



May 29, 2008

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
New Brunswick Securities Commission  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Superintendent of Securities, Newfoundland and Labrador  
Registrar of Securities, Northwest Territories  
Registrar of Securities, Yukon Territory  
Registrar of Securities, Nunavut

John Stevenson, Secretary  
Ontario Securities Commission  
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and

Anne-Marie Beaudoin, Directrice du secrétariat  
Autorité des marchés financiers  
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Dear Mr. Stevenson and Ms. Beaudoin:

**SUBJECT: Proposed National Instrument 31-103 – Registration Requirements**

**I. Introduction**

Greystone Managed Investments Inc. (“Greystone”) takes pleasure in responding to the Request for Comments to the Proposed National Instrument 31-103 issued by the Canadian Securities Administrators (CSA).

Incorporated in 1988, to provide investment management to Saskatchewan based institutions, Greystone has grown significantly since then. Greystone now provides discretionary investment management services to institutional clients across Canada. Client assets under management at March 31, 2008 amount to \$31.2 billion and include public and trade union pension funds, foundations, trusts and endowments, charitable and religious

GREYSTONE MANAGED INVESTMENTS INC.  
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organizations and other corporate accounts. We provide management on both a segregated and a pooled fund basis.

Under our business model, we have encountered difficulties in how regulators define our business and the risks associated with it. As Greystone works solely with institutional accredited investors or those defined as “permitted clients” in section 1.1 of Proposed National Instrument 31-103, we work with Boards of Trustees, pension plan consultants, insurance companies and the like. It is always a desire of our firm to have some rules and regulations focused on our business, and not just on the retail focused business. The introduction of the definition “permitted client” and related exemptions for dealing with permitted investors is a solid base for which to begin the differentiation between retail and institutional clients.

Greystone is currently and primarily registered as an Investment Counsel and Portfolio Manager across all provinces in Canada, as well as, an Extra-Provincial Limited Market Dealer in Ontario and an Unrestricted Practice Advisor in Quebec. We have approximately 40 individual registrants in the 10 provinces. The time consuming and onerous procedures related to registration for our firm are direct consequences of the lack of harmonization and modernization of the current regime.

We acknowledge the history behind establishing a more modern registration regime throughout Canada and commend the CSA on its progress with this second draft in the first phase of harmonization. That is not to say that the proposal as presented totally meets our views as to what would be appropriate. We have concerns with the following components of the second draft of Proposed National Instrument 31-103:

1. Lack of Harmonization
2. New firm categories and requirement to reapply
3. Prohibition on lending, extending credit or providing margin
4. Net Asset Value correction/adjustment reporting
5. Prohibition on certain managed account transactions
6. Exemption for those who do not, “...handle, hold or have access to client cash or assets”

## **II. Greystone Managed Investments Inc. – General Comments Regarding the Second Draft of Proposed National Instrument 31-103**

### **1. Lack of Harmonization**

Greystone agrees in principle with the broad objectives and spirit of Proposed National Instrument 31-103. It is the view of our firm, that a reduction in the regulatory burden related to registration will have a direct benefit to the industry. The harmonization of these standards in all jurisdictions across Canada is critical to achieving that objective. Unfortunately, differences do still exist between provinces, such as,

Manitoba continuing to maintain the old concept “trade trigger” and the lack of Exempt Market Dealer adoption in British Columbia and Manitoba.

We urge the regulators to address these and similar differences between the jurisdictions to meet the stated objective of harmonization in Proposed National Instrument 31-103.

## **2. New firm categories and requirement to reapply**

The two new categories introduced with the Proposed National Instrument 31-103 of Investment Fund Manager (IFM) and Exempt Market Dealer (EMD) result in Greystone registering in three categories: Portfolio Manager, IFM and EMD. Given that under the current structure we are registered in one firm category, the new regime is excessive and provides no additional consumer protection.

The implied requirement for firms, like Greystone who have been registered in multiple jurisdictions in Canada for over 10 years, to reapply for firm registration in this new category of EMD is nonsensical. Requiring a current registrant to apply for full registration in the EMD category is an ineffective use of regulators’ and registrants’ valuable resources. The application process for a firm requires information such as business plans, marketing materials, policies and procedures and the standard employment agreement, including details of employee compensation. For registrants who have been subject to regular compliance examinations by the relevant provincial securities regulators in the last 5 years, this information would have already been reviewed by the regulators.

For the exemption in section 2.2 of the Proposed National Instrument 31-103, which exempts advisers/portfolio managers from dealer registration if the adviser transacts in securities of its own discretionary pooled funds, clarity is required about the documentation required to prove discretionary management. For instance, it is not clear if one or both subscription agreements and investment management agreements are required.

## **3. Prohibition on lending, extending credit or providing margin**

In section 5.7 of Proposed National Instrument 31-103 it states, “A registrant must not lend, extend credit or provide margin to a client.” The clarification of application of this restriction to all registrants, except investment fund managers, is required. Movements towards specialized products, which employ forms of leverage, such as the inclusion of options, swaps, futures or other financial instruments in strategies is becoming more common. Such a restriction creates a barrier to sustain current operations and develop future products for many firms.

**4. Net Asset Value correction/adjustment reporting**

In section 4.3 of Proposed National Instrument 31-103, it specifies required reporting for Investment Fund managers for all Net Asset Value adjustments. In order to be consistent with industry standards set by Investment Funds Institute of Canada (IFIC), a materiality threshold should be in place for NAV corrections and adjustments, which is currently 50 basis points or \$50. Otherwise, the reporting could become an administrative burden and the costs of reporting may be onerous.

**5. Prohibition on certain managed account transactions**

Proposed National Instrument 31-103 states in section 6.2(2)(c), "A registered adviser must not cause a portfolio to purchase or sell a security from or to another investment portfolio managed by the adviser or a responsible person including an investment fund for which the adviser or responsible person acts as an adviser." This apparent restriction on cross trades and inter-fund trading between clients' accounts is a significant change to the way in which advisers currently do business and is a very significant issue for the investment funds and portfolio management industry. We recommend that the CSA expressly indicate that section 6.2 is not intended to restrict cross-trades or inter-fund trades.

**6. Exemption for those who do not, "...handle, hold or have access to client cash or assets"**

Proposed National Instrument 31-103 provides several exemptions to exempt market dealers, who do not handle, hold or have access to client cash or assets. The concept of handling and holding also includes re-routing cheques written by a third party to another entity. Although steps could be taken to require the dealer's employees not to handle such cheques, it is possible that cheques could be given to the dealer inadvertently. Seemingly, regulatory requirements could be triggered due to a client error.

In conclusion, we believe efforts to harmonize and streamline registration are necessary to reduce the regulatory burden. In our view, it is imperative to consider the differences between discretionary and non-discretionary investment management in order to accomplish effective consumer protection.

We thank the CSA for considering these comments and we would be pleased to discuss any issues outlined above.

Yours truly,



Nadine Krenosky, CA, CFA  
Vice-President, Compliance