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April 30, 2009

The Honourable James M. Flaherty
Minister of Finance
Department of Finance Canada
140 O'Connor Street
Ottawa, Ontario
K1A 0G5

Dear Minister:

Re: Registered Deposit Brokers Association (“RDBA”)

We are writing to make you aware of the establishment of The Registered Deposit Brokers Association (RDBA) as an industry self-regulating body and to request that you address the refusal by some federally-regulated financial institutions to accept deposits from deposit brokers if they are not “registered” with the RDBA.

Advocis is the largest and oldest voluntary professional membership association of financial advisors and planners in Canada. Our members are provincially licensed to sell life and health insurance, mutual funds and other securities, and are primarily owners and operators of their own small businesses who create thousands of jobs across Canada. Advocis members are professional financial advisors who provide comprehensive financial planning and investment advice, retirement and estate planning, risk management, employee benefit plans, disability coverage, long-term care and critical illness insurance to millions of Canadian households and businesses. More than ten thousand Advocis members provide financial advice and services to thousands of consumers throughout Canada.

Many of our members act as deposit brokers, and place and renew deposits with financial institutions for clients in Guaranteed Income Certificates (GICs) and similar deposit instruments. As deposit brokers they receive compensation directly from these financial institutions.

The RDBA is a voluntary organization and a self-described “Self-Regulatory Organization” (SRO), whose members include deposit brokers, which place deposits for clients, typically in GICs, and financial institutions that accept such deposits.

The RDBA announced in a press release in December 2008, that it was “set to become the Canadian deposit industry’s professional standards Self-Regulation Organization”, and that it had “won support from the majority of financial institutions for its business plan to regulate independent deposit brokers.” The press release went on to state that “Beginning in 2009, participating financial institutions will require each person soliciting deposits from consumers to be registered with the RDBA.” Further information is provided on the RDBA web site at www.rdba.ca.

According to the RDBA, their financial institution members include “all major chartered and regional banks with broker channels, most trust companies, and many credit unions that rely exclusively on the broker channel for deposit business.”

The requirement to be registered with the RDBA has no legal or regulatory basis, and is based solely on the financial institutions’ agreement with the RDBA to only accept deposits from deposit brokers who are registered with the RDBA. No government or regulatory body in Canada has formally recognized RDBA, or required that deposit brokers be registered with the RDBA.

The RDBA’s rules provide for an exemption from the registration requirement for representatives of investment dealers and mutual fund dealers, who place deposits only within nominee plans under dealer supervision. However, we believe that this is a very narrow exemption. Deposit brokers who place deposits for clients directly rather than through dealers are placed in an impossible position by the RDBA’s agreement with financial institutions, requiring that they close the door to individuals who are not either registered with the RDBA or working through the dealers.

A consequence of this arrangement is that many financial advisors, who are insurance and/or mutual fund or securities-licensed and are accordingly already subject to regulatory supervision, are faced with having to register and pay an annual fee of \$650 plus GST to the RDBA. This is a substantial cost for those advisors who occasionally place or renew deposits as a service to clients. The fee in many cases will exceed the revenues that these individuals would earn for providing this service to their clients. The requirement to belong to the RDBA may cause some advisors to no longer place or renew deposits for their clients; this will result in major inconvenience to clients.

We do not believe that it is appropriate for provincially-regulated financial institutions to participate in an arrangement with the RDBA to require all deposit brokers to register and pay fees to the RDBA, and to secure the agreement of financial institutions to refuse to deal with deposit brokers who are not so registered. Furthermore, we believe that is not appropriate for provincially-regulated financial institutions to refuse to accept deposits from deposit brokers with whom they have dealt with in the past, without regard to their proficiency or regulatory status as life and health insurance licensees, and as mutual fund and securities registrants.

Advocis members are licensed to sell insurance, mutual funds and securities, and are subject to regulation by one or more market conduct regulators. As Advocis members they are subject to Advocis requirements concerning professional standards and best practices (including Advocis’ Code of Professional Conduct), continuing education, and are required to maintain Errors and Omissions insurance as a condition of insurance licensing. Moreover, a significant number of Advocis members hold or are working towards a professional designation with associated standards and best practices.

The RDBA asserts that the purpose of the requirement is to raise professional standards and bolster regulatory compliance by deposit brokers. However, the RDBA has not provided any concrete information about the alleged compliance deficiencies and how the RDBA would address them.

While we welcome the establishment of the RDBA as a *voluntary* organization with the aim of raising professional standards and bolstering regulatory compliance by deposit brokers, we

believe the RDBA is attempting through its arrangements with financial institutions to make membership effectively mandatory for all deposit brokers.

We believe the requirement for deposit brokers to be members of the RDBA as a condition of placing deposits will result in less competition for financial products, and reduced consumer access to financial products. We are currently examining the issues around whether financial institutions, by agreeing to refuse to accept deposits from deposit brokers who are not registered with the RDBA, could be contravening competition law, in restraint of trade. We note that section 45 of the federal Competition Act prohibits conspiracies, combinations, agreements or arrangements to lessen competition unduly in the supply, manufacture or production of a product. In section 2 of the Act, "product" is defined as including an article and a service, and "article" is defined as "real and personal property of every description." Deposit products are therefore subject to this general provision in the Competition Act.

We note that we are sending letters similar to this one, to all provincial ministers responsible for financial institutions, addressing these concerns with regard to provincially and territorially-regulated financial institutions in their respective jurisdictions.

In conclusion, we would ask that you inform provincially-regulated financial institutions it is not appropriate for them to require that deposit brokers be members of the RDBA in order to be permitted to place deposits. We would be pleased to meet with you and the regulators to discuss these issues.

Yours truly,



Greg Pollock
President and CEO



Kristan K. Birchard
Chair, National Board of Directors

Cc: Julie Dickson, Federal Superintendent of Financial Institutions
Melanie L. Aitken, Interim Commissioner of Competition, Competition Bureau
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