



Advocis

390 Queens Quay West, Suite 209
Toronto, ON M5V 3A2
T 416.444.5251
1.800.563.5822
F 416.444.8031
www.advocis.ca

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Sherry Tabesh-Ndreka
Policy Counsel
Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West
Toronto, ON M5H 3T9

Susan Greenglass
Director of Market Regulation
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, ON M5H 3S8

Dear Ms. Tabesh-Ndreka and Ms. Greenglass,

Re: Proposed Rule on Personal Financial Dealings with Clients and Amendments to IIROC Dealer Member Rule 18.14

We are writing in response to the Investment Industry Regulatory Organization of Canada (IIROC) Request for Comment with respect to the proposed Amendments to IIROC Dealer Member Rule 18.14 and the proposed *Personal Financial Dealings With Clients* Rule (the "Proposals"). Our comments address concerns regarding the potential for the Proposals to indirectly provide that Member Dealers would assume the oversight of financial planning services. We believe that financial planning is a specialized area of service provided by advisors to clients and that appropriate oversight is beyond the scope of Member Dealers.

Advocis is the largest and oldest voluntary professional membership association of financial advisors in Canada. Our members are owners and operators of small businesses and financial advisors and financial planners who are sales representatives of medium and large-size financial services companies, who provide comprehensive financial planning and investment advice, retirement and estate planning, and employee benefit plans. Our members offer clients a prudent long-term perspective on managing a wide array of financial risks and meeting long-term financial goals. Our members are typically dual-licensed to provide life and health insurance as well as mutual funds and securities.

Advocis strongly supports consumer protection including regulatory initiatives that benefit investors by helping them make more informed decisions, and that allow financial advisors to continue to conduct their businesses in a professional and efficient manner without undue regulatory burdens.

The purpose of our submission is to reinforce Advocis' position that financial planning regulation needs to be carefully considered, and should not be indirectly captured by existing or proposed IIROC rules or policies.

The current proposed amendments to IROC Rule 18.14 regarding the requirement that Approved Persons have the prior consent of the Dealer for outside business activities does not directly address financial planning. However, we are concerned that a liberal reading of the rule could lead to inappropriate interference by dealers with financial planning activities that are provided by Approved Persons to clients outside the dealer.

Financial planning is a complex process that requires the expertise of a trained and experienced planner. Oversight of financial planning by the dealer is problematic, as the dealer is unlikely to possess the needed financial planning expertise, and because the dealer's oversight is likely to be influenced by the dealer's commercial interests.

Advocis fully supports the appropriate regulation of financial planning as a profession, and is working with other stakeholders to develop a proposed regulatory framework.

The proposed IROC Rule, *Personal Financial Dealings With Clients*, prohibits personal financial dealings between a broker and their clients, except in very specific circumstances that are set out in the proposed Rule.

The banned activities include:

- Lending money to clients, or borrowing from them;
- Entering into private settlement agreements;
- Having control or authority over the financial affairs of clients; and
- **Receiving any direct or indirect benefit or consideration from clients, other than through the dealer.**

The provision of financial planning for a fee would be captured by the highlighted bullet point.

The primary objective of the proposed Rule is to clearly articulate, subject to limited exemptions, that any personal financial dealing with clients, is considered inappropriate conduct, a conflict of interest and a violation of the general expectations relating to personal financial dealings with clients.

The proposed Rule identifies as personal financial dealings, the acceptance of any material consideration, including remuneration, from any person other than the Dealer Member for any activities conducted on behalf of a client. Within the proposed Rule, subsection (1).(ii) provides that,

“[c]onsideration that is non-monetary, of minimal value, and infrequent such that it will not cause a reasonable person to question whether it created a conflict of interest or otherwise improperly influence the Dealer Member, its employees or agents would not be considered to be material consideration.”

A fee paid to an advisor for financial planning services would not likely be excluded, as being of minimal value. The expertise that a qualified financial planner provides to a client can be significant.

IROC has indicated that the proposed Rule is intended to:

- Prevent fraudulent and manipulative acts and practices;

- Promote just and equitable principles of trade and emphasize the duty to act fairly, honestly and in good faith;
- Foster fair, equitable and ethical business standards and practices; and
- Promote the protection of investors.

Advocis supports these aims. For the benefit of consumers, care must be taken to ensure that Dealer Members do not abuse the oversight authority that is conveyed upon them by IIROC. Accordingly, we believe that professional financial planning services provided by a Registered Representative or Investment Representative to a client, outside the scope of the dealer relationship, should not be subject to control or supervision by the Dealer Member.

With respect to the proposed Amendments to IIROC Dealer Member Rule 18.14 we have no issues with the proposed requirement that the Registered Representative or Investment Representative inform the Dealer Member of their 'outside activity'. In the example we are providing, this would require that the Registered Representative or Investment Representative inform the Dealer Member when financial planning services are being provided to a dealer client.

We believe care must be exercised when implementing new Rules or amending existing Rules to ensure that unintended consequences do not adversely affect consumers, Registered Representatives or Investment Representatives. While Advocis shares the concerns that are addressed in the proposed Rule, we believe the proposed Rule goes too far.

Specifically, IIROC states that, '[i]n addition to the prohibition against personal financial dealing with clients, the Proposal ... will codify, in Dealer Member Rule 18.14, IIROC's current expectations regarding outside business activities by imposing a specific and positive obligation on Registered Representatives and Investment Representatives to:

- Disclose any outside business activity to the Dealer Member; and
- Obtain the Dealer member's approval."

Before engaging in any outside business activity the Registered Representative and Investment Representative would be required to obtain Dealer approval, and the Dealer Member would be obliged to ensure that the proposed outside business activities are not inappropriate and do not give rise to a conflict of interest.

Existing IIROC Dealer Member Rule 18.14 sets out the conditions under which Registered Representatives and Investment Representatives may obtain or continue in another gainful occupation. The conditions include:

- That the occupation is in compliance with any conditions set out by the applicable provincial securities commission;
- That the Dealer Member possesses policies and procedures that ensure continuous service to clients and identify and address potential conflicts of interest; and
- That the occupation is not one that would bring the securities industry into disrepute.

While in principle Advocis supports existing IIROC Dealer Member Rule 18.14 and the practices that have been established through MR 0434, we are concerned that legitimate outside business activities will be unnecessarily controlled by Dealer Members as a result of the proposed Rule.

Advocis believes that a better approach would be to limit the rule to requiring that Dealer members be made aware of outside activities. In the case of financial planning, the Dealer Member should not have the authority to disapprove of the provision of financial planning. Dealer Members do not have the necessary expertise to provide appropriate oversight to the provision of financial planning by a professional financial planner.

We believe that under proposed Rule 18.14 it makes good business sense for the Dealer Member to be informed about the outside business activity of the Registered Representative or Investment Representative. However, to only allow financial planning to be provided if it is approved by the Dealer Member will potentially limit the ability of the Registered Representative or Investment Representative in making sound and unbiased plans for the client.

We accept that the Member Dealer has a role to play in the oversight of activities that are directly related to their business, but the Dealer Member's authority should not be unfettered and should not be allowed to prevent legitimate business activities that are of direct benefit to the consumer. For example, in establishing a financial plan an advisor will deal with both securities and insurance matters. The Dealer Member in holding control over approving whether an advisor may provide financial planning services could require the advisor to deal with the Dealer Member's MGA with respect to recommending insurance products as a condition of approving the outside activity.

Financial planning is an independent service that the advisor provides to clients. Absent clearer guidance from IIROC to limit the scope of the proposed Rule one can foresee significant problems for advisors which will potentially be harmful to clients.

Advocis is pleased to contribute to the dialogue on this most important issue, and we remain available to discuss in greater detail any questions or issues you may have with respect to our submission.

Sincerely,



Greg Pollock
President and CEO



Terry Zavitz, CFP, CLU, RHU, GBA, EPC
Chair, National Board of Directors