NATIONAL BANK

June 23rd, 2022

VIA ELECTRONIC MAIL

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Re: CSA Staff Notices and Requests for Comment 25-304 – Application for Recognition of New Self-Regulatory Organization and 25-305 – Application for Approval of New Investor Protection Fund

Dear Sirs/Mesdames,

National Bank of Canada appreciates this opportunity to comment on the proposed framework described in CSA Staff Notices and Requests for Comment 25-304 and 25-305 (the "**Proposals**"). We commend the Canadian Securities Administrators' initiative to enhance self-regulatory alignment and harmonization throughout Canada, by fostering fair and efficient capital markets with the ability to innovate and adapt, while maintaining strong investor protection and public confidence.

We note that despite being in full agreement with the necessity for a short timeline to implementation of the Proposals, the brevity of the comment period allotted for such broad and far-reaching changes has forced us to focus on a handful of high-level issues only. We respectfully submit that the CSA should provide adequate timeframes allowing stakeholders to consider the impacts and discuss the repercussions of proposals, to enable them to provide useful and informed comments. Having been active participants in efforts of the *Conseil des fonds d'investissement du Québec* (CFIQ), the Investment Funds Institute of Canada (IFIC) and the Investment Industry Association of Canada (IIAC) to analyze and comment the Proposals, we have seen how many practical questions the Proposals raise.

While we agree with many aspects of the Proposals, we have the following comments aimed essentially at promoting a harmonized self-regulatory environment and a level playing field for industry participants and investors.

Self-Regulation

We first wish to express serious concern in respect of the lessening of the industry's role, which has been relegated to a minority and advisory-only participation in all significant instances within the framework set forth in the Proposals. We are of the view that an integral component of self-regulation has been removed as a result. Industry participants recognize how crucial market integrity and public confidence are to their success and remain firmly engaged to these ends. Their familiarity with day-to-day issues and challenges, their inherent understanding of the issues at play and their agility to evolve render them best suited to build, enforce and adapt the rules that regulate them. Their unique perspective cannot and should not be discounted.

We caution the CSA against veering into regulation, as opposed to self-regulation, in the implementation of the Proposals; transparency in the decisional processes will be key. With a minority of industry representatives composing the new entity's board of directors and its committees, and regional councils being stripped of the decisional roles formerly exercised by district councils, it will be essential that industry participants' voices be heard nonetheless. Ultimately, National Bank will continue to be a committed and active participant in the industry, but cannot consider the new organisation as a self-regulatory one and will refer thereto as "New RO" for the purposes hereof.

No Duplication of Forums

We salute the investor education and outreach mandates of the new Investor Office and Investor Advisory Panel that are described as part of the Proposals. These goals are a cornerstone of Canadians' financial success and we are strong proponents of financial literacy and investor education. We do wish to express our reluctance at seeing additional forums be created that would appear to be duplicative of certain already in existence[1], and would urge the CSA to ensure the respective mandates of all such forums are either mutually exclusive or carefully coordinated, to avoid creating investor confusion through competing messages or excessive "noise", all funded by regulatory fees ultimately borne by investors.

Mutual Fund Dealing Representatives

We enthusiastically welcome the establishment of a new category of mutual funds only "registered representatives" within investment dealer firms, although we question why such representatives will be subject to a higher regulatory burden in order to engage in the same activities as mutual fund dealer representatives. Indeed, if a Canadian mutual fund dealing representative moves from a mutual fund dealer to an investment dealer and remains limited to

[1] By way of example : https://www.osc.ca/en/investors/investor-protection; https://www.osc.ca/en/investors/investor-advisory-panel; https://lautorite.qc.ca/en/general-public/about-the-amf/financial-products-and-services-consumer-advisory-council.

dealing in mutual funds only, we fail to see any distinction in the resulting proficiency and supervisory needs. We do not understand the relevance of requiring such a representative to complete the Conduct and Practices Handbook course and be subject to six months' supervision and supervisory reporting in such contexts. This creates two classes of mutual fund dealing representatives, which appears misaligned with the overall goals of the Proposals.

At a minimum, we would urge the CSA to ensure grandfathering to avoid additional requirements be applied to any registered representative moving from a mutual fund dealer firm to an identical role in an investment dealer firm.

Finally, we question whether subjecting mutual fund dealing operations of a dually licensed dealer firm to investment dealer rules would add undue complexity from a financial operations perspective for reporting purposes. We would encourage more in-depth investigation to be conducted on this level to ensure the existing requirements are feasible to comply with.

Introducing / Carrying Arrangements

We salute permitting mutual fund dealers to introduce business to investment dealers, as this will enable mutual fund dealers of all sizes to access exchange-traded funds, as well as seamless technology, regulatory and business upgrades. We question the addition of new section 2430 to the Draft Interim Rules of the New RO, as we believe this creates an irrelevant distinction that disadvantages mutual fund dealers introducing to carrying investment dealers. Requiring them to comply with a set of comprehensive rules that are not tailored to their business appears nonsensical. By way of illustration, we highlight the discrepancy in the rules applicable to directed commissions: the Proposal should not place a mutual fund dealer in a position to have to choose between (a) an enhanced platform offered by a carrying investment dealer and (b) maintaining its existing directed commissions. There are a host of other such impacts that, altogether, may prove prohibitive should a mutual fund dealer be contemplating introducing to a carrying investment dealer.

Further, we emphasize the impact this rule would have on a mutual fund dealer choosing to move to an investment dealer's platform in the near future. First, it will have to adapt its business to meet the requirements under Investment Dealer and Partially Consolidated Rules as of 2023, and then, it will be required to adapt again to meet the requirements of the New RO Rules once those have been finalized. In a rapid-paced, heavily regulated environment where change is constant, signing up for additional rule changes may be enough to discourage any mutual fund dealer firm from considering this option.

Quebec-Specific Harmonization Matters

We praise the *Autorité des marchés financiers*, the CSA and IIROC Quebec for the Québec Requirements that were included in the Proposals. As a Quebec-based institution, we know and understand the importance of maintaining many of these essential Quebec-specific elements. We do, however, have a strong bias for level playing fields and are disappointed with certain fundamental distinctions that were retained as part of the Proposals, with no added value to the investing public, in our view.

While we appreciate that the role of the *Chambre de la sécurité financière* is not within the CSA's purview, we submit that the Quebec government should reflect on the future role of the *Chambre*. Both IIROC and the MFDA have proven track records in terms of discipline and continuing education; New RO will be well equipped to take on the mandate for Quebec representatives. Having double accountability to separate regulators in Quebec – with the added costs ultimately borne by Quebec investors – is not aligned with the best interests of Quebec's investors and financial industry. If Quebec is to recognize New RO, it should adhere to it fully, without creating a two-pronged regulatory system that cannot be fully aligned and coordinated despite everyone's best intentions or efforts.

The same is true with respect to investor protection fund coverage in Quebec. Again, while authority lies outside of the CSA's purview in this regard, we invite the Quebec government to foster alignment on the coverage granted investors throughout the country, in discussion with its counterparts, rather than maintain different indemnification funds. If protection against fraud is a desirable and necessary goal in Quebec, we do not believe it should be any different outside Quebec, and vice versa in respect of insolvency protection.

Further, subjecting complaints and disputes of Quebec investors to a separate regulatory framework is counter-productive and confusing. Based on our experience, complaints and disputes of Quebec investors are very similar in nature when compared to those of investors outside Quebec. Therefore, we strongly support full harmonization on these matters. In our view, the protections necessary to ensure Quebec investors continue to thrive are otherwise well accounted for in the Quebec Requirements.

Logistics of Transition

The Proposal is silent with respect to any transitional grace periods pertaining to amending client facing disclosures, documents and signage to reflect the names and logos of the yet-to-be-named New RO and New IPF. We emphasize the expansive efforts that will be required in this regard and respectfully submit, in line with our ESG commitments and values, that transition periods in this matter should not lead to wasting precious resources, whether financial, human or material.

We also note that while New RO's rulebook will apply as of the end of a transition period of at least one year, there is no outside date or deadline built into the Proposals to ensure momentum is maintained to reach consensus on a new rulebook once New RO is in existence. As such, the uncertainty arising out of the ensuing transition period could last indefinitely.

We believe clear timeframes should be set out to ensure orderly transitions, with no duplication of efforts or costs, that would ultimately be confusing to all stakeholders.

That said, we wish to commend the CSA for providing a streamlined transition process with current registrations being automatically transposed into New RO, avoiding huge administrative burdens for all involved.

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We thank you for your consideration of the foregoing comments in regard to the Proposals. Should you require any further information or have any concerns with respect thereto, please do not hesitate to contact us.

Yours truly,

NATIONAL BANK OF CANADA

Per: 

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