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Wednesday, July 16, 2008

Mr. Gregory J. Ljubic
Corporate Secretary
Mutual Fund Dealers Association of Canada
121 King Street West Suite 1000
Toronto, Ontario M5H 3T9

Dear Mr. Ljubic:

Re: MFDA Proposed Amendments to MFDA By-Law No.1, Sec.25.4

Advocis appreciates the opportunity to comment on the Proposed Amendments to MFDA By-law No 1, section 25.4 (the, "Proposed Amendment" or "Amendment").

The analysis supporting the Proposed Amendment states that the MFDA has not considered any other alternatives, including maintaining the status quo, in reaching the determination that the Amendment is necessary. The MFDA states that the Amendments are consistent with the approach taken by the Investment Industry Regulatory Organization of Canada (IIROC, formerly, the IDA and RS Inc.) with their corresponding regulatory instruments. It is further argued that the Proposed Amendment is in the best interest of the capital markets. The analysis provided by the MFDA does not explain how the capital markets would benefit by the Amendment, nor does it provide an analysis that demonstrates that IIROC's approach is necessarily the correct approach. Further, drawing the analogy between the MFDA and IIROC presupposes that the approach adopted by IIROC is the preferable approach without having conducted an in depth study of the issues including a cost/benefits analysis.

In our view the Proposed Amendment has the effect of making guidelines, bulletins, policies and other instruments binding on participants and is tantamount to rule making. It has the effect of broadening the definition of policy and allowing policy to be binding on the Membership once approved by the Board of Directors. If the Proposed Amendment is enacted then policy will have all the force of a rule, but will not be subject to Member approval. Further, the Amendment provides that Members and Approved Persons may be the subject of enforcement proceedings for failure to comply with a By-Law, Rule or Policy (MFDA By-law No. 1, ss.24.1.1, 24.1.2). Finally, By-Law and Rule changes must currently be subject to approval by a vote of the Membership at the Annual Meeting. It is concerning that the Proposed Amendment appears to circumvent this provision.

We also have concerns about the process being employed by the MFDA. The Proposed Amendment was prepared in consultation with the relevant departments within the MFDA. Market participants were not consulted and in general have little to no say in the development of policies, notices bulletins and guidelines.

Advocis supports a principles-based approach to regulation and encourages all regulators to consider principles-based regulation, where possible, as a viable alternative to prescriptive rules in the regulation of financial services intermediaries. Market participant involvement in the policy development process is consistent with principles-based regulation. We recognize that there are times when prescriptive rules represent the best policy option, however, that determination can only be made after detailed analysis and the consideration of all other options. We have also noted an increased interest on the part of provincial securities regulators toward more principles-based regulation and would point to National Instrument 24-101 *Institutional Trade Matching and Settlement* as an example. We are concerned that the overarching desire for principles-based regulation can be undermined if SROs fail to adopt the same philosophy and approach as the senior regulator.

We would request that the MFDA consider revisiting this issue as it has far reaching implications, and we would be pleased to enter into a dialogue and provide our regulatory guidance and analysis on this matter.

Thank you for providing us with the opportunity to comment on this important matter.

Yours truly,



Steve Howard, CA
President and CEO
Advocis



Teresa Black Hughes CFP, CLU, RFP, FMA, CIM
Chair
National Board of Directors, Advocis

c.c. Ms. Sarah Corrigan-Brown, Senior Legal Counsel, British Columbia Securities Commission