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Mr. Mark Gallant
Registrar of Securities
Consumer, Corporate and Insurance
Office of the Attorney General
95-105 Rochford Street
Charlottetown, PEI
C1A 7N8

Dear Mr. Gallant:

Re. Incorporation of Licensed Salespersons

I am writing in follow up to our discussions earlier this year regarding securities related matters that impact the members of Advocis, the Financial Advisors Association of Canada, and in particular the issue of incorporation of licensed salespersons under securities legislation. I would first like to take this opportunity to commend the Prince Edward Island Securities Office for its decision to issue *Blanket Order 33-501* which exempts dealers who are registered in Prince Edward Island or an individual registered to trade securities on behalf of a registered dealer from Section 158 of the new Securities Act. We believe that the approach provides an appropriate balance between enhanced consumer protection and flexibility of advisors to conduct their business in an efficient manner.

We are pleased that you are interested in an ongoing dialogue on a number of key issues in the financial service sector such as our proposal respecting the incorporation of licensed salespersons. Advocis represents financial advisors who deal directly with the consumers of financial services and products. As such, we bring a unique prospective to the ongoing discussions relating to the need for appropriate consumer protection and a level playing field.

The new Prince Edward Island Securities Act has accomplished what many jurisdictions have only been able to achieve through the issuance of Orders and Instruments. Most Canadian securities legislation does not permit incorporated entities, or 'sales companies' to register for the purposes of making trades in securities. Many provincial securities acts define a "salesperson" as an individual who is employed by a dealer for the purpose of making trades in securities. The word "individual" does not include an incorporated entity and sales companies do not fall within the definition of "salesperson". Under Prince Edward Islands new Securities Act the definition of "adviser" and "person" explicitly accepts that a corporation can be an adviser, registrant and market participant. We view this as a very progressive step and one that other Canadian jurisdictions will be looking to.

While the Canadian Securities Administrators (CSA) contemplates potential long term solutions to the issue of incorporated representatives, Advocis has been engaging regulators across Canada, building a consensus and workable policy solution that addresses the business interests of advisers, protects the consumer and ensures the integrity of the capital markets. Through the joint efforts of the regulators and Advocis, most jurisdictions in Canada now allow the incorporation of licensed mutual fund salespersons.

We would like to direct you to the action taken recently by the New Brunswick Securities Commission. The acting Secretary of the New Brunswick Securities Commission issued *Blanket Order 32-501* (May 23, 2008) which provides direction to its registrants. In connection with receiving an individual registrant's commissions and fees from a registered dealer, the Order exempts a corporation from the registration requirements provided that the corporation and the dealer have a written contract under which the dealer is liable for the acts and omissions of the corporation relating to securities business, as well as a number of other conditions that are acceptable to Advocis. Similarly, the Manitoba Securities Commission issued *Order No 5494*, and the British Columbia Securities Commission, issued a companion instrument under the British Columbia Securities Act (*Instrument 32-503 Registration Exemption for Salespersons' Corporations*). Like New Brunswick, these actions achieved the same result. We are currently entering discussions with the remaining jurisdictions on this issue and hope to have reached a consensus with these provincial regulators shortly.

You will note that the interim solution being adopted in other jurisdictions accomplish two objectives. In the first instance, the Orders or Instruments accept the incorporation of sales persons. Prince Edward Island has accomplished this through the thoughtful drafting of its new Securities Act. However, other jurisdictions have taken a further step and exempted a corporation from the registration requirements provided the corporation have a written contract with the dealer in which the dealer accepts liability for the acts and omissions of the corporation relating to securities business. This places advisers in Prince Edward Island at a disadvantage. As previously noted, the Prince Edward Island Securities Act allows an individual registrant's commissions and fees from a registered dealer, to be paid to a corporation. Under, s. 86(1) of the Act, however, the corporation would have to be a registrant. In order that advisers in Prince Edward Island be placed on an equal footing with advisers in most provinces, we would ask you to consider issuing an Order exempting the corporations established by the adviser from the requirements of s. 86(1). The Order would be consistent with those referenced above, and thereby provide the Advisers with the benefits associated with incorporation while ensuring consumer protection.

As the CSA continues to examine potential legislative amendments to provincial securities acts to permit all advisers to carry on securities related activities through incorporated entities, Advocis believes that any new rules or requirements should not constrict current practices in respect of the type of corporate structures currently in existence. At present, a significant number of mutual fund advisers in Canada use general purpose corporations to operate their businesses. Under the current provincial regulatory structures permitting incorporation, we are not aware of situations where mutual fund licensees operating through these corporate structures have impeded regulatory scrutiny of their business or shielded themselves from any

obligations or liability to clients. Furthermore, these business practices have been undertaken in the absence of legislative requirements. As Prince Edward Island and, more generally, the CSA contemplate this issue further, it is important to allow for significant flexibility with respect to the type of corporate structures permitted. Our proposed solution that has been adopted most recently in New Brunswick and Manitoba certainly allows for this flexibility while maintaining a high degree of consumer protection. In this respect, Advocis has done considerable legal research on the issue of incorporation which we have shared with other securities regulators, addressing many of the questions and concerns raised by these securities regulators. At your request we would be pleased to provide copies of this research for your review and consideration.

Should you have any questions or concerns regarding our proposal, please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read "Peter Tzanetakis". The signature is stylized and cursive, with a large initial "P" and a long horizontal stroke extending to the right.

Peter Tzanetakis
Senior Director, Regulatory Affairs