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October 24, 2012

Ontario Securities Commission
Autorité des marchés financiers

The Secretary
Ontario Securities Commission
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Me Anne-Marie Beaudoin
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British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Superintendent of Securities, Prince Edward
Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and
Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest
Territories
Superintendent of Securities, Nunavut

Ladies and Gentlemen,

**Re: Proposed Consequential Amendments to Registration, Prospectus and
Continuous Disclosure Rules Related to NI 25-101 Designated Rating
Organizations**

In response to the request for comments on Proposed Consequential Amendments to
Registration, Prospectus and Continuous Disclosure Rules Related to National Instrument

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25-101 Designated Rating Organizations (“Proposed Amendments”) issued on July 26, 2012, we are pleased to submit the following comments.

This letter represents the general comments of certain members of our securities practice group (and not those of the firm generally or any client of the firm) and are submitted without prejudice to any position taken or that may be taken by our firm on its own behalf or on behalf of any client.

We appreciate the opportunity to comment on the Proposed Amendments. We have identified, what appears to be, an unintended consequence of the Proposed Amendments which we believe will impact mutual funds subject to National Instrument 81-102 *Mutual Funds* (“81-102”) and which we wish to bring to the regulators’ attention.

Although seemingly innocuous, the Proposed Amendments in respect of 81-102 will likely have a significant impact on existing ISDA agreements. Simply stated, it is our experience that the majority of ISDA agreements with mutual funds subject to 81-102 contain a termination right if the counterparty no longer has an “approved credit rating”. Counterparties also represent that they have an “approved credit rating” within the meaning of NI 81-102.

The termination right forms part of the ISDA agreement largely due to restrictions in 81-102 which prevent a mutual fund from, among other things, entering into swap or forward contracts with counterparties that do not have an “approved credit rating”¹ and which require a mutual fund to close out positions with counterparties whose credit rating falls below the level of “approved credit rating”² which rating must be issued by an “approved credit rating organization”. Therefore, in the event that the definition of “approved credit rating agency” and “approved credit rating organization” is changed in 81-102, without a provision recognizing the effect of such a change on existing ISDA agreements, we are concerned that mutual funds will not have the correct documentation to be compliant with their obligations under 81-102 and that the representation and termination clauses that form part of existing ISDA agreements will be rendered irrelevant.

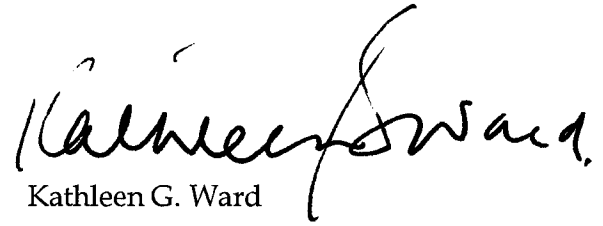
In order to pre-empt the potential adverse consequences of the Proposed Amendments on ISDA agreements we suggest that the regulators include a grandfathering provision in the Proposed Amendments which recognizes the terms “approved credit rating” and “approved credit rating organization” as interchangeable with “designated rating” and “designated rating organization or its DRO affiliate” for ISDA contracts which pre-date the date the Proposed Amendments come into force or alternatively take the approach of retaining in 81-102 the terms “approved credit rating” and “approved credit rating organization” but changing the definitions of such terms to what is proposed for currently proposed terms.

¹ NI 81-102, section 2.7(c).

² NI 81-202, section 2.7(2)

We would be happy to discuss these issues further.

Submitted on behalf of members of the Securities Practice Group at Stikeman Elliott
LLP by,


Kathleen G. Ward