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RE: Development of MFDA Continuing Education Requirements

FAIR Canada is pleased to offer comments on the Mutual Fund Dealers Association's ("MFDA") discussion paper on the development of continuing education requirements (the "Discussion Paper").

FAIR Canada is a national, charitable organization dedicated to putting investors first. As a voice of Canadian investors, FAIR Canada is committed to advocating for stronger investor protections in securities regulation. Visit www.faircanada.ca for more information.

1. Executive Summary

- 1.1. FAIR Canada supports the MFDA's introduction of continuing education requirements for Approved Persons as FAIR Canada agrees that it is important for Approved Persons to keep their industry knowledge current.
- 1.2. However, a comprehensive approach to improving proficiency of MFDA Approved Persons is needed, and simply introducing continuing education requirements will not be sufficient. FAIR Canada believes that all Approved Persons first should be subject to a higher proficiency standard. FAIR Canada therefore encourages the MFDA to deal with the issue comprehensively by increasing proficiency standards as well as requiring continuing education. Introducing continuing education requirements alone will not have any meaningful impact on the quality and standard of advice.

2. General Comments

- 2.1. It is important that Approved Persons be at the forefront of industry knowledge, and we agree that continuing education may enable Approved Persons to provide better investment advice. However, we urge the MFDA not to ignore or lose sight of the real question: is the Approved Person actually proficient?

2.2. If that question is not addressed, imposing continuing education requirements on top of the MFDA's current proficiency framework risks signalling, incorrectly, that an Approved Person who has complied with the continuing education requirements is qualified to provide investors with a range of investment advice. FAIR Canada therefore recommends that the MFDA engage in a thorough, public review of proficiency standards, before establishing new continuing education requirements, to determine whether the current proficiency standard is adequate.

2.3. FAIR Canada urges the MFDA to make this comprehensive review of its proficiency standard a priority; and FAIR Canada cautions the MFDA not to simply substitute a continuing education requirement for a comprehensive proficiency standard.

3. Continuing Education

3.1. FAIR Canada believes that, as part of ensuring the advice received by investors is based on up-to-date best practices and current information, the MFDA should require all Approved Persons to meet certain continuing education requirements on an annual basis.

3.2. FAIR Canada is pleased to see that the MFDA's consultation document in this matter included information on continuing education requirements from a variety of other organizations and professional bodies. FAIR Canada would also wish to see comparative information regarding initial proficiency and continuing education requirements that are set by each province's regulator (for example, requirements in the Province of Quebec for financial planners and other financial service providers). In addition, we urge the MFDA to benchmark to other leading jurisdictions outside Canada such as the United Kingdom, Australia and the United States. FAIR Canada agrees that the MFDA should incorporate the best practices of a variety of other organizations, not only financial services organizations, into its continuing education framework.

4. Proficiency

4.1. As set out in our comments to IIROC on their consultation regarding proficiency assurance dated November 17, 2014¹ and to the MFDA dated September 16, 2015 regarding MFDA Rule 1.2 (Individual Qualifications)², FAIR Canada believes there is a crucial need for a thorough, public review of proficiency standards. The current proficiency framework was designed, many decades ago, around the sales process, for salespeople. The educational and professional standards for registrants need to

¹ FAIR Canada's letter to IIROC regarding IIROC's consultation on Proficiency Assurance: the Next Phase – Consultation Relating to Expiry of CSI Contract (November 17, 2014), online: <http://faircanada.ca/wp-content/uploads/2011/01/FAIR-Canada-comments-re-IIROC-proficiency-assurance.pdf>.

² FAIR Canada's letter to the MFDA regarding the Request for Comment on Proposed Amendments to MFDA Rule 1.2 (Individual Qualifications) Regarding Outside Business Activities Including Financial Planning (September 16, 2015), online: http://faircanada.ca/wp-content/uploads/2011/01/150816-Final-Draft-Submission-to-MFDA3_signed.pdf.

be reviewed and revised. They are structured around the particular products representatives are permitted to sell, not the overall quality of advice provided to retail investors. The standards must be raised to align with the image of professionalism that registrants and their firms portray, as well as with the expectations investors have regarding regulatory requirements.

- 4.2. We encourage the MFDA to review the points raised in the above-noted submissions and to substantively improve the education and proficiency requirements for its Approved Persons. This exercise should be done in a coordinated manner with other regulators (IIROC and the provincial securities regulators and insurance regulators), drawing on the education, training, and experience of MFDA Members.
- 4.3. FAIR Canada notes that at present, the MFDA does not require an Approved Person to have a high school diploma (or equivalent). To become an Approved Person, one must either: (i) score 60% or higher on the Canadian Investment Funds Course Exam, the Canadian Securities course or the Investment Funds in Canada Course Exam, or (ii) earn a CFA charter and have 12 months of relevant investment management experience, or (iii) obtain the Canadian Investment Manager designation and have 48 months of relevant investment management experience.³
- 4.4. FAIR Canada questions whether this existing proficiency standard is adequate in light of the trust and reliance placed in Approved Persons by ordinary investors. Most investors do not seek out advice for a simple sales transaction or for a recommendation that falls within the narrow confines of a representative's regulatory licence; they seek out advice for their particular financial needs. Moreover, they do so in the expectation that the advice will be crafted in an expert fashion, taking into account broadly all options in order to accord with the client's best interests. FAIR Canada is concerned that Approved Persons who only just meet the current proficiency standards may not be qualified to provide investors with adequate investment advice in this context.
- 4.5. The appropriate minimum level of proficiency must take into account investors' needs and expectations. Therefore, in FAIR Canada's view, increased proficiency standards

³ MFDA Staff Notice MSN-0077 (December 7, 2010). The requirements for an Approved Person are: (i) Passed the Canadian Investment Funds Course Exam (administered by IFIC and approximately 60- 90 hours of study and one 3-hour exam; passing grade of 60%); the Canadian Securities Course Exam (approximately 135-200 hours of study and two 2-hour multiple choice exams; passing grade of 60%); or the Investment Funds in Canada Course Exam (administered by CSI Global Education Inc. and previously The Institute of Canadian Bankers (approximately 90-140 hours of study and one 3-hour exam; passing grade of 60%); **or** (ii) Earned a CFA charter and have 12 months of relevant investment management experience in the 36-month period before applying for registration; **or** (iii) Received the Canadian Investment Manager designation and have 48 months of relevant investment management experience, 12 months of which was in the 36-month period before applying for registration.

must be combined with a high, overarching standard – a best interest duty – to ensure that Approved Persons attain true proficiency to provide advice.

We thank you for the opportunity to provide our comments and views in this submission. We welcome its public posting and would be pleased to discuss this letter with you at your convenience. Feel free to contact Neil Gross at 416-214-3408/neil.gross@faircanada.ca or Kate Swanson at 416-214-3442/ kate.swanson@faircanada.ca.

Sincerely,



Canadian Foundation for Advancement of Investor Rights