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**BY EMAIL**

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-and-

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Dear Sirs/Mesdames:

**Re: Request for Comments – Proposed Amendments to Dealer Member Rule Section 6.6 and Corollary Amendments Relating to the Cross-Guarantee Requirement (the “Proposed Amendments”)**

The Canadian Advocacy Council<sup>1</sup> for Canadian CFA Institute<sup>2</sup> Societies (the CAC) appreciates the opportunity to comment on the Proposed Amendments.

We understand that under the current requirements dealer members that are 20% commonly owned by another entity are required to guarantee each other’s obligations to clients, in part to ensure that investor protection is not compromised and that undue business risk is not shifted unnecessarily to the Canadian Investor Protection Fund. We agree with the position taken by many other industry members that commonly owned dealer members should be required to pay first when an insolvency of one such dealer member occurs. However, we are not of the view that 50% voting interest/ ability to appoint board members is necessarily the correct threshold for determining common ownership for this purpose.

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<sup>1</sup>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.cfasociety.org/cac>. Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx>.

<sup>2</sup> 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 119,000 members in 147 countries and territories, including 112,000 CFA charterholders, and 143 member societies. For more information, visit [www.cfainstitute.org](http://www.cfainstitute.org).

It is possible that a shareholder can have effective control of a dealer member at an ownership threshold that is far below 50%. For example, for accounting purposes, an entity is deemed to have significant influence over another entity if it owns 20% of the voting equity of the second entity and is usually required to consolidate results in the first entity's financial statements (unless exempted under IFRS). In fact, International Accounting Standard 28 provides in part specifically that "a substantial or majority ownership by another investor does not necessarily preclude an investor from having significant influence". Our understanding is that under IAS 28, at the 20% voting power level it is presumed that an investor has significant influence, unless it can be clearly demonstrated to the contrary. In addition, if a shareholder has one or more board seats on the second entity's board of directors, the shareholder could have a strong voice and authority over other board members. Other qualitative factors that are reviewed for accounting purposes in determining significant influence include material intercompany transactions, interchange of managerial personnel or provision of technical information. While the first entity might not technically control the second entity, it could have a large influence over its financial and operating policies.

As a result, we would recommend retaining the current 20% threshold. In the event that a dealer member can demonstrate that in its particular circumstances the shareholder does not have effective control over the dealer, it should be permitted to apply for exemptive relief from IIROC in a simplified expedited procedure. We are concerned that at a 50% threshold, funds will be utilized from the Canadian Investor Protection Fund at an unacceptably accelerated rate, which would ultimately be detrimental to investors.

We are also of the view that while there may be a disincentive for dealer members to purchase more than 19.9% of the equity of another dealer member, the existence of any such deterrent should not impact the consideration given to the appropriate cross-guarantee threshold. Potential consolidation of dealer members in the industry should not be a driver with respect to decisions over who is required to be financially responsible for a dealer insolvency.

### **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](mailto:chair@cfaadvocacy.ca) on this or any other issue in future.

(Signed) *Cecilia Wong*

**Cecilia Wong, CFA**  
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