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BY TELECOPIER

June 28, 2004

Canadian Securities Administrators

c/o Ontario Securities Commission
20 Queen Street West
Suite 1800
Toronto, Ontario M5H 3S8

Attention: Mr. John Stevenson, Secretary

and c/o Autorite des marches financiers
Tour de la Bourse, 22nd Floor, C.P. 246
800 Square Victoria
Montreal, Quebec H4Z 1G3

Attention: Ms. Anne-Marie Beaudoin

Dear Sirs:

Re: Proposed National Instrument 81-106

This letter represents my personal and without prejudice comments (and not those of the firm or any client) with respect to one facet of proposed National Instrument 81-106, namely the two proposed definitions of the term "non-redeemable investment fund".

It has been suggested that the "two definitions are not intended to be substantively different". However, they seem to be very different in fact.

My biggest concern involves the application of the non-Ontario definition to public companies whose business involves the buying, holding and selling of

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controlling (or quasi-controlling non-minority) interests in other businesses and companies. There are many examples of such companies.

The proposed non-Ontario definition has no reference to "passive" investments, unlike the Ontario definition. Thus, companies whose management and boards make decisions about the buying, holding and selling of controlling (or quasi-controlling non-minority) interests in other businesses and companies seem to be potentially caught by the non-Ontario definition, and thus potentially exempt from ordinary continuous disclosure requirements and instead caught by NI 81-106. This seems inappropriate. I therefore suggest that, if the Ontario definition is not acceptable to other jurisdictions, that their language be amended to clearly apply only to investment vehicles whose intentions are passive, and explicitly not to apply to investment vehicles that are actively involved in the management of some or most of the businesses in which they invest.

The concern about this gradual and unintentional shift away from "non-passive investments" language is exacerbated by the unique Ontario approach to investment advisors, which differs from that used in the US, the UK and elsewhere in Canada. The OSC has previously indicated (as I recall in a request for comments) that, among other things, persons or companies advising "non-redeemable investment funds", as well as mutual funds, are seen to be advising the funds' underlying investors and thus need to be registered in Ontario as advisors, even if the advice is given to and received by the investment vehicle outside Canada. This approach is especially problematic since the requirements to become an advisor in Ontario are generally far more strenuous and difficult (and in some cases impossible) to satisfy than elsewhere in the world, including in the U.S.

Accordingly, if the test of what constitutes a non-redeemable investment fund were to shift to a test such as the new non-Ontario definition suggests, then it would appear that the boards of directors and/or management of public companies that invest in other businesses generally for non-passive purposes could be seen to be required to register as advisors. This is not the practice today, and would likely be completely unworkable. However, it seems to be happening by accident, via the adoption of new language that, while not intended to be different, is in fact quite different.

I thus recommend sticking with the Ontario language, or alternatively adding non-passive language into any new proposed definition.

In addition, I recommend that Ontario review its approach to advisors from this perspective and bring it into line with the U.S. approach.

Other provinces, as well as Ontario, would also be well-advised to consider whether the Canadian advisor registration requirements are too onerous and should be harmonized, in a globalizing world, with U.S. requirements.

Thank you for considering these comments.

Yours truly,

Simon Romano

SAR/he