

August 10, 2001

Mr. John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, ON M5H 3S8

Dear Mr. Stevenson:

RE: Proposed OSC Rule 45-501 – Exempt Distributions

We are writing in response to the request for comments on Proposed OSC Rule 45-501 Exempt Distributions (the “Proposed Rule”), which was published in the July 13, 2001 OSC Bulletin. We appreciate being given the opportunity to comment again on the Proposed Rule. A diskette with an electronic copy of the submission formatted in MS Word is also enclosed.

Members of the Investment Funds Institute of Canada (“IFIC”) are extremely pleased that a number of their concerns with the previous draft of the Proposed Rule have been addressed. We appreciate that the OSC has accepted the comments of our Members and others that offer pooled funds and agreed to preserve the status quo for pooled funds until such time as a more detailed review of the regulation of pooled funds can be completed.

That said, there is one issue that requires clarification in the Proposed Rule. The pooled fund exemption in sub-section 2.12 (c) operates to exempt pooled funds that are managed by a portfolio adviser or a trust corporation registered under the *Loan and Trust Corporations Act*. “Portfolio adviser” is defined in the rule as a portfolio manager or a broker or investment dealer exempted from registration as an adviser under certain regulations. The Securities Act (Ontario) defines “portfolio manager” as “an adviser registered for the purpose of managing the investment portfolio of clients through discretionary authority granted by the clients”.

Some of our Members offer pooled funds to Canadians that may be managed by an international advisor pursuant to an exemption from registration under OSC Rule 35-502 – Non-Resident Advisers. By operation of the definition of portfolio adviser and the language in section 2.12 (c) of the Proposed Rule, the pooled funds managed by those advisers would not be exempt. We cannot discern any policy reason for excluding those pooled funds from the exemption in s.2.12.

To correct this, we would suggest that the definition of “portfolio adviser” in the Proposed Rule be changed to include a portfolio manager registered in Ontario or in another jurisdiction.

Thank you again for the opportunity to make these comments. Should you have any questions, please do not hesitate to contact Ms. Leslie Byberg, Senior Counsel, at (416) 363 2150 ext. 473 (lbyberg@ific.ca).

Sincerely,

John Mountain
Vice President
Regulation

cc: Exempt Distributions Working Group
Regulatory Steering Committee