ASSOCIATION DES BANQUIERS CANADIENS
CANADIAN BANKERS ASSOCIATION

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British Columbia Securities Commission
Alberta Securities Commission
Ontario Securities Commission
Autorité des marchés financiers

Dear Sirs/Mesdames:

The Canadian Bankers Association ("CBA") works on behalf of 50 domestic chartered banks, foreign bank subsidiaries and foreign bank branches operating in Canada and their 257,000 employees to advocate for efficient and effective public policies governing banks and to promote an understanding of the banking industry and its importance to Canadians and the Canadian economy.

The CBA welcomes the opportunity to provide the Canadian Securities Administrators ("CSA") with our comments on its consultation paper, *Securities Regulatory Proposals Stemming from the 2007-08 Credit Market Turmoil and its Effect on the ABCP Market in Canada*, published for comment on October 6, 2008 (the "CSA Proposals").

Our comments are set out below in seven broad sections with the headings referencing the relevant CSA proposal.

CSA PROPOSAL #1

The CSA's ABCP Working Group (the "Committee") proposes establishing a regulatory framework (the "CRA Framework") applicable to "approved credit rating organizations" that requires compliance with the "comply or explain" provision of the Code of Conduct for Credit Rating Agencies ("CRA Code") prepared by the International Organisation of Securities Commissions ("IOSCO"). The CBA has been generally supportive of IOSCO's efforts to update the CRA Code in light of recent market events. However, we note that credit ratings are not a substitute for investors' own risk assessments and thus any regulations directed at CRAs should ensure that such regulations do not undermine investors' own responsibilities to undertake due diligence in respect of potential investments.

We are supportive of the "comply or explain" approach proposed by the CRA Framework as it introduces more transparency regarding key decisions made by CRAs. In the absence of more evidence supporting a move towards a comprehensive registration regime for CRAs, we believe that the "comply or explain" approach is adequate. As the Committee has noted, a comprehensive registration regime for CRAs appears unnecessary given current and proposed U.S. regulation of CRAs. Furthermore, increasing the regulatory burden on CRAs as a response to recent market turmoil may dilute the message to investors that they need to bear some onus for conducting adequate due diligence on investment products prior to purchase.

We do not believe that the Committee's proposed requirement to disclose all information provided by an issuer and used by a CRA in determining and monitoring a credit rating is appropriate. The nature of the information provided by an issuer to a CRA is such that disclosure of this information would not be useful to investors. CRAs are provided with large amounts of information regarding the assets underlying securitized products which in turn they input into models in order to generate a credit rating. CRAs exist because the average investor cannot create models and methodologies with which to interpret the credit risk inherent in an investment product on the basis of the same type of data provided to CRAs by issuers. Thus, investors would not benefit from receiving the type of information that is provided by an issuer to a CRA. In order to demonstrate the foregoing, we would welcome the opportunity to discuss further with you the type of information that is provided to CRAs by issuers.

Furthermore, we note that this disclosure requirement would create a conflict with an existing requirement under Canadian securities laws. Currently, under National Policy 51-201, issuers are able to provide non-public information to certain entities, including CRAs, provided that such disclosure occurs in the "necessary course of business". Selective disclosure to CRAs is considered to be in the "necessary course of business" where the information is disclosed for the purpose of assisting the CRA to formulate a credit rating and the CRA's ratings generally are or will be publicly available. Therefore, requiring a CRA to disclose information provided to it by an issuer would result in the issuer being unable to provide the CRA with all of the information that might be necessary to formulate an accurate credit rating since the issuer would be bound by its own confidentiality restrictions.

The concerns noted in the preceding paragraph also apply to the proposal that a disclosure obligation should be imposed directly on issuers of asset-backed securities. We note, in this regard, that recent market turmoil has had a significant negative impact on the market for asset-based securities such that these products will likely not be saleable without enhanced disclosure by issuers. However, any enhanced disclosure provided to investors must be presented in a form that is meaningful and informative for investors - the type of information provided by issuers to CRAs will not fulfill this objective.

CSA PROPOSAL #2

The CSA is proposing an amendment to the current short-term debt exemption to make it unavailable to distributions of asset-backed short-term debt. We respectfully submit that this proposed approach fails to distinguish between lower-risk and higher-risk forms of asset-backed short-term debt. The recent turmoil in the ABCP market was only in respect of a certain portion of the market and not in respect of all asset-backed short-term debt. For instance, bank-sponsored ABCP has functioned well in Canada for decades. It is a significant market and worth approximately $76 billion relatively to the approximately $32 billion that comprised the third-party ABCP market that was at the center of the market turmoil. ABCP is an important funding tool for banks and other commercial entities, and is vital to credit markets and the Canadian economy.

Thus, we recommend that the current short-term debt exemption continue to be available to lower-risk asset-backed short-term debt. The eligibility criteria set forth by the Bank of Canada for accepting ABCP as collateral for the Bank's Standing Liquidity Facility (SLF) offers guidance on how to determine what constitutes lower-risk asset-backed short-term debt. In this regard, we note that bank-sponsored ABCP meets the Bank of Canada's criteria for acceptance as collateral under its SLF. In order to establish greater transparency in the short-term debt market, the CSA should consider increasing disclosure requirements, short of prospectus-level disclosure, in respect of the securities sold under the short-term debt exemption. Prospectus-level disclosure is not appropriate for bank-sponsored ABCP and the costs associated with prospectus disclosure or other exemptions such as the $150,000 exemption or accredited investor exemption will seriously impair the functioning of the bank-sponsored ABCP market. The CSA should also consider whether it would be more appropriate to require securities sold under the exemption to bear approved credit ratings from two credit rating agencies so that the assessment of the credit quality of the short-term debt is made by at least two different organizations.

With respect to asset-backed short term debt that is determined to be higher-risk, again with guidance from the Bank of Canada's eligibility criteria for ABCP accepted as collateral for its SLF, we recommend that the CSA require the sale of such ABCP to be made only in reliance on other existing exemptions, such as the accredited investor exemption or the $150,000 exemption.

CSA PROPOSAL #3

We support the CSA's proposal to undertake a separate policy review to consider the appropriateness of the thresholds in the accredited investor definition and the $150,000 exemption to ensure that the appropriate balance is struck between market efficiency and investor protection.

CSA PROPOSAL #4

At this time, we have no comments on this proposal. We support the Committee's careful consideration of alternatives to the use of credit ratings in Canadian securities rules and policies, and would appreciate the opportunity to consult on any concrete proposals that are reached with respect to this issue.

CSA PROPOSAL #5

The Committee proposes that the CSA co-ordinate with IIROC the various regulatory initiatives focussed on addressing the role of intermediaries that are registrants with respect to asset-backed securities. Where regulatory initiatives are deemed to be necessary to address an identifiable problem, we support a coordinated approach by regulatory bodies.

CSA PROPOSAL #6

At this time, we have no comments on this proposal. However, we note that the registration reform project is currently underway both at the provincial level and at the level of the CSA, and we would appreciate it if any modifications to securities laws and policies relating to registration were made concurrently with the release of the final version of proposed National Instrument 31-103 and related provincial legislation.

CSA PROPOSAL #7

General Comments

We urge the Committee to approach regulatory changes with caution in recognition of the unusual circumstances in which the ABCP market turmoil occurred and the positive changes that have occurred in the ABCP market since the summer of 2007, including the elimination of general market disruption clause and the heightened investor awareness of complexity of ABCP investments. We also note that securitization and ABCP provide an important funding mechanism for banks and other organizations, and play an important role in risk mitigation. The ABCP market, much of which is comprised of high-quality investments, has already been significantly negatively impacted by recent market turmoil and will likely be depressed for some time. Though we support the introduction of regulations that strike an appropriate balance between market efficiency and investor protection, we ask the Committee give careful consideration to whether changes to existing regulation are necessary in each of the circumstances the Committee has raised given that the ABCP markets, and the securitization market generally, could be further hampered by such changes. Prior to taking steps that may exacerbate the problems in the ABCP market, which may have a contagion effect on other sectors of the financial markets, the Committee should be relatively certain that regulatory changes such as prohibiting asset-backed short term debt from being purchased for money market funds or being used as appropriate eligible assets are necessary and do not have unintended consequences.

Specific Issues

We submit that the 10% concentration restriction should not be reduced to 5%. A money market fund that wishes to maintain very high-quality and high-liquidity investments might well require a limit in excess of 5%. In period of relative illiquidity such as current market circumstances, such concentration is necessary in light of the lack of a broad range of high quality, highly liquid securities. In addition, we respectfully submit that it is not appropriate to implement additional investment restrictions in the current environment of diminished investment alternatives.

We submit that all ABCP should not be disqualified from constituting "cash cover" and "qualified securities". As indicated above, regulatory initiatives need to take account of the differences in quality among various types of ABCP. Regulations should not prohibit or curtail investments in high-quality ABCP issuances, by limiting all ABCP investments.

The Committee has indicated that it will consider whether it is appropriate to remove the option for investment funds to aggregate disclosure of short-term instruments in the statement of investment portfolio. We believe that it is appropriate to enhance disclosure so that portfolio holdings are more transparent to those that utilize financial reporting.

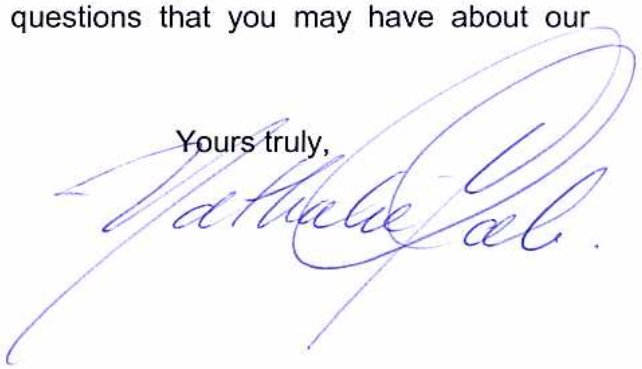
Regarding the Committee's specific request for comments on reducing reliance on credit ratings in securities legislation, we submit that "minimum credit test" would introduce a number of difficulties. First, it would allow money market funds to take on undue risk without the need to comply with minimum credit rating criteria. Second, it would make it more difficult for investors and performance rating agencies to compare funds that operated under fewer common investment constraints. Finally, fund portfolio advisers and managers should understand that existing minimum credit rating criteria provide only one minimum criterion for investment rather than a safe harbour for investments made solely on the basis of external credit ratings.

Any minimum credit rating function should be performed by the portfolio adviser. A fund's independent review committee ("IRC") should have no responsibility for this function given that it does not entail a conflict matter, except in limited circumstances of purchasing related party money market instruments in the secondary market. In this limited circumstance, regulatory relief requires IRC oversight of the conflict.

Regarding the Committee's specific request for comments on whether other regulatory changes are needed with respect to money market funds, we note that the variety and complexity of money market instruments makes it very difficult to craft regulatory guidance. In this regard, please also see our comments above in the "General Comments" section.

In closing, we have appreciated the opportunity to express our views regarding the CSA Proposals. We would be pleased to answer any questions that you may have about our comments.

Yours truly,



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