



Ontario Securities Commission
c/o John Stevenson, Secretary
Ontario Securities Commission
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C.P. 246, 22e étage
Montreal, Quebec H4Z 1G3

OSC Soft Dollars
26th March 2008

Dear Mr Stevenson and Ms Beaudoin,

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

Baillie Gifford & Co is an independent fund management firm based in Edinburgh with around £55.5bn under management and advice as at the end of December 2007. 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 currently registered in Ontario, Alberta and in Manitoba and Baillie Gifford International LLC is registered in Ontario.

Around 40% of the total assets of the group are managed on behalf of British pension funds, in both the public and private sectors, and about 30% is for North American clients. We have managed portfolios for Canadian clients for 17 years and have both corporate and public clients.

We previously responded to the initial consultation in October 2006, and we welcome the further 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 regulatory requirements in the various 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 in turn allow us to operate standardised procedures across our client base.

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.

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.

We have no concerns in respect of the matters raised in the first two questions and therefore wish to limit our response to the points raised in questions 3 & 4, namely:

Question 3:

As order execution services and research services are increasingly offered in a cross-border environment, should the Proposed Instrument allow an adviser the flexibility to follow the disclosure requirements of another regulatory jurisdiction in place of the proposed disclosure requirements, so long as the adviser can demonstrate that the requirements in that other jurisdiction are, at a minimum, similar to the requirements in the Proposed Instrument? If so, should this flexibility be solely limited to quantitative disclosure given that the issues associated with differences in quantitative disclosure requirements between regulatory jurisdictions are likely greater than the problems associated with differences in narrative disclosure requirements? In addition, should there be limitations on which regulatory jurisdictions an adviser may look to for purposes of identifying suitable alternative disclosure requirements and, if so, which jurisdictions should be considered eligible and why?

Response

We would welcome the ability to continue disclosing to clients in a manner consistent with the UK Investment Management Association's Pension Fund Disclosure Code. Both the "Level I" and "Level II" Disclosure Requirements under the Code are similar to the Proposed Instrument and we would therefore appreciate the ability to utilise a uniform approach in making both the qualitative and quantitative disclosures regarding "soft dollar" arrangements to our clients.

Question 4:

Should a separate and longer transition period be applied to the disclosure requirements to allow time for implementation and consideration of any future developments in the U.S.? If so, how long should this separate transition period be?

Response

As we also operate in the U.S. it would be preferable to wait for the SEC to publish their anticipated proposals, to ensure common standards are applied. That said, as we are already compliant with the UK regulatory requirements, if the Canadian Securities Administrators

were to recognise the UK regulatory approach as being consistent with theirs, the timing of the implementation would not be such an issue for us.

Yours sincerely

A handwritten signature in black ink, appearing to be 'G. Laybourn', with a long horizontal flourish extending to the right.

Graham Laybourn
Head of Regulatory Risk