship between the funds and the manager, qualifications of the manager, compensation to the manager, size of the funds, dividend history, suitability to the investor, etc.

**16) Do you agree with the requirement to consider other basic financial strategies?**

No. FAMC does not dispense financial advice, nor involve itself in portfolio management, tax planning, or developing financial strategies. We do not have expertise in these areas. We advise our customers to consult their own financial planners and tax advisors.

FAMC agrees with the PCMA response: *"The PCMA believes this would require registrants to provide advice in areas where they do not have the required expertise. This may also inadvertently increase reliance on a registrant."*

In the case of FAMC, and in agreement with the IFIC response, it is true and often the case that *"the proposed requirements for information gathering may be excessive and unwanted by the client."*

Most of FAMC's customers have their own tax planners, advisors and consultants. Some customers are already sufficiently confused by having more than one tax advisor, financial advisor or planner, and ending up with two different – sometimes conflicting – plans. FAMC cautions adding yet another layer of dilemma and confusion for our customers to have to deal with.

**17) Will there be challenges in complying with the requirement to ensure that a purchase, sale, hold or exchange of a product is the “most likely” to achieve the client’s investment needs and objectives?**

FAMC agrees with the response of the PCMA: *“The PCMA is concerned that ‘most likely’ can be perceived as a guarantee against investment risk or business failure. As noted previously, IOSCO, in which the CSA is represented, has stated that regulation should not be expected to remove risk from the capital markets. We have concerns that the standard created by the CSA will put the onus of investment failures, or the failure of a particular investment to meet its objectives on registrants.”*

As a boutique EMD FAMC will dispense no such advice or engage in any such discussion, as it will set the EMD and its Dealer Reps up as being accountable for the investment failures or the failure of the investment to meet its objectives.

In terms of providing historical advice that might be helpful in forecasting, even though FAMC possesses detailed proven historical dividend performance records for the past twenty-two years it is prohibited [by the BCSC in our case] from advertising performance records going back more than three years and cannot provide a forecast on possible future returns. To the best of our knowledge this appears to be a BCSC regulation, not a CSA regulation.

**18) Should there be more specific requirements around what makes an investment “suitable”?**

FAMC agrees with the PCMA and does not support additional regulatory requirements, especially proposed in CP 33-404, which guidelines cannot be met. The many securities regulations already in place are more than sufficient to protect investors. FAMC recommends more vigorous enforcement of the regulations already in place.

**19) Will the requirement to perform a suitability assessment when accepting an instruction to hold a security raise any challenges for registrants?**

FAMC agree with the PCMA: *“No, this is the requirement in the current rule.”*

**20) Will the requirement to perform a suitability analysis at least once every 12 months raise challenges for specific registrant categories or business models? For example, a client may only have a transactional relationship with a firm. In such cases, what would be a reasonable approach to determining whether a firm should perform ongoing suitability assessments?**

FAMC agrees with the responses of both the PCMA and the IFIC.

EMDs do not hold client assets. In the case of an EMD such as FAMC with only two near-identical proprietary products, we conduct a suitability assessment at the time of considering a transaction. Our customers may, for instance, choose to invest in a five-year maturity with no ability to redeem their investment except under certain prescribed circumstances (passing of spouse/partner, for example). In instances such as five-year redeemable investments FAMC's customers are already frustrated with having Dealer Reps insist on updates to KYC information every two years (a BCSC regulation). FAMC's

three-year and five-year investors are likely to be angry when they compelled to undergo a KYC update 'every 12 months'.

**21) Should clients receive a copy of the representative's analysis regarding the client's target rate of return and his or her investment needs and objectives?**

FAMC agrees with the responses of both the PCMA and the IFIC.

*"The PCMA does not agree with the new suitability standard proposed by the CSA. It requires skills that a registrant may not possess including creating an asset allocation model and calculating a target rate of return. Targeted rates of return require an understanding of a client's entire investment portfolio. Private capital market products are typically only a portion of an investor's investment portfolio, and therefore EMDs cannot properly calculate targeted rates of return. This renders the proposed new suitability standard as proposed unworkable."*

In the case of FAMC the rate of return is not a calculation tied to a combination of other investments.

**22) Will the requirement to perform a suitability review for a recommendation not to purchase, sell, hold or exchange a security be problematic for registrants?**

FAMC, agreeing with the PCMA, does not believe this will raise any problems with registrants.

PCMA: *"In general, a suitability review will result in an outcome to buy or not buy, hold or not hold, because the investment is suitable or not suitable."*

**23) Do you agree with the proposed disclosure required for firms registered in restricted categories of registration? Why or why not?**

FAMC agrees with the proposed disclosure and the PCMA's response. Disclosure about a firm's restricted category of registration helps FAMC's customers understand the limited nature of the information they can receive from the FAMC's Dealer Reps.

**24) Do you agree with the proposed disclosure required for firms that offer only proprietary products? Why or why not?**

FAMC agrees with the response provided by the PCMA.

FAMC agrees with the concept of disclosing relationship information. FAMC already does this, and it helps our customers understand the tied relationship similar to when a customer goes to a bank and is offered a product issued by the bank, under which circumstance it is expected and understood that the bank will sell proprietary products and not products issued by a 'competing' bank.

**25) Is the proposed disclosure for restricted registration categories workable for all categories identified?**

The proposed disclosure is workable for EMDs.

**26) Should there be similar disclosure for investment dealers or portfolio managers?**

FAMC agrees with the PCMA that this is best answered by the investment dealer and portfolio manager industry groups such as the Investment Association of Canada and the portfolio Managers Association of Canada.

**27) Would additional guidance about how to make disclosure about the relationship easier to understand for clients be helpful?**

FAMC agrees with the responses of both the PCMA and the IFIC.

Guidance is always appreciated, but FAMC feels that this should be in the form of 'guidance' and not be 'prescriptive'. Since not all EMD firms are the same, this will allow EMDs such as FAMC to best describe their particular business model to customers.

**28) To what extent should the CSA explicitly heighten the proficiency requirements set out under Canadian securities legislation?**

FAMC agrees with the response and approach taken by the PCMA, particularly with regard to the CSA's unnecessary 'proficiency creep' into other areas of registration. Like the PCMA FAMC believes that mandatory continuing education by Dealer Reps should be encouraged, and FAMC has no objection to the CSA mandating continuing education on a reasonable basis (three-year cycles preferred). FAMC is familiar with mandatory continuing education in the mortgage brokerage and mortgage lending as well as real estate marketing and property management fields. We support such programs provided they are reasonable and make sense in accordance with the times and market. FAMC is also sensitive to education overload.

**29) Should any heightening of the proficiency requirements for representatives be accompanied by a heightening of the proficiency requirements for CCOs and UDPs?**

FAMC agrees with the response of the PCMA.

The Registrant Curriculum and Ongoing Proficiency Working Committee should be involved in the design of a CCO course tailored for a CCO of an EMD. FAMC, like the PCMA, believes that the CSA must be actively involved and working with the industry in designing the curriculum for a CCO of an EMD. We believe that the appropriate approach is a more tailored proficiency for the CCO of an EMD than a generic securities industry experience requirement.

We believe that a securities industry experience requirement does not apply well for a CCO of an EMD, which can be materially different than the role of a CCO of an IIROC Dealer, Portfolio Manager or other Dealer. In agreement with the PCMA FAMC recommends that the experience requirement be replaced with a proficiency requirement.

FAMC believes that a well thought out curriculum design that is robust and practical would be a better way to ensure the CCO of an EMD had the requisite proficiency to be a CCO.

FAMC agrees with the PCMA that there need be no proficiency requirements for being an Ultimate Designated Person ("UDP") of an EMD.

PCMA: *“There are no proficiency requirements for being the UDP of an EMD. The UDP is a role that is placed upon the Chief Executive Officer of a company due to their title only. The PCMA has concerns with the UDP satisfying the same requirements as a CCO of an EMD. The CEO may not be involved with the day-to-day affairs of the firm as it relates to its registerable activities. For example, the registrant firm may be an issuer and the CEO may be more involved with the day-to-day affairs in relation to its primary business line or the CEO firm may have additional responsibilities in other affiliates of the registrant firm. Therefore, the proposed proficiency requirements may place an undue burden on the CEO in relation to the performance of his or her duties within the entire group.”*

FAMC has no objection to the CSA mandating continuing education requirements on the CCO of an EMD, but FAMC objects to mandating continuing education requirements on the UDP of an EMD. We agree a UDP ensures a culture of compliance within the organization; its executives, Dealing Reps, staff and the CCO. The CCO on day-to-day basis should ensure the culture of compliance is in effect.

**30) Will more strictly regulating titles raise any issues or challenges for registrants or clients?**

FAMC believes that the three titles proposed by the CSA:

Restricted Securities Advisor  
Salesperson  
Dealing Representative

are confusing to investors and are meant to satisfy legal regulatory definitions that provide no meaning whatsoever to investors. FAMC, agreeing with the PCMA, has no objection to adding to a business card a statement that says that the individual is a registered Dealing Representative of a particular EMD.

FAMC agrees with the IFIC, and does not favour mandating the use of the title “salesperson”.

**31) Do you prefer any of the proposed alternatives or do you have another suggestion, other than the status quo, to address the concern with client confusion around representatives’ roles and responsibilities?**

FAMC believes that every business card or document where a Dealing Representative includes his or her title, should explicitly state that the individual is a registered Dealing Representative of the sponsoring EMD.

**32) Should there be additional guidance regarding the use of title by representative who are “dually licensed” (or equivalent)?**

FAMC has no objection to the CSA providing additional guidance regarding the use of titles by representatives who are “dually licensed” (or equivalent).

**33) Should we regulate the use of specific designations or create a requirement for firms to review and validate the designations used by their representatives?**

FAMC agrees with the PCMA that the CSA should not regulate the use of designations, but rather require EMDs to review and validate the designations used by their representatives.

Life the PCMA FAMC is concerned about the use of designations that have weak curriculum and examination processes, no experience requirement, no ethics component, no continuing education requirement and no public complaint regime or disciplinary process.

**34) Are these proposed clarifying reforms consistent with typical UDP and CCO practices? If not, please explain.**

FAMC believes that the CCO should be responsible to ensure adequate policies and procedures are in place to meet regulatory requirements such as the collection of KYC and KYP information and suitability analysis. However, the CCO should not provide suitability analysis for each customer transaction as this is the responsibility of the Dealer Rep. In the case of FAMC the CCO performs a review of each new transaction including a review of the suitability, conducts periodic reviews to assure that the firm's policies and procedures are being adhered to, and reports to the manager as well as to the Boards of its two Issuers as trends or material issues are detected.

The UDP is a role that is placed upon the CEO of a registrant firm due to the CEO's title only. In some instances it may be more appropriate for the UDP role to be filled by another individual with the firm, such as the Chief Operating Officer or Chief Investment Officer who may be more involved with the day-to-day registrant activity of the firm. FAMC agrees with the PCMA in appreciating the need for compliance to have a 'tone from the top' culture. The CEO of an EMD may not be the appropriate person to meet the requirements that have been outlined.

**35) Is there any reason not to introduce a statutory fiduciary duty on these terms?**

FAMC opposes the imposition of a Statutory Fiduciary Duty on EMDs except under circumstances where an EMD manages the investment portfolio of its client through discretionary authority granted by its client.

**36 to 43) Responses to Questions 36 to 43 Inclusive**

FAMC agrees with the comments of the PCMA in its submission regarding the proposed new "Best Interest" Standard, particularly as the proposal applies to EMDs. (Page 40 of PCMA response)

To restate the PCMA position: *“. . . it is not appropriate to apply any proposed "Best Interest Standard" to EMDs. At minimum the standard must be calibrated to account for the unique position occupied by EMDs in the Canadian market, and the distinctive nature of the relationship between EMDs and their clients."*

**44) Is it appropriate that disclosure by firms be the primary tool to respond to a conflict of interest between such firms and their institutional clients?**

FAMC agrees with the PCMA response.

**45) Are other specific situations that should be identified where disclosure could be used as the primary tool by firms in responding to certain conflicts of interest?**

FAMC agrees with the PCMA response.

**46) Is this definition of “institutional client” appropriate for its proposed use in the Companion Policy?  
For example:**

- (i) where financial thresholds are referenced, is \$100 million an appropriate threshold?**
- (ii) is the differential treatment of institutional clients articulated in the Companion Policy appropriate; and**
- (iii) does the introduction of the “institutional client” concept, and associated differential treatment, create excessive complexity in the application and enforcement of the conflicts provisions under securities legislation? If not, please explain and, if applicable, provide alternative formulations.**

FAMC agrees with the PCMA response, particularly that the addition of another category of investor will increase the complexity of the application of the conflicts provisions under securities legislation.

**47) Could institutional clients be defined as, or be replaced by, the concept of non-individual permitted clients?**

Like the PCMA FAMC does not agree with creating a second type of Permitted Client.

**48) Are there other specific examples of sales practices that should be included in the list of sales practices above?**

FAMC is satisfied with the CSA’s observations and comments on sales practices.

**49) Are specific prohibitions and limitations on sales practices such as those found in NI 81-105, appropriate for products outside of the mutual fund context? Is guidance in this area sufficient?**

FAMC is not sufficiently familiar with the prohibitions on sales practices such as those found in NI 81-105 to comment on this area of sales practice.

This is not an issue for FAMC as the significant majority of our Dealer Reps are paid on a salary, not a commission, basis.

**50) Are limitations on the use of sales practices more relevant to the distribution of certain types of products, such as pooled investment vehicles, or should they be considered more generally for all types of products?**

FAMC is not sufficiently familiar with the prohibitions on sales practices such as those found in NI 81-105 to comment on this area of sales practice.

**51) Are there other requirements that should be imposed to limit sales practices currently used to incentivize representatives to sell certain products?**

FAMC is not sufficiently familiar with the prohibitions on sales practices such as those found in NI 81-105 to comment on this area of sales practice.

This is not an issue for FAMC as the significant majority of our Dealer Reps are paid on a salary, not a commission basis.

**52) What type of disclosure should be required for sales practices involving the distribution of securities that are not those of a publicly offered mutual fund, which are already subject to specific disclosure requirements?**

FAMC is not sufficiently familiar with the prohibitions on sales practices such as those found in NI 81-105 to comment on this area of sales practice.

This is not an issue for FAMC as the significant majority of our Dealer Reps are paid on a salary, not a commission, basis.

**53) Should further guidance be provided regarding specific sales practices and how they should be evaluated in light of a registrant's general duties to his/her/its clients? If so, please provide detailed examples.**

FAMC is not sufficiently familiar with the prohibitions on sales practices such as those found in NI 81-105 to comment on this area of sales practice.

This is not an issue for FAMC as our Dealer Reps are paid on a fixed salary basis, not a commission, basis.

**54) To what extent should the KYC obligation require registrants to collect tax information about the client? For example, what role should basic tax strategies have in respect of the suitability analysis conducted by registrants in respect of their clients?**

FAMC agrees with the responses provided by the PCMA and the IFIC.

FAMC Dealer Reps are extremely concerned about legislating a requirement to collect tax information from our customers. FAMC agrees with the PMCA that each individual's tax situation is sensitive, personal, private and different, and that investors should consult with their own tax advisors prior to investing. FAMC Dealer Reps actively encourage our customers to seek independent tax advice. A flexible standard that accounts for the different type of investments, and requires tax information only in those cases (an example being investment of registered funds), best addresses the realities of the diversity of investment registrants, financial products, and investment goals.

**55) To what extent should a representative be allowed to open a new client account or move forward with a securities transaction if he or she is missing some or all of the client's KYC information? Should there be certain minimum elements of the KYC information that must be provided by the client without which a representative cannot open an account or process a securities transaction?**

FAMC agrees with the responses provided by the PCMA and the IFIC.

PCMA: *"The answer to this question is highly fact driven and the first part cannot be answered in a general sense. However, there is no case in which a trade should be made where all KYC information is missing. The minimum amount of KYC information collected should be an amount that allows a registrant to:*

- *assess whether a client is eligible to make an investment in a particular security;*
- *assess the suitability of a recommended investment for a client;*
- *determine the reputation of a client; and*

- *assess anti-money laundering and terrorist financing risk of the client.”*

**56) Should additional guidance be provided in respect of risk profiles?**

FAMC agrees with the responses provided by the PCMA and the IFIC.

PCMA: *“The PCMA does not believe that investment risk tolerance, a well-established concept, should be replaced by a detailed and potentially confusing risk profiling process that will be difficult and costly for EMDs to implement. More efforts should be made to educate investors about risk and reward. Guidance on explaining this information to clients would be useful. The PCMA is supportive of government initiatives to include financial literacy in the overall education curriculum across the country.”*

**57) Are there circumstances where it may be appropriate for a representative to collect less detailed KYC information? If so, should there be additional guidance about whether more or less detailed information may need to be collected, depending on the context?**

FAMC agrees with the responses provided by the PCMA and the IFIC, particularly the PCMA’s position that current guidance in 31-103CP is adequate.

**58) Should we explicitly allow firms that do not have a product list to create a product review procedure instead of a shelf or would it be preferable to require such firms to create a product list?**

FAMC is a proprietary boutique EMD and does not need a product ‘list’ or a ‘product review procedure. Our two, and only two, near-identical mortgage investment products are not only detailed extensively in the issuers’ Offering Memoranda, but are reviewed by dealing representatives on a regular – practically day-by-day – basis.

FAMC does not agree with the position of the IFIC that registrants should not be differentiated. We feel that they ‘must’ be differentiated, and the difference disclosed and discussed with customers.

A recent experience of the FAMC two-product proprietary EMD with an external mixed/non-proprietary EMD should be helpful and instructive to the CSA, and illustrate why EMDs must be differentiated.

FAMC was approached by an external mixed/non-proprietary EMD to market the Fisgard Capital Corporation (MIC) investment as it fit nicely into their shelf mix as a regular income producing product available for registered accounts and backed by Canadian real estate with a long history of performance.

We decided to test this external marketing method for a year. During the course of the relationship the distinction between the FAMC proprietary EMD and the external mixed/non-proprietary EMD became painfully obvious, causing FAMC to back away from the use of the external EMD to market the Fisgard product.

In our view it essentially amounted to the difference between the compensation that different product list issuers paid to the Dealer and in turn the commission structure or the Dealing Representative.

To be included on the external mixed/non-proprietary EMD’s product list Fisgard Capital Corporation, its management and performance history went through a very rigorous, thorough and costly review of

their product conducted by their financial analysts and based upon the results their internal process for approval or decline which included their senior executives. Once approved for the product list the external EMD was provided copious amounts of information, investor recaps and updates on a regular basis. FAMC representatives did their best to work with the external EMD and support their distribution network including attending their annual Dealer Representative event for their network Dealer Representatives.

Through this process we were exposed to their marketing and communication strategies first-hand. The Fisgard product (simple dividend-producing income fund) with a long performance history was presented with the other products on their shelf most of which were not remotely similar in type, return, risk or cost providing choice for investors relative to their suitability and requirements within their portfolios. Comparisons, contrasts, advantages and disadvantages between the various products on the shelf were clearly defined to the Dealing Representatives.

What was also clearly understood by the Dealing Representatives was the compensation paid to themselves for raising capital between the different issuers. In Fisgard's case the difference the Dealing Representative commission received was upwards of 5%-7% lower which we feel represented the lower relative risk and lower potential return of the investment. We assume that additional costs paid to the Dealer for administration was similar to other issuers but this is not information we had access to. These combined costs were slightly higher than what the MIC's manager is compensated for raising capital but the distribution channel provided the opportunity to raise capital to a wider audience as well as an opportunity to diversify the geographic and demographic base of our investors. It was our decision to not provide compensation levels at higher levels to compete with these other products as our product was a lower risk, had a lower potential return, had an over twenty-year track record of performance, and compensation was fair relative to our proprietary EMD. Paying a higher compensation would ultimately be borne by investors and in our view unfairly.

In short, the relationship was not a good experience, and galvanized our attention to the critical difference between the proprietary EMD and the mixed/non-proprietary EMD. We would recommend a simple improvement in disclosure to the investor that all types of EMD's provide to as part of the suitability discussion a chart (one page) that lists and outlines all the products available (product shelf), discloses the compensation method (commission/salary/combination) and the % rate paid to both the EMD and the Dealing Representative. This would support the discussion around suitability and disclose an important piece of information to the investor.

The experience made FAMC acutely aware that registrants should – and must – be differentiated.

**59) Would additional guidance with respect to conducting a “fair and unbiased market investigation” be helpful or appreciated? If so, please provide any substantive suggestions you have in this regard?**

FAMC agrees with the response of the PCMA.

The Section 130.1 MIC example used by the PCMA is appropriate: *“The MIC should not have to do a head-to-head comparison with a reasonable universe of its competitors and then provide such a comparison to investors.” (Referred to in PCMA Question 14)*

This is rife with potential legal problems . . . imagine attempting a head-to-head comparison to competitors and publishing that to customers?

A necessary practical consideration: Where would such an EMD gather enough reliable information on competitor MICs to make a reasonable responsible comparison? Such a database does not exist.

**60) Would labels other than “proprietary product list” and “mixed/non-proprietary product list” be more effective? If so, please provide suggestions.**

Labels are important, and the simpler they are the better they are. The more precisely descriptive labels are the better they are. We in the business know what ‘proprietary’ means, but the vast majority of the investing public does not understand what ‘proprietary’ means, particularly with respect to investment offerings. Many don’t have a clue what ‘proprietary’ means. At FAMC we try to use descriptors that make sense to our customers. This is easy for FAMC’s Dealer Reps because we only deal with two near-identical mortgage investment products anyway. The term ‘proprietary’ is not a term we generally use because most customers don’t know what it means. There are better ways to describe what FAMC offers.

**61) Is the expectation that firms complete a market investigation, product comparison or product list optimization in a manner that is “most likely to meet the investment needs and objectives of its clients based on its client profiles” reasonable? If not, please explain your concern.**

Such an expectation may be appropriate for firms that deal in multiple (mixed/non-proprietary) products , but is neither necessary nor appropriate for EMDs such as FAMC that sell only two near-identical mortgage investment products. We do not need a shelf and we do not need broad market investigation, product lists or product comparisons. Our Dealer Reps would find themselves scratching their heads and asking the question:  
“Fisgard . . . compared to what?”

FAMC agrees with the response of the IFIC that *“Given the strategic importance of enforcement in defining regulatory obligations, and the uncertainty created by these proposals, we believe there should be a discussion concerning how the CSA plans to enforce these requirements.”*

**62) What, if any, unintended consequences could result from setting an expectation in the context of the suitability obligation that registrants must identify products both that are suitable and that are the most likely to achieve the investment needs and objectives of the client? If unintended consequences exist, do the benefits of this proposal outweigh such consequences?**

FAMC agrees with the responses of both the PCMA and the IFIC.

FAMC feels that there are no benefits to these proposals.

*“The PCMA has concerns that the term ‘most likely’ can be perceived as a guarantee against investment risk or business failure. Our concern is that this standard will put the onus of investment failures, or the failure of a particular investment to meet its objectives, on registrants.*

*We are very concerned that one of the unintended consequences of this regulatory change will be the withdrawal of E&O insurance for EMDs and other registered dealers by insurance providers. This could easily result in EMDs and dealing representatives leaving the industry. This change could also result in an increase in client complaints made to OBSI. The PCMA also believes that requiring registrants to have knowledge of other financial strategies, create asset allocation plans and have omniscient product knowledge will further exacerbate the expectation gap.”*

**63) Should we provide further guidance on the suitability requirement in connection with ongoing decisions to hold a position?**

FAMC agrees with the PCMA that *“the current rule requires a suitability analysis to be conducted on a hold recommendation.”*

FAMC agrees with the IFIC that *“suitability obligations for ‘holds’ should not be ongoing. If required, they should only apply upon client direction or initiative.”*

**64) Should we provide further guidance on the frequency of the suitability analysis in connection with those registrant business models that may be based on one-time transactions? For example, when should a person or entity in such a relationship no longer be a client of the registrant for purposes of this ongoing obligation to conduct suitability reviews of the client’s account?**

FAMC agrees with the PCMA that *“The suitability requirement should not apply when there is no transaction or no strategy involving a security being considered. Where an EMD does not hold client assets, there should only be a suitability analysis when a transaction takes place. Furthermore, the guidance in Companion Policy to NI 45-106 notes it is not necessary to monitor that an Accredited Investor continues to meet the qualification of the exemption after the trade is made. For EMDs, meeting an exemption under NI 45-106 is a key component for assessing the suitability of an investment.”*

**65 to 68) Responses to Questions 65 to 68 Inclusive**

FAMC agrees with the comments of the PCMA in its submission regarding the proposed new “Best Interest” Standard, particularly as the proposal applies to EMDs.

To restate the PCMA position: *“. . . it is not appropriate to apply any proposed “Best Interest Standard” to EMDs. At minimum the standard must be calibrated to account for the unique position occupied by EMDs in the Canadian market, and the distinctive nature of the relationship between EMDs and their clients.”*

FAMC also agrees with the comments of the IFIC:

*“The proposed best interest standard of conduct will create an unmanageable and perhaps unnecessary degree of regulatory, compliance and legal uncertainty best described by the BCSC:*

*BCSC: “The adoption of a broad, sweeping and vague best interest standard will create uncertainty for registrants and may be unworkable in the current regulatory and business environment. Introducing an over-arching duty called a best interest standard while continuing to permit certain fundamental conflicts to exist between registrants and their clients is not in the public interest.”*

We agree with the IFIC: *“We share these concerns, and question further how the industry would supervise compliance with an aspirational over-arching rule. What will be prohibited under a best interest standard of care that is permitted under a duty to act fairly, honestly and in good faith?”*

## CLOSING COMMENTS AND RESPONSE SUMMARY BY FAMC

- What doesn't the average investor understand?
  - 1) the difference between a 'Prospectus' and an 'Offering Memorandum'
  - 2) the 'Exempt' market

What might warrant consideration is replacing 'Offering Memorandum' with a term more accurately descriptive and easily understood. Consider 'Investment Description & Disclosure' for example. Something more descriptive of the actual issuing document.

Investors rarely know what 'exempt' means in the context of a product offering, so FAMC Dealer Reps must spend time explaining the term 'exempt'. The average investor knows what the public market is – it's the 'stock' market. But the 'exempt' market begs the question, "Exempt from what?" Industry people know that it means exempt from the requirement for a prospectus, but the average investor is just as likely to ask "What is a prospectus?" There is a public market and there is a private market. The exempt market is a private market. Why not consider changing the term 'Exempt Market' to 'Private Market' with a qualified representative being known as a 'Private Investment Market Representative'?

- FAMC strongly supports and endorses the conclusion of the IFIC submission as follows:

*"In conclusion, the industry expresses its long-standing support for the principle of placing the interests of the client ahead of the interest of the registrant where there is a conflict. **We believe that this objective can best be met through enforcing the current rules, and reforms that address gaps in the current regulatory framework.**" [Emphasis added]*

*"Also missing from the consultation paper is recognition of the impact CRM2 and Point of Sale reforms are having, and will continue to have, on registrant and client behaviour, along with the way in which market forces are transforming product and services offerings, distribution and pricing. IFIC urges the CSA to consider the impact of CRM2 and POS reforms as it considers additions to the regulatory framework, noting that additional reforms now will skew the multi-year research project just launched by the CSA that is intended to measure outcomes of CRM2 and Fund Facts related to investor knowledge, attitude and behaviour, registrant practices, and fund fees and product offerings."*

In support of the IFIC position FAMC urges the CSA to take a measured and practical approach and consider the impact of CRM2 and Point of Sale reforms as it proceeds to add to the regulatory framework. CRM2 has not had enough time for effects to be realized. CRM2 probably needs at least seven years for effects to be realized. Imposing such a dramatic new regime as the CP 33-404 proposes so soon after the initiation of CRM2 will sidetrack the valuable research that CRM2 is capable of producing.

- Quote from IFIC submission: *"The Investment Funds Institute of Canada" (IFIC) calls on regulators to focus on enforcing rules already in place and on changes that would improve the investment process, while avoiding reforms that attempt to regulate investment outcomes."*

FAMC agrees with the IFIC in calling on regulators to focus on enforcing rules already in place, rather than creating more rules. FAMC feels that it is inappropriate and futile for the CSA to regulate investment outcomes.

- FAMC agrees with the IFIC position cautioning the CSA that *“adopting measures that are unclear in their application and may misalign client-adviser expectations.”*

FAMC agrees with the IFIC that *“Regulators should respond to, not lead, market developments. They should ensure that investors are treated fairly and are risking their capital in a fair market. They should not pass judgement on the merits of investment products or choose winners and losers among service offerings. Some targeted reforms will disproportionately disadvantage certain business models over others, potentially creating a less competitive market.*

- *The proposed “one size fits all” suitability proposal requirements may create the expectation that firms will provide financial planning services to all clients regardless of their actual needs or size of account. These provisions significantly expand the information to be collected. This level of detail is not required for the assessment of financial needs of most clients – keeping in mind that 74% of Canadians with investable assets have under \$50,000 to invest.”*
- FAMC agrees with the IFIC that the CSA should strengthen National Instruments on conflict of interest rules to align with existing SRO rules and enforcement.
- CSA should also enhance proficiency standards, mandatory continuing education, and limits on titles for both firms and advisors.

FAMC finds it troubling that CP 33-404 has even come about, given that representatives of Canada’s provincial and territorial regulators hardly seem to be in agreement on key elements of the initiative? Perhaps it is simply the growth trajectory, muscle and unique opportunities of the Exempt Market, which may be the fastest growing and most popular market in Canada . . . and deservedly so, given the declining popularity of the trading market. FAMC wonders who stands to gain in this sea-change; and we are not quick to leap to the conclusion that it is the investor. While it may become clear one day, so far it is hard to pinpoint the beneficiary of PC 33-404.

FAMC thanks the CSA for the opportunity to provide feedback, and we will be pleased to participate in further conversations regarding CP 33-404.

We can be reached at 1-866-382-9255 to discuss the matter in further detail.

Yours truly,

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