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Bob Christie, Chair
Joint Forum of Financial Market Regulators
Joint Forum Secretariat
5160 Yonge Street, 17th Floor, Box 85
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Sent by email: jointforum@fscs.gov.on.ca

Dear Sirs/Mesdames:

Subject: Joint Forum Strategic Plan 2009-2012

Independent Financial Brokers of Canada (IFB) welcomes the opportunity to provide input to the Joint Forum as it considers its strategic priorities and initiatives for the period 2009-2012. Initiatives undertaken by the Joint Forum can have a direct impact on our members because most are insurance licensed, mutual fund representatives or “Approved Persons”, and securities registrants. As well, many members offer financial planning services to their clients, including provisions for retirement.

IFB appreciates the difficulties faced by pension, securities and insurance regulators as Canadians from all walks of life struggle with the enormous impact the current economic downturn has had on the financial marketplace, including our savings, retirement plans and everyday life. Our suggestions reflect this current reality. We trust they will be helpful as you draft your Strategic Plan.

1. Financial Planning

As you will be aware, the Investment Industry Regulatory Organization of Canada (IIROC) issued a public consultation paper in August, 2008 requesting comments on its proposal to define and regulate the financial planning activities of its registrants.

IFB, along with a number of other organizations, expressed deep concern over this proposal in our formal submission. In summary, we objected to the application of the Rule to client services rendered outside of securities and to the fragmentation that will be created if individual regulators independently define how, or if, financial planning should be regulated in their sector.

Clearly, financial planning in many forms is carried on by insurance brokers, securities advisors and mutual fund representatives, among others. Indeed, these advisors would be remiss in their duty to their clients by not considering all the relevant details of their financial situation before developing an investment strategy or recommending a product. Isolating this for securities registrants into an activity that their dealer would become responsible for, including overseeing and determining the appropriateness of the advisor's methodology and advice, has many practical drawbacks and extends their authority into areas where IIROC and their dealer members have no jurisdiction. For example, many of our members are licensed to provide multiple financial services, such as life/health insurance and securities.

It is extremely troubling to us and our members that under the IIROC proposal, the securities dealer would become responsible for oversight of the advisor's financial planning activities, even when these activities are not related to securities and conducted outside of the dealer. Furthermore, if this proposal is implemented, similar proposals will no doubt be raised individually by other regulators, such as the MFDA. It is not rational or efficient for industry participants or clients to be forced to understand and comply with multiple approaches to financial planning regulation.

IFB recommended in its response to IIROC that the issue of financial planning regulation should be dealt with by the Joint Forum where any approach would benefit from the cross-sectoral representation of its members. We continue to see value in this recommendation and urge the Joint Forum to consider the merits of such a co-ordinated solution.

2. Improve upon the existing regulatory framework.

In our view, this is not the time to introduce new rules, policies or regulations - beyond those essential to preserving the integrity of the marketplace - given the prevailing level of economic uncertainty and yet undetermined impact of it into the future.

We have long argued, in various submissions to regulatory authorities, that new compliance requirements frequently have an unequal impact on small, independent firms and their advisors as compared to large financial institutions. Large financial institutions can absorb the increased cost of compliance more easily than small, owner operated businesses. This creates an unequal playing field – one which may lead to a serious reduction in the number of independent advisors available to consumers in communities across Canada. It is our firm belief that if this is allowed to happen, the result will be fewer product choices for consumers, less access to independent financial advice and an overall reduction in consumer protection as more advice and product selection will come from proprietary sources of information.

Canada's Competition Bureau has developed six principles to help determine whether a regulatory framework is unduly restrictive, thereby disadvantaging consumers. They are as follows:

- *Restrictions should be directly linked to clear and verifiable outcomes.*

- *The regulation should be the minimum necessary to achieve stated objectives. That is, the regulation should only comprise what is reasonably required to protect the public and should not restrict competition any more than is necessary to achieve the desired objectives.*
- *The regulatory environment should neither favour nor constrain the ability of particular market participants to compete in the market.*
- *The regulatory process must be impartial and not self-serving.*
- *A regulatory scheme would also allow for periodic assessment of the regulations' effectiveness and be subject to regular reviews.*

Finally, a primary objective of the regulatory framework should be to promote open and effective competitive markets.¹

We ask the Joint Forum to be cognizant of the potential for regulatory measures to reduce the competitive position of independent advisors and the impact that this will have on Canadians, as it considers its strategic priorities.

Opportunities currently exist for the Joint Forum to evaluate existing inter-provincial barriers and streamline legislative and regulatory requirements between provinces. Reducing regulatory barriers, and the associated costs of complying with different jurisdictional requirements, will assist our members to continue to provide much needed professional advice and services to their clients throughout these difficult times.

3. Consumer Education

We believe that consumer education is a cornerstone of consumer confidence and is a benefit for those who use a professional financial advisor. Our members, for example, pride themselves on the personalized service they provide to clients so they understand how any product sold fits into their financial plan. However, many Canadians do not use the services of a financial advisor. Sponsoring educational information and tools for consumers may interest the Joint Forum because thoughtful financial planning must take into account, among other considerations, replacement income at retirement, investment income and insurance needs. Consumers who are well-equipped to understand this process and actively participate in the development of their own financial plan will be more successful in evaluating whether the advice they receive is appropriate and protecting themselves against unsuitable investments. Specific educational initiatives which help consumers to become knowledgeable, responsible investors will position them well into the future.

¹ Competition Bureau Canada, Draft Information Bulletin on Trade Associations, Section 3.7.1, October 2008

It is interesting to note that the Financial Services Authority in the U.K. has issued a discussion paper² aimed at exploring how to empower consumers with increased knowledge and understanding of the financial marketplace so they can participate more fully in investment decisions and take more responsibility for their financial wellbeing.

Briefly, the elements the FSA is looking at when considering the responsibilities of the consumer are:

- Reasonableness (the overriding principle that consumers have a responsibility to act in a 'reasonable' and accountable way)
- Good faith (not acting in bad faith by providing misleading or wrong information and not taking advantage of this wrongdoing)
- Participation (make a reasonable effort to understand the advice and the information provided)
- Disclosure (disclose relevant facts accurately and level of risk tolerance, as well as other details that could reasonably be expected to affect the advice offered)
- Action (promptly report complaints and act to mitigate losses)

Including these elements as part of an overall educational initiative aimed at consumers, we think, fits well with the parameters identified by the Joint Forum.

4. Point of Sale Disclosure for Mutual Funds and Segregated Funds

Certain of the delivery requirements inherent in the Point of Sale disclosure regime will be problematic for our members and may lead consumers to choose investment options with less onerous delivery requirements. The details of our specific concerns have been communicated to the Joint Forum in previous consultations on this subject and we will continue to work with the life insurance and mutual fund industries to seek out appropriate solutions.

5. Closing Remarks

To summarize the foregoing, it is our view that exploring how - or if - financial planning activities should be subject to regulatory oversight is best sited with the Joint Forum because of its cross-sectoral composure.

Furthermore, we feel it is essential that the Joint Forum subject any newly proposed project, initiative or regulatory change to a strict multi-disciplinary evaluation, including a comprehensive cost-benefit analysis, to ensure that only those proposals where there is an established and proven need are endorsed. This will ensure stakeholders in each of the financial sectors represented by the Joint Forum can count on responsible regulation, not more regulation.

Where a need for further regulation exists, we support a principles-based approach, which allows regulators to set guiding principles and industry stakeholders to develop solutions, appropriate to their sector.

² Financial Services Authority, Discussion Paper on Consumer Responsibility, December 2008

IFB is pleased to have offered these comments on behalf of its members and looks forward to participating in future consultative opportunities as they arise.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Whaley', with a large, stylized initial 'J'.

John Whaley
Executive Director
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