



FRASER MILNER CASGRAIN LLP

David Coultice
Direct Line: 416-863-4722
david.coultice@fmc-law.com

June 22, 2007

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

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

Dear Sirs/Mesdames:

Subject: Proposed National Instrument 31-103 – Registration Requirements

We act for a number of clients who are registered in Ontario as international advisers, and wish to comment on proposed National Instrument 31-103 – *Registration Requirements* in light of our experience. We appreciate the opportunity to comment on the proposed instrument.

We understand the rationale for the reform of the registration system, but are concerned that if the proposed instrument is implemented as currently drafted, international fund management firms that are regulated by their home jurisdictions would be subject to increased regulatory burdens in Canada without any tangible additional investor protections.

Currently, international fund management firms can register in Ontario as international advisers. Such firms can manage portfolios for Canadian clients such as regulated pension funds. Such firms may also act as investment fund managers for pooled funds in which their Canadian clients may invest.

International fund management firms registered in Ontario as international advisers are subject to the registration requirements and regulation of their home jurisdiction. For example, a fund management firm based in the United Kingdom is regulated by the Financial Services Authority (FSA). The FSA regulates activities conducted for all of a firm's clients from its UK base,

including its non-UK clients. The scope of FSA regulation includes prudential rules (which specify minimum capital standards), conduct of business and proficiency requirements (in terms of an approved person's and training and competence requirements). All of the topics covered in the proposed instrument are currently addressed by UK regulation and subject to supervision by the FSA.

The Notice and Request for Comments with respect to the proposed instrument indicates that persons who currently fall into the international dealer category in Ontario and Newfoundland and the international adviser category in Ontario will become exempt from registration in all CSA jurisdictions, subject to conditions that generally mirror the conditions currently imposed on these categories. In our view, the proposed international portfolio manager exemption and how it would apply to the business as conducted by international fund managers is overly restrictive.

There are two key differences between the current requirement for registration as an international adviser in Ontario and the proposed international portfolio manager exemption: a prohibition on soliciting new business has been introduced, and the list of permitted clients has been reduced.

The prohibition on soliciting clients would prevent international fund managers from making use of the exemption if, for example, they operate a marketing program (consisting of face to face meetings and attendance at industry conferences) which targets pension funds and Canadian financial institutions (i.e. permitted international portfolio manager clients).

We appreciate the argument for local regulation in respect of soliciting new retail clients but do not feel this extends to the type of client included in the list of permitted international portfolio manager clients.

Canadian pooled funds would fall within the definition of 'permitted client' under the current requirements as a fund that distributes its securities in Ontario only to permitted clients. In the proposed instrument, this category has been removed from the list of "permitted international portfolio manager clients", which would result in international fund managers being required to register as portfolio managers of the pooled funds.

The proposals would require international fund managers to register as investment fund managers but it is our understanding based on the webcast with respect to the proposed instrument that registration for investment funds is only required in the jurisdiction where the fund is managed, not where the fund is sold. If the pooled funds are managed outside Canada, this would suggest that registration is not required. The international fund manager of the pooled fund would not, however, appear to qualify for the international investment fund manager exemption if the funds are offered in Canada and are not distributed through a registrant.

While international fund managers would primarily be concerned about falling within the scope of the international investment fund manager exemption, they are also interested in the proposed manner in which firms would transition to the new requirements (including all necessary de-registrations), and the length of time made available to firms to implement the changes (should they not be exempt). This should be clarified. In particular, on the proficiency requirements for

Chief Compliance Officers, there should be 'grandfathering' provisions for incumbents within firms currently registered in Canada.

Thank you for the opportunity to comment on the proposals. If you have any questions or would like any clarification on any of the above, please do not hesitate to contact the undersigned.

Yours truly,

FRASER MILNER CASGRAIN LLP



David Coultice

DC/ah