



Ontario Securities Commission
c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M5H3S8

Baillie Gifford & Co
Calton Square
1 Greenside Row
Edinburgh
EH1 3AN

Telephone 0131 275 2000
Fax 0131 275 3999

www.bailliegifford.com

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

OSC Soft Dollars
19 October 2006

Dear Mr Stevenson and Ms Beaudoin,

Proposed National Instrument 23-102 Use of Client Brokerage Commissions as Payment for Order Execution Services or Research

Baillie Gifford & Co is an independent fund management firm based in Edinburgh with around £45bn under management and advice as at the end of September 2006. The firm is a private partnership under the laws of Scotland and includes a group of companies which are regulated by the FSA in the UK. Of these Baillie Gifford Overseas Limited is registered in Ontario and in Alberta and Baillie Gifford International LLC is registered in Ontario.

Around half of the total assets under group management are managed on behalf of British pension funds, in both the public and private sectors, and about a quarter is for North American clients. We have managed portfolios for Canadian clients for 14 years and have both corporate and public clients.

We welcome the opportunity to comment on the proposals for 'soft dollar' arrangements in Canada.

As we are regulated in multiple jurisdictions including Canada a key concern is to ensure that our business practices comply with the different regulatory requirements in the jurisdictions in which we do business. We support the proposals on soft dollars but would like to have consistent requirements across all regulators which would allow us to treat all of our clients in the same manner.

As you are aware, there are already in place, both in the UK and in the US, detailed requirements on the use of soft dollars. These have been developed further this year with clarification of the services that can be purchased with client commissions. In the UK



disclosure to clients was enhanced with the introduction of rules in January 2006 requiring initial and periodic reporting.

The regulations are broadly consistent in their application thus ensuring that a common treatment of the issue is adopted for both US and UK regulatory requirements. We believe that this is clearly in the interests of not only firms and clients but regulators also as it ensures a common platform of regulation that is more easily able to be understood and implemented.

There are two areas where proposed instrument 23-102 extends further than the requirements currently in place in the UK and in the US:

- the proposed scope extends to transactions in all securities. This is wider than the SEC requirements which apply to equities and have limited application to fixed income transactions and the FSA requirements which only apply to shares and certain related instruments;
- the disclosure requirements proposed include more detail than we are currently required to provide. Specifically, the names of all dealers and third parties used would have to be included where currently we only provide the names of our top ten brokers in the periodic disclosure required in the UK and there is no equivalent requirement in the US. Additionally, the requirement to make available to clients on request details of each goods or service received for which payment was made with brokerage commissions would be a new requirement for us.

If these proposals are implemented then we will have to differentiate between clients in different jurisdictions. We would prefer that the requirements implemented in Canada were not more onerous than those in the US or the UK which would allow us to act in the same way for all our clients.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Angus Macdonald', written over a horizontal line.

Angus Macdonald
Head of Legal