



ASSOCIATION FOR
INVESTMENT MANAGEMENT
AND RESEARCH[®]

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7 June 2002

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
The Manitoba Securities Commission
Ontario Securities Commission
Office of the Administrator, New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, ON, M5H 3S8

And

Denise Brosseau, Secretary
Commission des valeurs mobilières du Québec
800 Victoria Square Stock Exchange Tower,
P.O. Box 246, 22nd Floor
Montreal, Québec H4Z 1G3

Re: Concept Proposal 81-402 - *Framework for Regulating Mutual Funds and Their Managers*

Dear Sirs and Mesdames:

The Canadian Advocacy Committee (CAC) of the Association for Investment Management and Research (AIMR)¹ is pleased to respond to the request for comments of the Canadian Securities

¹ The Association for Investment Management and Research is a global, nonprofit organization of over 58,000 analysts, portfolio managers and other investment professionals in 100 countries. Through its headquarters in Charlottesville, Virginia and more than 100 Member Societies and Chapters throughout the world, AIMR provides global leadership in investment education, professional standards, and advocacy programs. Over 7,400 AIMR members live and work in Canada.

Administrators (CSA) regarding the Concept Proposal 81-402 *Framework for Regulating Mutual Funds and Their Managers* (the Proposal). The CAC represents members of AIMR and its 11 Member Societies and Chapters across Canada. Members of the CAC include portfolio managers and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada.

General Comments

We believe that the mutual fund regulatory system in Canada needs to be aligned better with, and more reflective of, the current business structure of investment firms and the related issues of investor protection. Although the current mutual fund regulatory regime is comprehensive and detailed, it fails to address some key potential conflicts of interest. One example would be the lack of transparency in the payment of soft dollar commissions and certain distribution costs by mutual funds, which are areas of concern to us. Overall, we are concerned that there is not a requirement for an independent governing agency to oversee the fund manager and how the mutual fund is managed.

On the other hand, many beneficial trades and trading strategies may be restricted and thus, unavailable to mutual funds because of the wide-ranging prohibitions and limits prescribed by the current securities laws. As a result, mutual funds often use complex transaction structures and products, as well as regulatory exemption applications, to mitigate these restrictions so as to achieve certain expected levels of investment returns. Additionally, the lack of full harmonization and convergence among jurisdictions, regarding the regulation of mutual funds, compounds this complexity further and adds more unnecessary costs to investors of these funds.

The Proposal

The CAC supports strongly the objectives of the Proposal to strengthen fund governance and streamline mutual fund product regulation. We believe that investors generally would be better served by having independent boards overseeing fund managers on behalf of investors and direct regulation of fund managers through registration requirements, rather than by the current system of complex and rigid product regulation and conflict of interest requirements. Moreover, we believe strongly that proposals to strengthen fund governance must be introduced at the same time as proposals to streamline other regulatory requirements although significant progress towards uniformity has been made in the regulation of public mutual funds in concert with the unification of regulations across all jurisdictions.

Other Investment Vehicles

The Proposal asks whether the renewed regulatory framework should be applied to other investment vehicles. We believe products that have similar economic substance, risks and rewards, and access to the general public should be regulated in consistent manner. However, some products are not similar given the relationship between the principal and agent with regard to investment policy and transactions.

For example, pooled funds are fundamentally different from public mutual funds because they are primarily used as a vehicle for reducing trading costs in the provision of individualized discretionary management services of registered portfolio managers, and are not distributed through other dealers. The CSA has previously indicated that it will be exploring the issue of pooled fund regulation in a separate initiative. We support this approach.

Concluding Remarks

In conclusion, we believe that the Proposal represents a long overdue restructuring of mutual fund regulation in Canada, which will increase investor protection while allowing funds more flexibility in making investments to maximize returns for the benefit of fund investors.

We appreciate the opportunity to comment on this proposal. If you have any questions or seek elaboration of our views, please do not hesitate to contact Georgene Palacky at 1.434.951.5334 or gbp@aimr.org.

Sincerely,

/s/ Donald A. Gordon

Donald A. Gordon, CFA
Canadian Advocacy Committee Co-Chair

/s/ Georgene B. Palacky

Georgene B. Palacky
Associate, Advocacy

Cc: Canadian Advocacy Committee
Patricia D. Walters, Ph.D., CFA – Sr. Vice President, AIMR Professional Standards and Advocacy
Rebecca T. McEnally, Ph.D., CFA – Vice President, AIMR Advocacy