

April 2, 2013

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- and -

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Dear Sirs/Mesdames:

Re: Proposed Amendments to Section 1 (Definitions) of MFDA By-law No. 1, Rule 2.5.5 (Branch Manager) and Policy No. 2 *Minimum Standards for Account Supervision*

The Canadian Advocacy Council¹ for Canadian CFA Institute² Societies (the CAC) appreciates the opportunity to comment on the MFDA's proposed amendments to By-law No. 1, Rule 2.5.5 and Policy No. 2.

We understand that the impetus behind the amendments is to permit Members flexibility in developing branch supervision structures. The MFDA bulletin describing the amendments suggests that they are consistent with the approach to branch supervision

¹ The CAC represents the 13,000 Canadian members of CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at <http://www.cfaadvocacy.ca/>. Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx>

² CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 113,000 members in 140 countries and territories, including 102,000 CFA charterholders, and 137 member societies. For more information, visit <http://www.cfainstitute.org/>.

contemplated under the IIROC rules (including IIROC Rule 2500) and by the CSA under National Instrument 31-103 - *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. We also understand that the proposals would require Members to obtain the approval of staff of the MFDA before the Member would be permitted to implement remote supervision of branches.

While the CAC is generally supportive of initiatives that harmonize regulatory requirements across different self-regulatory organizations, we have a concern that permitting Members greater leeway to designate offsite branch managers could have a negative impact on investor protection. As stated directly in the proposed amendments to Policy No. 2, an onsite branch manager “is in the best position” to know the salespersons and clients in the office and respond to problems immediately. It is our experience that more, not less, supervision is required for branch offices of Members, particularly smaller dealers and those in more remote locations. In our view, it is difficult to properly supervise registered representatives from an offsite location, even if periodic branch visits are mandated, because the branch manager is unlikely to have as strong a relationship with the representatives and other staff at the branch. Key protections are lost when branch managers can not observe the daily administrative functions at a branch, such as how funds and documentation are handled by staff. These types of branch activities may not be captured by any reports to an offsite manager, but could be fundamental in early detection of any issues at the branch.

Branch managers perform an important “gatekeeper” function and should be subject to stringent education and proficiency requirements. By allowing branch managers to supervise from offsite locations, it is possible that the staff is sending a message that supervision and responsibility for compliance need only be on an intermittent basis. In addition, supervision should be the primary job responsibility of a branch manager. Branch managers should not perform other functions at a Member, and in most circumstances should be held accountable for rule breaches committed by those under their direct supervision.

We understand that it is industry standard for branch managers to receive a percentage of profits from their branch(es). In order to avoid potential conflicts of interest, or the perception of a conflict of interest, branch managers should not be permitted to receive any other type of remuneration from individuals who are under their supervision. We also believe that to avoid conflicts of interest, it is important that branch managers be required to be at arm’s length from the registered representatives they supervise. In addition, branch managers should not be directly employed by a registered representative under their supervision.

In the event the Canadian Securities Administrators continue to examine the possibility of imposing a best interest standard on registrants, the role of a branch manager will become even more important as they will be responsible for helping to ensure that registrants act in the best interests of their clients at all times. Such responsibility is difficult to fulfil from a remote office.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at chair@cfaadvocacy.ca on this or any other issue in future.

Sincerely,

(signed) *Ada Litvinov*

Ada Litvinov, CFA
Chair, Canadian Advocacy Council