

BY ELECTRONIC MAIL: mgerhart@iroc.ca

May 11, 2016

Marsha Gerhart
Vice-President, Member Regulation Policy
Investment Industry Regulatory Organization of Canada (IIROC)
121 King St. West, Suite 2000
Toronto, Ont., M5H 3T9

Dear Ms. Marsha Gerhart:

RE: Response to IIROC White Paper – The Public Policy Implications of Changes to Rules Regarding Proficiency Upgrade Requirements and Directed Commissions on the IIROC Platform (the “White Paper”)

Thank you for the opportunity to provide feedback to IIROC concerning the proposals to:

1. *Eliminate its current requirement for firms and individuals to be qualified to offer a full range of investment products, and instead allow firms and individuals to offer only mutual funds and exchange-traded funds (with appropriate adjustments for the relative risk of such firms and individuals to IIROC’s proficiency, supervisory and oversight requirements) (the “**Proficiency Proposal**”); and*
2. *Allow all firms and individuals under IIROC’s regulatory oversight to take advantage of what is referred to as “directed commissions” (the “**Directed Commissions Proposal**” together with the Proficiency Proposal, the “**Proposal**”).*

Fidelity Investments Canada ULC (“**Fidelity**”, “**we**” or “**our**”) is part of the Fidelity Investments organization, one of the world’s largest providers of financial services. In Canada, Fidelity currently manages over \$110 billion in mutual funds and institutional assets.

For your ease of reference, we have reproduced IIROC’s questions in bold font below followed by our responses to each question.

1. Would you support this proposal as being in the public interest?

The Proficiency Proposal

We agree in principal that there are certain implications of the proposal that would be in the public interest, many of which are referenced in the White Paper. However, Fidelity wonders whether the unilateral implementation of the Proficiency Proposal by IIROC through a change in its Dealer Member Rules is the appropriate avenue for change given the potential of the Proficiency Proposal to adversely impact the MFDA

platform. It is aptly noted in the White Paper that the Proficiency Proposal may cause increased competition for MFDA Members from IIROC Dealers, resulting in:

(i) fewer mutual-fund-only firms on the MFDA platform, potentially leading ... to the MFDA becoming less economically viable; and

(ii) mutual fund dealing representatives whose sponsoring firms take advantage of the relief, choosing to exit the business rather than go onto the IIROC platform and be subject to IIROC requirements.

This is an express acknowledgement in the White Paper that the Proficiency Proposal may lead to erosion in firms and representatives regulated by the MFDA, potentially jeopardizing the MFDA platform as a whole. We also note that in the MFDA's *Summary of Comments Regarding IIROC Exemption from Upgrade Requirement/Elimination of Upgrade Requirement*, MFDA Members commented that the Proficiency Proposal would cause most single platform mutual fund dealers to go out of business or consolidate with an IIROC firm. MFDA Members further commented that many advisors with smaller books of business servicing smaller value clients would not be able to operate on the IIROC platform and would surrender their license. It is clear that if the Proficiency Proposal were to be implemented, the future of the MFDA would, at a minimum, be uncertain.

Fidelity does not believe that the Proficiency Proposal can be divorced from the broader analysis and consultation on the SRO structure in Canada, including the role of each SRO in the regulatory system and the need or desirability of an SRO merger. The analysis should include a look at the history and emergence of each independent SRO and address whether changes in the industry since the establishment of the MFDA vitiate the need for a separate SRO to regulate mutual fund dealers and mutual fund dealing representatives. This is particularly important since the MFDA was established at the initiative of the Canadian Securities Administrators (CSA) and in response to a need for the appropriate regulation of mutual funds in the late 1980s - during a period of rapid growth in mutual fund assets. As such, it is the CSA (in consultation with the MFDA, IIROC, the industry and other stakeholders) that should undertake any analysis of, or change to, the SRO structure in Canada.

Fidelity also worries about the timing of the Proficiency Proposal. We are in the midst of unprecedented regulatory change, namely, (i) the imminent implementation of the final CRM 2 and point of sale requirements; (ii) the ongoing mutual fund fees and statutory best interest consultation; and (iii) the implementation of the Capital Markets Regulatory Authority (CMRA). We believe that an analysis of the SRO structure in Canada deserves a considerable amount of regulatory, industry and stakeholder attention, and we wonder if such attention may be limited by competing priorities. We certainly agree that the matters advanced in the White Paper and the broader SRO structural analysis are important and must be addressed. However, we question whether it would be better to wait until the CMRA is operational and there is more certainty about future regulatory change.

The Directed Commission Proposal

We agree with the Investment Funds Institute of Canada's (IFIC) comments on the Directed Commission Proposal in its comment letter dated April 18, 2016. Like IFIC, we encourage IIROC to bring clarity to the tax, securities laws, employment law and any other questions associated with the Directed Commission Proposal. Ultimately, we hope to see uniform requirements among all regulators when it comes to allowing or not allowing directed commissions.

- 2. What impact would the adoption of this proposal have on each of the following: investors, registered firms, registered individuals, and Canadian regulatory and financial industry structure and how should these impacts be addressed?**

The Proficiency Proposal

The specific SRO rules that govern members cannot be assessed until a full analysis of the SRO structure in Canada is undertaken by the CSA, or CMRA (along with the relevant provincial securities regulators) in consultation with IIROC and the MFDA.

The Directed Commission Proposal

In order to understand the full impact of the Directed Commission Proposal, more work needs to be done to understand the exact implications of the proposal. We recommend that IIROC move forward with a separate consultation process that considers the Directed Commissions Proposal, whereby IIROC advances the legal and other implications of the proposal and solicits feedback from stakeholders on the desirability of the proposal based on those implications.

We thank you for the opportunity to provide comments on the White Paper. We are more than willing to meet with you to discuss any of our comments.

Yours truly,

“W. Sian Burgess”

W. Sian Burgess
Senior Vice-President, Fund Oversight

c.c. Rob Strickland, President
Robyn Mendelson, Vice-President, Legal