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Dear Sir/Madam:

**Subject: IIROC Proposed Financial Planning Rule**

Independent Financial Brokers of Canada (IFB) is providing comment on the above-noted proposal to provide a Rule that will define financial planning and establish the proficiency and supervision requirements to be met by Dealer Members of the Investment Industry Regulatory Organization of Canada (IIROC) who provide such services.

At the outset, we must stress our disappointment that our request for an extension to the deadline was denied. In our view, 30 days is generally too short a comment period to be effective in receiving comments from interested parties. In this instance, the situation was further exacerbated by publishing the proposal in early August when many organizations face reduced staff levels due to previously scheduled summer vacations. In our case, we have been pressed to fully assess the potential impacts of this Rule on our membership. Consequently, as we continue to review the proposal with our members, we may have further comments to provide you with.

Regulatory management of financial planning is of great interest to IFB as the vast majority of our members provide such a service in the course of fulfilling their fiduciary

responsibilities. It is a normal part of the process used by financial professionals to establish their clients' financial needs and identify the most suitable investment product(s). Many of our members hold specific financial planning designations. Others, while perhaps not specifically accredited, have acquired this ability through experience while regulated by provincial licensing standards, and ongoing educational requirements.

Although the IIROC proposal does not make reference to any Canadian standard except in Quebec, the Insurance Council of British Columbia (Council) has had a policy in place for life insurance agents holding themselves out as a Financial Planner or providing financial planning advice since 2002<sup>1</sup>. This policy was developed following consultation with various provincial securities and insurance regulators, the life insurance industry and associated organizations.

Council defines financial planning as:

*“Providing objective, integrated and comprehensive advice following an assessment of an individual’s current financial situation and current and future financial needs, except as is required in the performance of the licensee’s duties as a life insurance agent.”*

We feel it is important to distinguish between those who provide financial planning services in the context of their work as responsible financial advisors, and those who hold themselves out as a ‘Financial Planner’. Such individuals should be properly accredited. A further distinction is that some advisors charge a specific fee for financial planning services, while others would incorporate this as part of meeting their KYC and suitability obligations related to securities or insurance advice. This distinction may be a useful consideration when determining whether specific credentials should be required.

We note that IIROC has included in the Rule specific courses or credentials for the Dealer to rely on when establishing an individual’s financial planning competency. While we recognize that IIROC has attempted to develop a fairly wide range of courses and credentials, we do not believe it is the role of IIROC to suggest which courses and credentials are suitable to establish competency for financial planning. We suggest a more useful approach, particularly as time goes on and specific courses and designations may become outdated or irrelevant, is to provide language of a more general nature in the Rule. IFB would be pleased to assist in the development of such language.

Of considerable concern to us is the potential effect of this Rule on individuals who offer complementary financial services, in particular those who are both insurance licensed and securities registrants. We are deeply concerned that under the present wording Dealer Members will find themselves accountable for the supervision of insurance-related business conducted by Registered Representatives, even when conducted outside of the Dealer. Licensed insurance brokers are required to conduct suitability reviews and recommend only suitable products to clients. Life/health insurance brokers are governed by a regulatory regime separate and apart from the securities commissions and SROs. To avoid confusion and duplication of oversight, IFB recommends that the proposed

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<sup>1</sup> Insurance Council of British Columbia, Notice to all Life Insurance Agents, ICN #02-001 April 22,2002

wording be clarified to make it clear that financial planning activities related to the business of insurance are exempt from this Rule, similar to the wording used by the Insurance Council of B.C.

Furthermore, it is a trademark of our members that they offer only independent advice to clients - advice that is not restricted to the products offered by a particular company or provider. We are troubled then with the proposed requirement that “*Financial planning services must be offered and provided only through the Dealer Member, not as an outside business activity*”. If Dealer oversight extends to the activities of our members when they are conducting non-securities related financial planning services, this may well lead to situations where the Dealer could pressure the advisor to promote a specific provider or service, thereby undermining our members’ ability to offer independent advice and the public’s ability to source such advice. Further clarification of such circumstances is required.

Based on the above, a multi-disciplinary approach seems suitable relative to determining appropriate standards for the oversight of financial planning. Therefore, we suggest that this is an undertaking which would benefit from being referred to the Joint Forum of Financial Market Regulators, as it is a body consisting of representatives from each financial sector and well-suited to considering the impact on each sector and to developing a harmonized approach. Without the national, multi-disciplinary approach that this body can bring, consumers of financial services and participants alike will experience confusion.

Differing regulatory standards between IIROC Members, MFDA Members, non-SRO members and the insurance industry will lead to compliance challenges. The reality is that many financial firms and advisors are licensed in multiple provincial jurisdictions, as well as being licensed under securities and insurance regulation. A national approach which recognizes this reality will be much more efficient and better suited to meet the overarching goals of the Rule, as stated by IIROC, namely to:

- Promote the protection of investors;
- Foster fair, equitable and ethical business standards and practices; and
- Promote just and equitable principles of trade and the duty to act fairly, honestly and in good faith.

In conclusion, IFB looks forward to working with IIROC and others to find suitable solutions to the issues we have identified. We will be pleased to comment on further drafts as they become available or to discuss the above comments in further detail.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Whaley', written over a white background.

John Whaley  
Executive Director