February 23, 2024

To:
Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Ontario Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Via:
Meg Tassie
Senior Advisor, Legal Services,
Capital Markets Regulation
British Columbia Securities Commission
1200 - 701 West Georgia Street
P.O. Box 10142, Pacific Centre
Vancouver, British Columbia V7Y 1L2
Fax: 604 899-6506
mtassie@bcsc.bc.ca

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor, Box 55
Toronto, Ontario
M5H 3S8
Fax: 416 593-2318
comments@osc.gov.on.ca

and

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: 514 864-8381
consultation-en-cours@lautorite.qc.ca

Re: CSA Notice and Request for Comment – Registered Firm Requirements Pertaining to an Independent Dispute Resolution Service – Proposed Amendments to National Instrument 31-103

Worldsource Financial Management Inc. and Worldsource Securities Inc. (together, "Worldsource") thanks the Canadian Securities Administrators ("CSA") for the opportunity to provide comments on the proposed rule amendments to National Instrument NI 31-103 and commends the CSA for soliciting feedback in respect of these proposed amendments.

Overview

Worldsource operates an Investment Dealer and Mutual Fund Dealer and is regulated by the Canadian Investment Regulatory Organization ("CIRO"). Worldsource also works closely and in conjunction with the Ombudsman for Banking Services and Investments ("OBSI") through the requirements under National Instrument 31-103.

Worldsource strongly agrees with the CSA's goals of increasing investor protection and improving investor redress and outcomes for complaints. However, Worldsource opposes the creation of an Independent Dispute Resolution Service ("IDRS") with binding legal authority which does not contemplate an appeal of a final decision by the IDRS to an independent adjudicator. Worldsource believes that instituting a binding IDRS system would have a disproportionately negative effect on smaller, compliant firms who currently abide by OBSI recommendations.

Instead, Worldsource recommends placing greater emphasis on the "name and shame" system by increasing the frequency of use of the system and placing greater restrictions or consequences on member firms which consistently do not comply with OBSI recommendations to address client complaints.

Since May 2007, OBSI has used the "name and shame" system in 22 instances for registered investment firms which refuse to compensate clients in accordance with OBSI recommendations. Worldsource believes that the "name and shame" system has not been adequately used given that it has only been applied 22 times over nearly 17-years. Worldsource submits that the "name and shame" system should be expanded to include instances of firms failing to compensate clients to the *full* amount recommended by OBSI.

Worldsource further recommends more widely distributing the "name and shame" list or advertising the list to the public, thereby increasing public awareness and protection while ensuring greater compliance by firms due to the increased reputational risk associated with failing to follow OBSI recommendations. Multiple time offenders should have greater emphasis placed on their failure to follow OBSI recommendations.

Given Worldsource's position with respect to the proposed IDRS, Worldsource will focus its response to the CSA's proposal to the following specific questions posed:

Consultation Question 5: *The proposed framework does not contemplate an appeal of a final decision to either a securities tribunal, or a statutory right of appeal to the courts (although parties could still seek judicial review of a final decision). What impact, if any, do you think the absence of an appeal mechanism will have on the fairness and effectiveness of the framework for parties to a dispute?*

Worldsource opposes the imposition of a binding IDRS which does not contemplate a right of appeal of the final IDRS decision to a securities tribunal or to the courts. In particular, Worldsource has concerns with effect on the fairness accorded to the parties within an IDRS process which does not contemplate a right of appeal.

Worldsource notes that, should an IDRS system be implemented, any IDRS investigation is subject to the inquisitorial system of information collection at the first level. Worldsource anticipates that the IDRS investigators will not be legally trained and therefore will have limited knowledge of: (1) the limits to information collection afforded to governmental or quasi-governmental entities, (2) whether information is admissible as part of an administrative decision, (3) the standard of competence required for a person giving information or evidence during an administrative process, or (4) the balancing of probative value against the prejudicial nature of certain information or evidence.

Given these concerns, as well as the nature of the inquisitorial system for information collection which leads to parties being unable to test the reliability or accuracy of information collected during the inquisitorial process, Worldsource maintains concerns that an initial decision arrived at by the IDRS investigator, based on information gathered during the inquisitorial process, may be at a greater risk of being fundamentally flawed or based on inaccurate assumptions or information provided by complainants. Worldsource does not intend to imply that complainants will attempt to submit falsified information during the IDRS process, but only notes that, as stated by the CSA in the proposed amendments, some complainants and investors may lack the ability to fully understand or apply the information contained in their financial statements or related to their investments. Worldsource maintains concerns that these clients may not be able to provide accurate or cogent information during the IDRS process. Inaccurately gathered, recorded or interpreted information may lead to a fundamental flaw in the interpretation of issues, or the awarding of compensation claims, by the IDRS. The current intent of the CSA to prevent appeals of decisions which are based on fundamentally flawed assumptions, inadmissible evidence or errors in fact or law is substantially concerning to Worldsource. Worldsource does not believe that errors in the information collection process or the improper interpretation of evidence provided by complainants is a matter that is fully within the scope of judicial review. Therefore, without an appeals process, these errors in fact will not be reviewable by a higher court or authority and member firms will have no recourse once a decision is made by the IDRS.

Worldsource acknowledges that one of the primary aims of the CSA is to provide an easier, more complainant-friendly complaint resolution process which affords greater restitution rights to clients in relation to their complaints. Worldsource shares this goal

and believes that this idea is reflected in Worldsource's consistent record of complying with OBSI recommendations and successful complaint-handling record.

However, Worldsource does not believe that including an appeal mechanism for the parties to an IDRS process would limit or reduce the effectiveness of the IDRS process for complainants, particularly if a judicial review mechanism already exists. Worldsource seeks only to provide redress for the parties in instance where factual errors form the basis of the first level IDRS decision making. In instances such as these, judicial review would not be an available mechanism to ensure that the initial IDRS decision maker is founded upon correct facts and principles. The only method of achieving this principle would be an appeal.

Consultation Question 6: *Should the proposed framework include a statutory right of appeal to the courts or another alternative independent third-party procedure for disputes involving amounts above a certain monetary threshold (for example, above $100,000)? If so, please explain why.*

In the event that the CSA imposes a binding IDRS with a statutory right of appeal to the courts or another decision maker, Worldsource agrees with the imposition of a certain monetary threshold, below which, no appeal could be made. However, Worldsource suggests that the monetary threshold be set at $50,000.

Worldsource believes a lower threshold of $50,000 affords complainants the right to appeal decisions which they believe to be incorrect at a greater rate which, in turn, allows for greater complainant participation in the decision-making process and ensures greater client and complainant protection.

Worldsource also believes that a lower threshold amount of $50,000 protects smaller member firms by allowing these firms to appeal decisions of the IDRS which they believe to be incorrect. If the threshold to an appeal is set at a higher number, smaller member firms, whose financial security may be affected at a greater rate by awards of $50,000 or more, would be without an appeal mechanism. A higher value threshold would create a dispute resolution system which would benefit larger, higher revenue member firms which are more consistently able to bear IDRS awards of $50,000 to $100,000 without issue. Therefore, a lower value threshold for appeals better protects smaller member firms without providing an advantage to larger member firms with deeper pockets.

Despite this, Worldsource submits that imposing a threshold dollar amount for an appeal protects consumers by ensuring that member firms cannot appeal every decision of the IDRS, which would provide a greater barrier to complainant restitution. Worldsource therefore supports the imposition of a dollar amount for a statutory right of appeal, but suggests setting the dollar amount lower than the proposed $100,000 mark.

Consultation Question 7: *Are there elements of oversight, whether mentioned in this Notice or not, that you consider to be of particular importance in ensuring the objectives of the proposed framework are met? If so, please explain your rationale.*

Worldsource believes that a necessary element to be reviewed in this consultation process is the underlying assumption that the "name and shame" system will be fundamentally ineffective regardless of the form which it takes. Worldsource intends to address the concerns of imposing a mandatory IDRS on the investment industry which led Worldsource to the suggestion to expand the "name and shame" system of reporting for member firms.

Worldsource believes that the implementation of a mandatory IDRS, while proposed in good faith to protect complainants, will have a disproportionately negative effect on smaller member firms while simultaneously not providing sufficient preventative measures to larger member firms which consistently fail to abide by OBSI's non-binding recommendations.

While the CSA has highlighted that it expects total costs of $1,080 per member firm compliance department to implement the changes required for the IDRS, Worldsource expects the hours spent and associated costs to member firms to implement these changes to be higher. The CSA has also highlighted that it expects the costs to fund the IDRS to be borne by member firms through higher membership fees. Worldsource submits that both of these factors are a greater detriment to smaller member firms, rather than larger member firms who are better able to bear greater costs associated with implementing the IDRS. While the CSA has noted that it anticipates lower litigation costs for member firms by implementing the IDRS, Worldsource notes that compliant and client-focussed member firms are not the subject of frequent litigation and therefore will not see the same reduction in litigation costs as larger, more non-compliant member firms.

Worldsource also believes that the implementation of the IDRS disproportionately targets compliant, client-focussed firms with costs and reduced benefits. Worldsource submits that compliant firms do not wish to deny legitimate compensation where a complaint exists, compliant firms simply wish to award accurate and fair compensation to redress client harm.

Worldsource suggests that the CSA and OBSI take further action to address non-compliant member firms who do not *fully* abide by OBSI's recommendations. Worldsource recommends expanding the "name and shame" system to include instances where a member firm has paid clients less than OBSI's recommended amount, rather than only listing firms who have refused to compensate clients at all. Worldsource also recommends increasing the public's awareness of the "name and shame" system which would increase the reputational risk to member firms who consistently refuse to follow OBSI's recommendations. Worldsource further recommends that the CSA consider additional deterrents to member firms who repeatedly refuse to follow OBSI's recommendations, despite the increased awareness of the "name and shame" system.

In short, Worldsource understands that the "name and shame" system, in its current form, does not provide adequate incentives for non-compliant member firms to adequately redress client complaints to OBSI. However, Worldsource believes that the "name and shame" system has not been used to its full effect given that it has only been used 22 times in approximately 17 years.

Imposing a mandatory IDRS on the investment industry disproportionately affects smaller and compliant member firms with higher costs and penalizes compliant member firms with higher costs, despite these compliant member firms consistently following OBSI recommendations or settling client complaints before the client contacts OBSI. To impose a mandatory IDRS will, in effect, disincentivizes these firms from engaging in early settlement since the value of settling with a client before the IDRS process begins will be reduced.

Worldsource suggests that the CSA analyze which member firms have the highest rate of non-compliance with OBSI recommendations and take responsive action to address these concerns with these individual member firms, rather than overhauling a system which has been successfully used by most compliant and client-focussed member firms. Worldsource believes the proper method of addressing member firms who refuse to follow OBSI recommendations is through the expansion of the "name and shame" system described above.

Consultation Question 9: *Please provide your views on the anticipated effectiveness of prohibiting the use of certain terminology for internal or affiliated complaint-handling services that implies independence, such as "ombudsman" or "ombudservice", to mitigate investor confusion.*

Worldsource supports any decision to prohibit the terminology "ombudsman," "ombudservice" or similar from being used by a member firm with respect to complaint-handling. This recommendation should be applied regardless of the outcome of the proposed changes to NI 31-103 relating to the IDRS.

Worldsource submits that there is no benefit to the investment industry, member firms or clients which results from allowing the use of "ombudsman," "ombudservice" or similar by member firms. Worldsource submits that there is no shortage of descriptive words which could adequately describe a complaints intake or complaint-handling department or process. Member firms have their choice of which descriptive words to use and there will be very little risk or costs to member firms associated with using these other descriptive terms.

However, considerable client confusion may result from allowing member firms to use the term "ombudsman" or "ombudservice" given that clients may mistake the internal member complaint-handling or dispute resolution services with the independent dispute resolution mechanism through OBSI or another IDRS. The potential risk to unsophisticated clients from misunderstanding their rights during the complaint process

far outweighs the benefits to firms of using the words "ombudsman" or "ombudservice," particularly when sufficient descriptors for an internal member complaint-handling process are otherwise available.

Worldsource would like to thank the CSA for the opportunity and forum to comment on these proposed rule amendments and would request the ability to review and comment on any changes to the proposed rule amendments that may be considered by the CSA after public comments have been reviewed.

Sincerely,
Worldsource Wealth Management (2023) Inc.

"*Natasa Morfesis*"

Natasa Morfesis
Vice President, Dealer Compliance
Chief Compliance Officer, Worldsource Securities Inc./ Worldsource Financial Management Inc.

"*Doce Tomic*"

Doce Tomic
UDP, Chairman and President, Worldsource Securities Inc./ Worldsource Financial Management Inc.