THE INVESTMENT FUNDS INSTITUTE OF CANADA
L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA
IFIC

BY EMAIL: mwang@bcsc.bc.ca, jbennett@mfda.ca

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Jason Bennett
Corporate Secretary
Mutual Fund Dealers Association of Canada
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Mark Wang
Manager, Legal Services
British Columbia Securities Commission
701 West Georgia Street, P.O. Box 10142 Pacific Centre
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Dear Sirs:

Re: MFDA NI 31-103 Implementation

We are writing to provide the comments of Members of The Investment Funds Institute of Canada ("IFIC") with respect to the call for public comment on proposed amendments to MFDA Rules and Policy No. 6 (*Information Reporting Requirements*) (the "Proposed Amendments") resulting from requirements established under National Instrument 31-103 *Registration Requirements and Exemptions* ("NI 31-103"), as posted by the British Columbia Securities Commission on December 23, 2009.

General Comment

As a general comment, we commend this initiative in its efforts to provide for greater efficiency, clarity and consistency of rules. In the interest of harmonization, we submit that a consistent framework for regulation is a priority for our industry and that these policies are developed in a coordinated and consistent way for the benefit of investors. However, there are instances where the wording of the Proposed Amendments is different from the relevant wording in NI 31-103. We submit that in order to avoid uncertainty and ensure consistency across distribution channels, the wording of the Proposed Amendments should follow the relevant wording in NI 31-103.

Conflicts of Interest

With respect to section 2.1.4 relating to conflicts of interest, we have noted a difference between the MFDA's proposed rule and the provisions in National Instrument 31-103 section 13.4. This is of concern to Members when, as in this case, it is not apparent which of the rules is the more stringent and therefore which of the rules should be complied with. To avoid confusion and for consistency of application across the industry, we request in subsection (1) the adoption of language that is identical in all material respects to National Instrument 31-103 section 13.4.

Designations

With regards to the Chief Compliance Officer designation, more specifically sections 2.5.3(b)(iii)(A) and (B), we note that the use of the term "reasonably" is not consistent with the language used in sections 5.2(c)(i) and (ii) of NI 31-103 which use the words "in the opinion of a reasonable person." In order to ensure harmonization with NI 31-103, we recommend that the MFDA rule uses the language in NI 31-103 as opposed to that which is currently proposed in section 2.5.3(b)(iii).

Similarly, section 2.5.3(b)(iv) proposes that a report be submitted to the board of directors "as frequently as necessary and not less than annually". This is inconsistent with section 5.2(d) of NI 31-103 which requires a report to be submitted "annually". In order to ensure harmonization with NI 31-103, we suggest that the MFDA use the annual standard found in NI 31-103 as opposed to that which is currently proposed in section 2.5.3(b)(iv).

Branch Manager Supervision

With regard to section 2.5.5, we note that the Proposed Amendments, as currently drafted, are a departure from the MFDA's efforts to improve harmonization in regulation across the industry. The MFDA supervision model is not suited to the modern industry. There are alternative supervisory structures that can be equally or more effective. This has been recognized by IIROC. We turn your attention to IIROC's elimination of its Branch Manager category of registration and supervision structure in Dealer Member Rule 4. The IIROC amendments and the removal of prescriptive and structural requirements in many compliance related rules are consistent with the principal changes in the CSA regime. We urge the MFDA to eliminate the very prescriptive branch manager rules proposed and instead replace these proposed rules with the more flexible concept of branch supervision.

In today's fluid environment, it is arbitrary and unnecessarily restrictive to mandate the number of Approved Persons per branch/sub-branch and stipulate requirements for physical locations. Dealers should be allowed the option of a reasonable compliance system. As a result, we recommend that the MFDA adopt rules that would require Members to ensure they have adequate supervision structures and leave the specifics to the discretion of the Members acting reasonably.

Currency of Courses

With regard to section 2.5.5(d) relating to the currency of courses, we note that the language found in sections 3.5 and 3.11 of NI 31-103 provides that an individual may meet the relevant proficiency requirements either by meeting specific course requirements or by having gained relevant industry experience for a total of 12 months during the 36-months period; this requirement is not found in proposed section 2.5.5(d). This is not only inconsistent with NI 31-103 but it will also cause certain individuals who would otherwise be qualified in terms of proficiency to have to undergo unnecessary testing. To that end, we urge the MFDA to adopt similar language to that found in NI 31-103 in order to ensure harmonization and avoid the unwarranted consequences of not including such proficiency flexibility. We note that by not tracking the exceptions to the proficiency requirements from NI 31-103, the MFDA may be creating situations where an applicant may have to apply to the MFDA for an exemption, even though they meet the proficiency requirements under NI 31-103.

In addition, we note that section 2.5.5(d) does not allow for proficiency requirements to be met by an individual having been previously registered in an equivalent category. This, we note, is something that is currently permitted in the current version of the MFDA Rules (see section 1.2.4(a)(ii)). We urge the MFDA to allow for this type of previous registration to qualify as a way to meet the required proficiency.

Content of Account Statements

We note that sections 5.3.2(b) and (c) propose to add a requirement for Members to report not just on "securities" transactions but also on "investments". We are not clear as to what the MFDA is intending to capture by adding the requirement to report on "investments" and how that is different from "securities". Furthermore, given that the language in section 14.14 of NI 31-103 does not contain the "investment" language, we are concerned that the inconsistency between these two sections will confuse Members when it comes to compliance. For these reasons, we recommend that the reference to "investments" be deleted from section 5.3.2(b) and (c) in order to harmonize with NI 31-103 and to avoid confusion.

Transition Period

We note that sections 16.17(1) and (2) of NI 31-103 provide a mutual fund dealer with a two-year transition period for compliance with section 14.14 of the Proposed Amendments, that being September 28, 2011. However, new rules drafted by the MFDA do not include any transitional provisions. The investment funds industry brought up the impact of these changes, particularly in regards to sending quarterly accounts statements. The CSA agreed that this transitional period was needed to allow dealers to modify computer systems and business processes in order to minimize the impact of these new requirements. Similarly, we suggest that the new section 5.3.2 should be amended in accordance with section 14.14 of NI 31-103 to reflect the results of the discussions between the industry and the CSA.

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Thank you for providing us with an opportunity to comment. If you have any questions regarding this submission, please contact me directly by phone at 416-309-2300 or by email at jdelaurentiis@ific.ca or Jon Cockerline, Director-Policy, Dealer Issues by phone at 416-309-2327 or by email at jcockerline@ific.ca.

Yours truly,
THE INVESTMENT FUNDS INSTITUTE OF CANADA

By: Joanne De Laurentiis
President & Chief Executive Officer