

February 14, 2013

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

The Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 1900, Box 55  
Toronto, Ontario M5H 3S8

and

Me Anne-Marie Beaudoin  
Directrice du secrétariat  
Autorité des marchés financiers  
800, square Victoria, 22e étage  
C.P. 246, tour de la Bourse  
Montréal, Québec H4Z 1G3

Dear Sir and Madam:

**Re: Response to CSA Notice and Request for Comment: Proposed Amendments on NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and to Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations**

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Scotia Asset Management L.P. ("SAM LP") welcomes the opportunity to submit the following comments regarding the Proposed Amendments to National Instrument 31-103 *Registration Requirements and Exemptions* ("NI 31-103") and to Companion Policy 31-301 *Registration Requirement and Exemptions* regarding the proposal that would require all registered dealers and registered advisers outside of Québec to utilize the Ombudsman for Banking Services and Investments (OBSI) as a service provider in respect of their dispute resolution or mediation services obligations under section 13.16 [*dispute resolution service*] of NI 31-103 (the "**OBSI Proposal**").

SAM LP manages discretionary portfolios for institutions, endowments, foundations and private clients. In total, we have approximately 8,000 client relationships with approximately 18,000 accounts, with investment objectives that range from cash management to long term growth, with everything in between. SAM LP and its predecessor companies have been providing these services since before the turn of the 19<sup>th</sup> century. Although I cannot speak to the client complaint experience in all that time, I would like to address our experience and our concerns about the regulatory imposition of OBSI as the dispute resolution service for servicing all financial industry participants and clients.

First of all, we make a sincere effort to ensure that any client complaint is addressed quickly and to the client's satisfaction as we do wish to maintain a long term relationship with every client with whom we have entered into an agreement. Secondly, our industry has always been the one with the fewest conflicts with client interests; what is good for our clients will

be good for us as portfolio management fees are calculated as a percentage of the clients' assets under management.

If we cannot resolve a client complaint, we support your initiative to enable our clients to access professional mediation and / or arbitration service providers, experienced in dealing with matters relating to discretionary investment management. It can be challenging enough reviewing these important matters without having the mediator / arbitrator having to be educated on the specific service at the same time. We understand there are no requirements for OBSI staff to have any mediation or arbitration skills, nor would their current experience working with banking, mutual fund and brokerage industry clients be particularly transferable to the discretionary portfolio management industry and its clients.

Another challenge for us is the high value of our client relationships, potential financial disputes and OBSI's limitation for addressing claims of up to \$350,000. No such limitations were presented by the other dispute resolution service we had considered so the competing service, which would only be engaged as required and selected by our client, is available to mediate / arbitrate any matter referred to them with professional, experienced and timely service.

In the latest proposal offered by the CSA that all industry participants be required to use OBSI as the single dispute resolution service, it is suggested that all participants would follow the current OBSI fee model, which is based upon the registrant's assets under management. This is punitive to the portfolio management industry as a whole, given our very low client complaint experience which is similar to that of our peers. The user-pay model as offered by the alternative dispute resolution services is appropriate and should be easily supported by the investing public as there is no retainer, and therefore no implied dependence between either the service provider or the industry participant.

We sincerely believe the dispute resolution service arrangement organized by the Portfolio Management Association of Canada with the ADR Institute of Canada provides portfolio management industry clients with the best mechanism for resolving their differences with industry participants. Depending upon the client's desire to have the matter resolved through mediation or arbitration, the ADR Institute is independent, its members are made up of professional mediators and arbitrators across Canada, who are knowledgeable about the discretionary portfolio management industry, and also completely independent of any industry registrants / participants. The client gets to review the qualifications of potential mediators / arbitrators and narrow down the list to those individuals they feels whose qualifications are best suited to assisting them, and the firm must select the mediator / arbitrator from the client's list. The firm will be responsible for covering all expenses relating to the services provided by the mediator / arbitrator, and once the review begins, the focus is entirely on bringing the matter to a timely and satisfactory conclusion for all parties. involved.

Thank you for your consideration. Should you have any questions or wish to discuss further, please do not hesitate to contact me at (416) 933 – 3065 or [cathy\\_tuckwell@scotiaam.com](mailto:cathy_tuckwell@scotiaam.com).

Sincerely,



M. Catherine Tuckwell, CFA  
Chief Compliance Officer (PM)  
Scotia Asset Management L.P.