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October 4, 2021

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
Nova Scotia 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:

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**RE: CSA Position Paper 25-404 – *New Self-Regulatory Organization Framework* (the
“Position Paper”)**

The IIAC welcomes the opportunity to provide comments on the Canadian Securities Administrators’ (the “CSA”) Position Paper. The IIAC is comprised of 116 IIROC regulated investment dealer member firms from small regional firms to large national and multi-national firms. Several of our members also have MFDA regulated mutual fund dealers. Our members account for the vast majority of financial advisory services provided to investors, including but not limited to the distribution of mutual funds. IIAC members

trade in debt and equity on all Canadian marketplaces, provide carrying broker services and underwrite issuers in public and private markets.

The IIAC is committed to the service of the investing public. As a representative of the dealers providing the majority of the financial advisory, trading and underwriting services in Canada, the IIAC is able to provide a knowledgeable and considered contribution to the development of a single, enhanced national self-regulatory organization.¹

Summary: The IIAC supports the development of a single, enhanced national self-regulatory organization.

Recommendations: Some key recommendations include the following:

- The need for a dependable, short timeline. The IIAC encourages the CSA to consistently select the most expeditious and cost effective means available to achieve implementation. Consideration of any substantive rule or policy changes should take place after the SRO is operational and have regard to regulatory initiatives currently underway.
- Support for proposals that improve public awareness of how the regulatory framework operates and a regulatory framework designed to meet evolving investor needs and preferences.
- Encouragement for proposals that facilitate easier, more cost-effective access to a broader range of products and services to clients through a proportionate, flexible, risk-based approach to regulation that recognizes different business models designed to meet investor needs.
- The benefit to the Integrated Working Committee (“IWC”), the executive committee and the operational committee and their subcommittees of the experience and knowledge of the IIAC, its membership and both current SROs, all of whom should positively contribute to timely and successful implementation.
- Meaningful industry representation on the Board of Directors to assist the SRO to respond effectively to evolving investor concerns.
- Formalized advisory roles for IIROC District Councils, MFDA Regional Councils and Marketplaces to the Board of Directors.
- Support for independent directors, with a cooling off period applicable to all stakeholders.
- The granting of exemptions from the 270-day rule to allow and assist dealers with an appropriate transitioning into the SRO and to work in parallel with the MFDA, IIROC and the CSA’s proposals for the SRO.

These and other recommendations are detailed below.

The IIAC commends the CSA for its decision to support the development of a single, enhanced national self-regulatory organization (the “SRO”) for Canadian capital markets. There is now a clear consensus on the need for the SRO. The decision to support the development of a single SRO, necessarily results in a period of uncertainty for investors and dealers as they wait to learn about the details of how the SRO will function, and the timeline for its implementation. Consequently, it is imperative that this process proceed

¹ For more information about the IIAC, please see <https://iiac.ca/>

as quickly and expeditiously as possible to support efficient capital markets and their ability to meet investor needs and expectations.

SRO Framework

The IIAC agrees with the SRO Framework proposed by the CSA and its targeted outcomes. We had strongly advocated for a phased approach to first establish and operationalize the SRO with MFDA and IIROC dealer members, and then consult on the potential inclusion of other registrants as part of Phase II.

The IIAC appreciates the need for and importance of the IWC, the executive committee and the operational committee that will be responsible to co-ordinate and work with external advisors and different subject matter experts within the CSA. The IIAC believes the IWC, the executive committee and the operational committee will benefit from the experience and knowledge of the IIAC, its members and both current SROs and meaningful representation from their membership, both which could positively contribute to timely and successful implementation.

The Need for a Short Timeline

It is noted that as work in Phase I progresses, some initiatives may be implemented by subgroups of the IWC, the executive committee, the operational committee or by other committees formed by the CSA. Though the IIAC appreciates the value that subgroups and other committees bring to the process, the IIAC cautions against delays that a sub-group and committee process may bring and encourages the CSA to consistently select the most expeditious means available to achieve implementation. For example, the committees and/or working groups suggested by the CSA in Appendix C may provide recommendations to the SRO post implementation and as part of an ongoing initiative to enhance the SRO.

The IIAC also appreciates that the work of the IWC in Phase I will focus on integration, harmonization, and governance. Our comments on these issues are set out below:

i) Timeline for Integration

We agree with the CSA's approach to integrate the existing SROs through the appropriate legal and corporate transactions that optimize outcomes, minimize impact, and manage execution risk. Given the importance of the SRO to Canadian capital markets, it is imperative that the corporate structure is selected on an expeditious and informed basis and does not result in unnecessary delay or costs.

The CSA has advised that upon finalizing the appropriate corporate structure, the IWC will issue a public communique providing details of the integration plan, including timeline. It is fundamental to business and operational plans designed to meet investor needs to have a dependable, short timeline, with clear understanding of how the SRO is to be formed and what "Day 1" under the SRO looks like.

ii) Harmonization

The IWC has been tasked with coordinating the harmonization of the existing SRO rules, policies, compliance and enforcement processes, and fee models. While the IIAC appreciates the importance of this work, it is essential to ensure that this process does not delay the integration of firms into the SRO. For example, the IIROC Plain Language Rule Book Project ("PLRs"), aimed to modernize the language in existing IIROC Dealer Member Rules, involved multiple public consultations over several years, various rule revisions and has been a significant project for dealers to implement.

In contrast, IIROC and MFDA rules and guidance should reflect the CSA's National Instruments and not require undue time and process to harmonize, where appropriate. Priority should be given to housekeeping

amendments to the existing MFDA and IIROC rules and guidance to easily coordinate them where possible. Once the SRO is operational, then where needed, substantive changes to rules, if any, may be considered.

iii) Governance

Statement of Principles

The IIAC agrees with the Guiding Principles that were developed by the CSA to inform its IWC's research and analysis in order to best achieve the CSA's targeted outcomes.

This SRO is an integration of IIROC and MFDA as overseen by the CSA. The IIAC agrees that the SRO's mandate should be outlined in the Recognition Orders, by-laws and other applicable constating documents.

A broader Statement of Principles, setting out the CSA's targeted outcome, should be included as part of these constating documents. Further, the Statement of Principles should confirm the SRO's commitment to adopting a risk-based, balanced approach to regulation, and its commitment to:

- promoting access to advice for all investors;
- reducing investor confusion;
- enhancing investor education;
- fostering fair, efficient and competitive capital markets and confidence in those markets;
- encouraging capital formation and growth;
- advancing the confidence in and stability of capital markets;
- eliminating duplicative costs, reducing industry costs, and minimizing regulatory inefficiencies;
- enhancing structural flexibility;
- acknowledging proportionate regulation;
- strengthening proficiency;
- increasing controls and improving transparency of enforcement mechanisms; and
- maintaining strong market surveillance.

As set out further in this submission, the principles the IWC will consider in its rule harmonization policy initiative should be required to guide all new rule development at the SRO and form part of its Statement of Principles.

Board Composition

The IIAC is generally supportive of the CSA's proposal for the SRO's Board composition, subject to the comments below.

It remains essential to recognize that meaningful industry representation is needed on the Board of Directors for the SRO to respond effectively to evolving investor concerns.

The IIROC By-Laws currently require seven independent directors, five dealer directors, the President and two marketplace directors. We believe only having five dealer directors out of fifteen is not reflective of the industry and inconsistent with the notion of self-regulation. The SRO's By-Laws should remove an

outdated requirement to maintain two marketplace directors and instead increase the number of dealer directors. While marketplace members will remain an important stakeholder (given the SRO's marketplace surveillance responsibilities) we believe they can have an advisory role to the Board similar to role the CSA has proposed for IIROC District Councils and MFDA Regional Councils (the "Councils"). This is even more important under the SRO, given the diverse array of business models of dealers the Board of Directors will represent.

The IIAC supports the "Councils" retaining an advisory role on regional and national issues. The IIAC agrees with the CSA's proposal to include an escalation method within the SRO as applicable. The IIAC believes that representatives of the Councils should directly address the Board of the SRO at its meetings on a regular basis. A standing committee of the Board should be formed to respond to issues raised by the Councils.

As noted in our 2020 comment letter, the IIAC supports the CSA in its expansion of the experience criteria for independent directors, as well as introducing term limits for all directors, maintaining only independent directors on the nominating committees, and introducing a formal cooling off period to be considered for any independent director positions. With respect to the criteria to qualify as independent, we believe the cooling off period should be applicable to all stakeholders. For example, there should be a similar cooling off period for individuals leaving regulators, exchanges, the OBSI, investor advocate associations as there are for individuals leaving a dealer, or trade association.

Though the CSA has proposed that the Nominating Committee of the Board be composed of independent directors, the process for selection of the Nominating Committee and its process for selection of a Board of Directors and the number of Directors to be selected has not been explained. The IIAC requests greater transparency on the board appointment process.

The IIAC has publicly supported many of the CSA's proposals with respect to CSA involvement in the SRO corporate governance and understands the importance of CSA oversight of the SRO. We ask that the CSA remains mindful of the need to balance its oversight function and providing the SRO with the necessary authority to be responsive to the changing needs of Canadian capital markets. The IIAC encourages the CSA to exercise any powers of non-objection with regard to the role and expertise of the SRO and the materiality of the issue and provide transparency in their rationale if an objection is raised.

Proficiency

The IIAC supports the CSA's proposed solutions related to proficiency. IIAC member firms support examining more nuanced proficiency-based registration requirements that would retain the high standards of professionalism in the industry. Proficiency and registration categories impact all investors and areas of the dealer business. Given their importance, broad public consultations may be needed, though these should be conducted after the SRO is established to prevent unnecessary delays and uncertainties.

The IIAC appreciates the CSA acknowledgement that IIROC's proficiency upgrade requirement (the "270-day rule") is likely no longer fulfilling the initial policy objective and may act as a barrier to dealers providing investors with a broader product offering in a streamlined registration category. Pending the establishment of the SRO, the CSA should permit IIROC to grant exemptions from the 270-day rule. There is no policy basis for delaying relief for IIROC dealers seeking these exemptions which remain for the benefit of investors. These exemption requests are to allow and assist dealers with an appropriate transitioning into the SRO and to work in parallel with the MFDA, IIROC and the CSA's proposals for the SRO.

Investor Education

We support proposals to improve public awareness of how the regulatory framework operates. We further support a regulatory framework designed to meet evolving investor needs and preferences.

Access to Advice

Improving the client experience and increasing investor access to advice and services, were core reasons IIAC member firms advocated for changes to the current SRO regulatory framework. In our 2020 comment letter, the IIAC outlined various regulatory barriers that limited client access to certain products and advice. The IIAC is pleased that the CSA is addressing these barriers.

In particular, we believe the following will facilitate easier, more cost-effective access to a broader range of products and services to clients:

- Allowing introducing/carrying broker arrangements between mutual fund dealers and investment dealers;
- Enabling dual platform dealers to integrate their similar back-office functionalities and;
- Permitting dealers to centrally gather standard client information and know your client information in digital format across multiple accounts and between affiliated firms.

The transfer of client data between unaffiliated firms raises privacy concerns and other considerations which will require further assessment after the SRO is implemented.

Industry Costs

The IIAC supports the CSA's proposed solutions related to reducing industry costs².

We appreciate the CSA's statement that they will ensure the fees in the SRO are proportionate to registrants' activities and do not carry over any duplications currently experienced by dual platform dealers.

The SRO should be able to realize various operating efficiencies. We expect the SRO to result in benefits including a reduction in regulatory fees and costs for all dealers, including for non-dual platform dealers.

We strongly support the CSA's decision to include language in the terms and conditions of the SRO to enable support for dealers developing and employing technological advancements.

A Flexible Approach to Harmonization and Efficiencies

We agree consistent rule development and interpretation across IIROC and MFDA registrant categories is a key benefit of the SRO. As previously noted, while we support the rule harmonization policy initiative, the status of its completion should not delay the establishment of the SRO.

² Deloitte LLP on behalf of IIROC, released *An Assessment of Benefits and Costs of Self-Regulatory Organization Consolidation*, which concluded that consolidation would result in aggregate industry savings of between \$380 and \$490 million over the next 10 years by eliminating costs associated with systems and technology, corporate expenditures, and other expenses related to running two platforms to comply with overlapping regulation.

The approach the SRO takes to rule making is central to its ability to be a leading regulator. The guiding considerations outlined by the CSA for the rule harmonization policy initiative, should be required to guide all new rule development at the SRO and form part of its Statement of Principles. In particular:

- (i) guidance that clearly articulates the intended outcomes for the rules;
- (ii) ensuring the rules are scalable or proportionate to the different types and sizes of member firms and their respective business models;
- (iii) assessment of the economic impact of proposed rule changes to affected stakeholders; and
- (iv) harmonization of rules that individually may require unnecessary technological systems or processes.

Rules and guidance must be scalable or proportionate to size and business models including support for innovation in business models and product offerings, for example, some dual-platform firms may choose to maintain two separate legal entities for their current IIROC and MFDA dealers.

The IIAC has also suggested that post implementation analysis is important to developing a disciplined approach to rule making and we believe it should be incorporated into the Statement of Principles for the SRO.

Market Surveillance

The IIAC is pleased that the CSA has concluded that market surveillance responsibilities should remain with the SRO. We believe that the surveillance function increases the robustness of the regulator by providing direct insight into investor behavior and improved line of sight into capital market trends. The SRO will similarly benefit by retaining this function.

Recognizing Other Initiatives

The pace of regulatory change over the last several years has been substantial. IIAC member firms are in the process of making changes to systems, operations and processes and policies in response to the IIROC PLRs, the Client Focused Reforms, Vulnerable Clients rules, the Consumer Protection Framework, AML changes, etc. It is important for the SRO to leverage the current initiatives being undertaken by IIROC, the MFDA, the CSA and other government and regulatory bodies.

We ask the CSA, IIROC and MFDA to be mindful of the significant undertaking it will be for certain firms to transition to the SRO when setting implementation dates and if considering any new initiatives.

Reasonable and Seamless Transition Period

IIAC wish to ensure a seamless transition which avoids any disruption to client service.

Any transition period should be reasonable to prevent disruption or confusion for clients. It is not practical to expect dealers to be able to implement substantial changes from the current MFDA or IIROC rule books at the initial outset of the establishment of the SRO. As we have previously stated, initial consideration must be given to housekeeping amendments to harmonize the rules were possible and then if substantive changes are contemplated, public consultations should occur after the SRO is established and with appropriate transition periods.

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The IIAC would be pleased to respond to any questions that you may have in respect of our comments.

Yours sincerely,

Investment Industry Association of Canada