

October 19, 2020

SUBMITTED VIA EMAIL

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

Attention: The Secretary
Ontario Securities Commission
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Me Philippe Lebel, Corporate Secretary
and Executive Director, Legal Affairs
Autorité des marchés financiers
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Dear Sirs and Mesdames:

Re: CSA Consultation Paper 25-402 *Consultation on the Self-Regulatory Organization Framework* (the “Consultation Paper”)

Independent Trading Group (“ITG”) welcomes the opportunity to provide comments on the Canadian Securities Administrators’ (the “CSA”) Consultation Paper, and appreciates the CSA considering our input.

ITG was established in 1992 by a group of TSX floor traders with the intent of developing a business where market makers could conduct business in a professional manner without conflict or compromise. As a proprietary and institutional trading and market making firm, ITG provides services such as price discovery, market making and liquidity provision for traders, marketplaces, institutional clients and issuers.

Canadian securities regulation has been managed through laws and agencies established by Canada's 13 provincial and territorial governments since 1912. The provincial bodies also delegate some powers to two Self-Regulatory Organizations ("SROs") – the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA). We feel that the existence of multiple regulators has had a negative impact on the exercise of powers to sanction bad actors. Consider that many financial firms that do business across the country and have diversified product lines are under the purview of several provincial securities commissions, as well as IIROC and the MFDA. In addition to enforcement and regulatory costs, there are also costs to the public in terms of investor protection.

Recently, IIROC and the MFDA have each proposed their own plan to merge and harmonize regulation. Both IIROC and the MFDA are responsible for setting and enforcing rules regarding the proficiency, business and financial conduct of their dealer member firms and their registered employees. While IIROC, through its predecessor, dates back to 1912, the MFDA was established in 1998 on the recommendation of the CSA to have an SRO directly responsible for the oversight of mutual funds. This may have made sense at the time when mutual fund sales were enjoying strong growth, with investors migrating en masse from GICs during a decade-long bull market in equities. Today, with mutual funds on the wane in the face of a multitude of competing products, the existence of the MFDA no longer makes sense. A merger of IIROC and the MFDA would enhance investor protection by allowing one SRO to oversee various forms of investments often included in one client portfolio.

General Consultation Questions:

Issue 1: Duplicative Operating Costs for Dual Platform Dealers

Firms that are members of both SROs would be able to streamline and reduce duplicative compliance costs and resources. Currently, clients that have been with a limited-license mutual fund dealer that would like to expand their investments into other securities, have to open a new account with a new investment firm and likely a new advisor. ITG believes that reduced operating costs along with access to more products under the proposed consolidation, would be a net benefit to Canadian investors. Consolidated reporting for dealers would help in reducing unnecessary costs as well.

Issue 2: Product-Based Regulation

Under the proposed merger, investment dealers would be allowed to introduce a mutual fund-only offering within their existing legal entity without having to establish a separate dealer on the

MFDA platform. The restriction for current MFDA clients to access the most cost-efficient investment products such as ETFs and PTFs is another reason in support of having more products at lower costs available to investors without the additional “paperwork burden”.

Issue 3: Regulatory Inefficiencies

ITG agrees that within our current regulatory framework, potential redundancies associated with two SROs that oversee similar dealer activity would continue to add duplicative costs related to non-regulatory functions such as HR, IT, and administration.

Investors would benefit by having a “one-stop-shop” that would allow those who begin with mutual funds (regulated by the MFDA) to add individual securities (regulated by IIROC) without switching firms or being transferred from one division to another within the same firm. This would indeed increase investor protection *and* reduce regulatory arbitrage.

Issue 4: Structural Inflexibility

In particular regard to advisor proficiency, ITG believes that having a consolidated SRO would streamline educational requirements to better prepare registrants to grow in their current role while at the same time prepare them to expand their business. We would like to bring attention to this matter in how FINRA administers proficiency examinations. The SRO should set minimum standards for all levels of registration and allow firms and their registrants to choose how they prepare for these exams by having a choice of providers. The Canadian Securities Institute has had a “lock” on the administration of examination proficiency for decades and this has significantly raised costs for dealers and their registrants due to the lack of competition. Although this may be a separate matter for debate, we feel strongly that a consolidated SRO set the minimum standards, administer examinations and evaluations, and let the stakeholders choose how they wish to prepare through an educational institution of their preference.

Issue 5: Investor Confusion

As we mentioned in the above questions, allowing investors access to a “one-stop-shop” would not only be beneficial by allowing them to grow without changing firms, there would be less confusion as there would not be different SROs based on products with different insurance and complaint processes and most of all it would foster investor confidence in a known regulator.

Issue 6: Public Confidence in the Regulatory Framework

SRO compliance and enforcement concerns:

The existence of multiple regulators (provincial or self-regulatory organizations) have had a negative impact on the exercise of powers to sanction in the public interest. The public enforcement of a regulated entity and its registrants that are under the purview of not only more than one provincial securities commission but also IIROC and the MFDA, has proven to be burdensome and costly.

One particular firm that was sanctioned by no less than three regulators in the span of a few years is but one case that illustrates the failure of our fragmented regulatory system to protect the public interest. The CEO of the two related firms, a portfolio manager and distributor, was sanctioned by the OSC for self-dealing. The OSC issued orders sanctioning the individual. The letter and the spirit of many of the sanctions was blatantly violated within the subsequent three-year period. One or more of the firms subject to the OSC disciplinary actions were also sanctioned by IIROC and the MFDA *several times* over more than eight years for failing to maintain an adequate level of capital. What is the lesson to be drawn? Quite simply: our fragmented regulatory system fails to deter malfeasance.

If we consider disciplinary cases that involve repeat contraventions, it is quite clear that the current state of Canada's multiple provincial securities regulators and two distinct SROs does not serve the public interest. Although not all regulatory cases involve repeat offences, the number is not insignificant and poses a substantial risk to the public due to the broad reach of bad players. To make deterrence more robust and increase efficiency, Canada needs a unified self-regulatory organization. It would better protect the integrity of our capital markets, investors and the general public, not to mention the elimination of duplicative investigative and enforcement resources.

Issue 7: The Separation of Market Surveillance from Statutory Regulators (CSA)

ITG has serious concerns with the MFDA proposal to have CSA's assume control of our national market surveillance functions. We feel strongly that IIROC remains uniquely qualified under the current regulatory framework to continue oversight of market surveillance. Having statutory regulators takeover this function would be detrimental to the integrity of our markets and would add significant costs in "rebuilding" a system that currently protects investors and stakeholders well.

Conclusion

In consideration of separate proposals released by each SRO rather than one developed in collaboration, ITG feels that IIROC's proposal promises to be more effective and can be implemented in a timely fashion. The two proposals are consequently very different. IIROC suggests merging with the MFDA and having the two SROs as divisions within one. On the

other hand, the MFDA has recommended a new SRO be developed that encompasses all registrant categories, including those currently under the CSA, and to move the capital market surveillance function from IIROC to the CSA. The MFDA proposal would require consultation on how all aspects of the new SRO would function. We simply do not have time for such a needlessly protected approach.

Thank you for the opportunity to comment on these important matters. We would be pleased to address any questions from the CSA in response to this submission.

Respectfully,

“Nick Savona”

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