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May 27, 2019

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**Re: OSC Notice 11-785 Statement of Priorities - Request for Comments
Regarding Statement of Priorities for Financial Year to End March 31, 2020**

The Portfolio Management Association of Canada (**PMAC**), through its Industry, Regulation & Tax Committee, is pleased to have the opportunity to submit the following comments regarding OSC Notice 11-785 Statement of Priorities - *Request for Comments Regarding Statement of Priorities for Financial Year to End March 31, 2020* (the **Statement of Priorities**).

As background, PMAC represents 270 investment management firms registered to do business in Canada as portfolio managers. In addition to this primary registration, the majority of our members are also registered as investment fund managers and/or exempt market dealers. PMAC's members encompass both large and small firms managing total assets in excess of \$2.1 trillion for institutional and private client portfolios.

OVERVIEW

PMAC is supportive of the four overarching goals set out in the Statement of Priorities and we are pleased to have the opportunity to provide the following feedback on certain aspects of them.

PMAC has made several recent submissions to the Ontario Securities Commission (**OSC**) and the Canadian Securities Administrators (**CSA**) on a range of advocacy issues impacting portfolio managers and their clients. In lieu of re-iterating our key recommendations on those issues in this submission, and in recognition of the diligence and consideration with which the OSC and CSA review stakeholder comments, we are instead setting out the

following topics (along with submission links, where applicable), which highlight PMAC's regulatory "wish list" for the year to come. We believe that these issues are very closely tied in several ways to the OSC's goals, especially promoting confidence in Ontario's capital markets, reducing regulatory burden, and facilitating financial innovation:

- [Regulatory burden reduction](#);
- [Client Focused Reforms](#);
- Registration of client relationship manager advising and associate advising representatives with terms & conditions; and
- Derivatives – [Business Conduct](#) and [Registration](#).

We would also like to note our appreciation for the thoughtful and detailed dialogue that OSC Staff have engaged in with PMAC and our membership on the issues listed above.

SUMMARY OF PMAC'S KEY RECOMMENDATIONS

1. PROMOTE CONFIDENCE IN ONTARIO'S CAPITAL MARKETS

Members have repeatedly noted that uncertainty can be detrimental to stakeholders and can, in and of itself, create regulatory burden. While some degree of uncertainty is inevitable during a consultation, in the longer-term it can impede long-term planning and strategy for the benefit of investors. For that reason, in addition to what is set out in the Statement of Priorities, we believe the OSC can promote confidence in Ontario's capital markets through increased transparency and communication around timing and policy direction on several outstanding proposed changes to securities law impacting registrants and their investors.

Increase communication around the next draft of Client Focused Reforms

The Statement of Priorities suggests that the OSC will publish for public comment a revised set of proposed amendments to National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103** and **Client Focused Reforms**). PMAC urges the OSC, along with its CSA partners, to communicate more frequently and openly about the timing of next steps, as well as regarding any material changes that may be coming as a result of the 2018 consultation. Such communication should be made public via a press release so that interested parties have access to the same information. This will ensure a level playing field and eliminate some of the noise around what is heard at conferences, through secondhand sources and other, less official, means.

For example, the proposed changes to permitted referral arrangements under NI 31-103 have had the effect of disrupting existing business practices. Several member firms have noted that the potential impact of those proposals is looming over contractual relationships that they would like to renew or enter into with trusted referral sources as a way to connect investors with portfolio managers. Additional clarity on timing and/or policy direction could assist these firms in structuring their referrals in a way that meets regulatory expectations while still ensuring client access to their expertise.

Publish responses to the CSA's 2018 policy work on mutual funds embedded commissions

As with the Client Focused Reforms, significant uncertainty was created by the 2018 publication of proposed amendments to embedded commissions which was accompanied by the Government of Ontario's communication that it would not support the CSA's proposals.

Additional communication regarding policy direction on this matter would help firms assess impacts and transition timing since amendments of this nature will require several business, communications, compliance, systems, and other changes.

Provide additional regulatory guidance and safe harbours for firms with respect to senior and vulnerable investors

In large part due to the OSC's Seniors Strategy, registrants have a more sophisticated awareness of the science and contextual background of seniors' issues. We urge the OSC to continue to consider providing additional regulatory resources in the form of safe harbours, etc., which may help firms operationalize more effective ways to understand and protect this important demographic. Firms are also eager to have access to additional resources and principles-based guidance from the OSC to assist them in developing their processes on this issue.

Ensure the national regulator truly achieves its goals of investor protection and business efficiency

PMAC continues to support the proposed Cooperative Capital Markets Regulatory System (**CCMRS**) and applauds Ontario's continued leadership on the issue of a national securities regulator. PMAC believes that confidence in Canada's capital markets will be bolstered by adopting an effective and efficient national regulator. For this reason, we urge the OSC to do to everything in its power to ensure that the regulations under the CCMRS are truly harmonized.

PMAC voiced concerns about the impact of jurisdictional exemptions proposed in CRMA Regulation 45-501 – *Prospectus and Registration Exemptions (45-501)* that would create a non-harmonized instrument under the CCRMS. Members feel that a non-nationally harmonized instrument, combined with the continued availability of certain jurisdiction-specific exemptions will mean that, in practice, 45-501 may do little to streamline regulation and lead to operational and financial efficiency.

More generally, PMAC has concerns that a CCRMS that repackages existing securities law instruments while continuing to preserve jurisdictional exemptions will simply add another layer of regulatory complexity, as opposed to achieving more efficient regulation.

Failure to harmonize regulations under the CCRMS would undo the important, difficult, and necessary work the OSC is currently undertaking to simplify requirements, reduce regulatory burden, and maintain investor protections.

Caution against regulation through enforcement

While markets, securities, and technology are rapidly evolving and, at times, require swift regulatory responses, we urge the OSC not to regulate via enforcement action. Timely communication of issues and concerns from the OSC to all stakeholders is preferable – and, we believe, more effective - than trying to change behaviour and set new goalposts using enforcement cases and/or deficiency letters stemming from sweeps.

Investor Education

PMAC supports the OSC’s plans to increase the use of educational resources by investors. The OSC’s active involvement in providing investor resources to help improve financial outcomes is laudable, as is the provincial commitment to strengthening the financial literacy of Ontario’s students.

International Contribution

PMAC values and encourages the continued contribution by OSC Staff to the development of global securities standards and guidelines. We commend the OSC for its contribution to IOSCO initiatives and whitepapers. We believe that this international work helps to create a stronger global securities law framework which benefits our own capital markets and allows the OSC to be a regulator that can foresee which international regulatory developments will impact our local markets.

2. REDUCE REGULATORY BURDEN

Continue to address opportunities to reduce regulatory burden while maintaining appropriate investor protection

We applaud the OSC’s extensive work on the reduction of regulatory burden and maintenance of investor protection. We find the OSC’s outreach in a variety of formats to solicit feedback and innovative ideas to be a helpful approach to this large and important task. We see a true dedication to information gathering and prioritization of key regulatory burden reduction initiatives and look forward to the next steps of this project.

Additionally, we would like to thank the OSC for effecting a late fee moratorium on outside business activity (**OBA**) reporting while the commission works with the CSA to revise the OBA regime. We believe this is a sensible approach to an issue that requires greater clarity and simplification. PMAC is pleased to see that the OSC will be working to clarify the regulatory requirements while the fee moratorium is in place. Since 2015, PMAC has made various [submissions](#)¹ on ways in which we believe the OBA regime could be amended to continue to provide information about registrants’ potential conflicts of interest to the CSA while streamlining reporting and reducing regulatory burden. We welcome this positive direction on an important issue.

¹ Please see page 9.

3. FACILITATE FINANCIAL INNOVATION

Alternative Funds

PMAC is supportive of the OSC's goal of expanding investor choice by supporting and facilitating the development and launch of structured investment products and to enable portfolio managers to manage fund assets with more flexibility and efficiency. We believe this goal should apply to all funds, whether alternative or otherwise.

PMAC has [suggested ways](#)² to modernize fund regulation by updating the definition of "illiquid assets" in National Instrument 81-102 – *Investment Funds (NI 81-102)*. Additionally, we encourage amendments to NI 81-102 that reflect the reality of Canada's fragmented equity markets in lieu of linking requirements to trading securities or providing information about the "primary market" or "marketplace"³. Furthermore, certain of the operational requirements in Part 9 – Sale of Securities of an Investment Fund and Part 10 – Redemption of Securities of an Investment Fund of NI 81-102 are overly prescriptive, out of date, and would benefit from amendments to make them more flexible and reflective of current business practices.

4. STRENGTHEN OUR ORGANIZATIONAL FOUNDATION

Strategic Workforce Planning

PMAC is supportive of the OSC's need to continue to have and foster a strong organizational foundation of people, systems and data management, and analytics.

PMAC would like to stress our support for bolstering the OSC's ability to attract and retain staff with strong industry knowledge and other necessary skills. We believe that the OSC has, and continues to seek, deep regulatory and industry knowledge. We encourage the continued development and addition to that knowledge-base, which is beneficial not only for Ontario, but to the CSA and ultimately, Canada's capital markets as a whole.

Redevelopment of National Systems Renewal Program (NSRP)

PMAC was pleased to see the release of the CSA's request for comment on the NSRP. We support efforts to modernize databases, systems and technology for the benefit of stakeholders and regulators. We believe there are additional opportunities to create streamlined, secure dataflows from registrants to the regulators.

We encourage the OSC and the CSA to ensure that the provision of information from registrants to regulators is balanced and does not create an unintentional regulatory burden through additional or cumbersome data sharing requirements. Throughout the NSRP process, the safeguarding of information must continue be paramount. We believe the OSC's

² Please see pages 2–3.

³ See Section 6.2 of National Instrument 81-107 – *Independent Review Committee for Investment Funds* and, related to ETFs, Instruction 14 of Form 41-101F4 – *Information Required in an ETF Facts Document*.

continued focus on cyber security and data protection are essential to the protection of our capital markets. We are pleased to see the OSC's continued investment in and emphasis on these safeguards, as there are concerns that a growing repository of sensitive market participant and investor information risks becoming a target for hackers or other bad actors. We look forward to submitting specific feedback on the proposed NSRP rule, as well as on the proposed related fees.

CONCLUSION

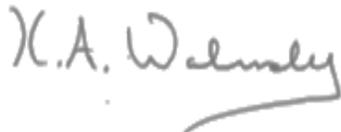
PMAC supports the Statement of Priorities and values the securities expertise of the OSC's Staff and leadership. We look forward to continuing to work collaboratively and assisting, where possible, with the goals set out by the OSC.

We have seen a great deal of collaboration, consultation and proactive problem-solving led by OSC Staff. We are very appreciative of these opportunities and efforts and commend the team at the OSC for their engagement with various stakeholders.

If you have any questions regarding the comments set out above, please do not hesitate to contact Katie Walmsley at (416) 504-7018 or Melissa Ghislanzoni at (416) 504-1118.

Yours truly,

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