



Barbara Palk, CFA, President

TD Asset Management Inc.
TD Canada Trust Tower
161 Bay Street, 35th Floor
Toronto, Ontario M5J 2T2
T: 416 982 6681 F: 416 308 9916
barbara.palk@tdam.com

September 24, 2010

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
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Nunavut

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M5H 3S8
e-mail: jstevenson@osc.gov.on.ca

Madame Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22^e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
e-mail: consultation-en-cours@lautorite.qc.ca

Dear Sirs and Mesdames:

Re: CSA Notice and Request for Comments – Notice of Proposed Amendments to NI 81-102 Mutual Funds and NI 81-106 Investment Fund Continuous Disclosure, and Related Consequential Amendments

On behalf of TD Asset Management Inc. (“TDAM”), we appreciate the opportunity to comment on the Canadian Securities Administrators’ (“CSA”) proposal to amend National Instrument 81-102 *Mutual Funds* (“NI 81-102”), National Instrument 81-106 *Investment Funds Continuous Disclosure* (“NI 81-106”), and related consequential amendments (collectively, the “Proposed Amendments”). TDAM believes in the principle of transparency, especially when it relates to a fund’s risk profile. We support



many of the proposals, but have some concerns regarding the proposed limitations to money market fund investments.

TDAM is a wholly-owned subsidiary of The Toronto-Dominion Bank and is one of Canada's largest asset managers. As of August 31, 2010, TDAM and its affiliates managed approximately \$177.2 billion for mutual funds, pooled funds and segregated accounts and provided investment advisory services to individual customers, pension funds, corporations, endowments, foundations and high net worth individuals. TDAM managed approximately \$56.9 billion in retail mutual fund assets on behalf of more than 1.6 million investors as of August 31, 2010. In particular, TDAM and its affiliates managed approximately \$20.7 billion in money market funds as at the same date.

Our response is separated into three parts. In the first part, we provide our comments on the Proposed Amendments that would affect money market funds. In the second part, we include our specific comments on additional items in the Proposed Amendments. The final section summarizes our conclusion.

We are responding in our capacity as an investment adviser.

I. Money Market Funds

Money Market Funds

Investment Restrictions

We support allowing money market funds to invest in the securities issued by money market funds as this will increase the investment options available for a money market fund portfolio manager on behalf of investors.

We have concerns with the new proposed restrictions on money market funds using specified derivatives. Currently, money market funds may use specified derivatives, such as options, futures and forward contracts to hedge losses associated with rising interest rates, to gain exposure to money market instruments without investing in them directly, as well as to reduce the risk of fluctuation in income streams. There may be situations where owning the derivative instrument will be more efficient or less costly for the money market fund than owning the money market instrument itself. Given the lack of a broad range of high quality, highly liquid securities, we believe it would not be appropriate to implement additional investment restrictions in this environment of diminished investment alternatives.

With respect to liquidity, and to enable money market funds to meet redemption requests, we are in favour of the proposed amendment to require a money market fund to have at least 5% of its assets in cash or readily convertible to cash within one day and 15% of its assets in cash or readily convertible to cash within one week. In order to reduce uncertainty, we suggest that the term "readily convertible to cash" be included within the definitions section of NI 81-102, or alternatively, additional commentary be incorporated

into the companion policy to NI 81-102. For instance, in the case of assets readily convertible to cash within one day, suitable investments should include funds sourced from the overnight market, T-bills with a maturity of up to 365 days, and direct obligations of the federal government. In the case of assets readily convertible to cash within one week, suitable investments should include the items listed above, in addition to debt obligations of a federal government agency, direct obligations of a provincial government, or provincial government guarantees with a term to maturity of 90 days or less, and any other eligible instrument with a maturity of up to 5 business days. Additionally, we suggest clarifying in the NI 81-102 companion policy that these two new liquidity provisions will not be mutually exclusive. We suggest that the assets allocated by the portfolio manager to satisfy the 5% liquidity provision should also satisfy in part, the 15% liquidity provision.

We seek feedback on whether you agree or disagree with the 90 and 120-day dollar-weighted average term to maturity limits and whether there should be any limit on the exposure of a money market fund to floating rate notes.

We agree with the proposed 90 day dollar weighted average term to maturity when calculated on the basis that the term of a floating rate obligation is the period remaining to the date of the next rate setting.

We recommend that the 120 day dollar weighted average term to maturity, where the calculation is based on the actual term to maturity of all securities, including floating rates notes, be extended to 180 days. Having a 120 day dollar weighted average term to maturity limit could restrict a fund's access to high quality instruments with attractive yields. Reductions in the available pool of investments from which to purchase could have unintended effects, such as limiting purchase options to any available lower quality issuers. It could become more difficult for portfolio managers to find suitable investments for the money market funds that they manage, and we believe this would be detrimental to money market fund investors.

Additionally, we do not agree that further restrictions should be incorporated at this time, including establishing a limit on the exposure of a money market fund to floating rate notes. We believe that reducing the number of suitable investments available for a money market fund to invest in may lead to further liquidity issues, as there will be expected increased competition for fewer investments.

We also seek feedback on whether the 90-day limit should be reduced to a shorter time frame as is the case in the money market funds rules approved by the United States Securities and Exchange Commission on January 27, 2010, which specify a 60-day limit.

We do not agree with the proposal for a further reduction from a maximum 90 day dollar weighted average term to maturity limit to a maximum 60 day dollar weighted average term to maturity limit as implemented in the United States. We believe that the Canadian

money market is fundamentally different from the one in the United States. The size of the market in the United States makes it increasingly more likely that it would be able to provide a steady supply of short-term securities from a wide variety of issuers to support the demands of its money market funds. Canada's market is significantly smaller, and the supply of highly rated short term debt is limited. Additionally, as discussed above, we do not support measures that could have unintended effects, including reductions in the available pool of investments for a money market fund.

Transition Period

We support a long transition period (minimum 3 months) to enable fund holdings in money market funds to be adjusted to comply with any new rules. This will help reduce the pressure of forced liquidations that may be disruptive to the market.

II. Other Comments

Investment in Other Mutual Funds

Definition of Index Participation Unit

We support the CSA's initiative to amend the definition of index participation unit ("IPU") in NI 81-102 to also include IPUs traded on a stock exchange in the United Kingdom.

Investment Restriction Amendments

We suggest that the proposed amendment to s. 2.5(4)(a) be expanded to also allow for the inclusion of mutual funds that are attempting to replicate the performance of another mutual fund, but for one or more factors, such as variances in performance due to movements in foreign exchange rates. For instance, a mutual fund whose fundamental investment objective is to replicate the performance of another mutual fund, and use derivatives to seek to maintain a currency neutral performance in Canadian dollars should be included in this amendment. A currency neutral fund's performance may vary significantly from its underlying fund, given the volatile currency movements we have experienced in recent years.

Short Selling

Short Sales

We are in favour of the CSA's proposed initiative to allow a mutual fund to engage in short selling and agree with the proposed limits and restrictions contained in the Proposed Amendments.

Derivatives

Cash Cover

We support the CSA's initiative to increase mutual funds' flexibility in selecting cash cover. To that end, we support the CSA's specific proposal to amend the definition of cash cover and propose an additional matter for consideration. We believe that marked to market gains from specified derivatives should be included in the definition of cash cover, provided such amounts arise solely from derivatives used for hedging purposes, and from derivatives that are settled no less frequently than every 185 days.

The cash cover requirements in NI 81-102 are designed to ensure that (i) a mutual fund's use of derivatives does not produce investment exposure in excess of the fund's net assets i.e. leverage, and (ii) a mutual fund can use derivatives to obtain investment exposure up to the amount of the fund's net asset value, provided that exposure is not in excess of the fund's net assets. For example, we are concerned that excluding marked to market gains from currency derivatives in the circumstances specified above could prevent a fund from achieving policy objective (ii).

The following scenarios illustrate how the cash cover requirements in NI 81-102 can achieve objective (i) above but can fail to achieve objective (ii) unless our proposed amended definition of cash cover is utilized.

Date	Market Exposure (US\$)	FX Rate (C\$ / US\$)	Market Exposure (C\$)	Marked to Market Hedge (C\$)	NAV (C\$) ⁽⁴⁾	Market Exposure - Excess / (Deficit) (C\$) ⁽⁵⁾
Day 1 ⁽¹⁾	100	1.00	100	0	100	0
Day 2 (a) ⁽²⁾	100	1.10	110	-10	100	+10
Day 2 (b) ⁽³⁾	100	0.90	90	+10	100	-10

Assumptions

- (1) Portfolio is fully hedged
- (2) The U.S. dollar appreciates to C\$ 1.10
- (3) The U.S. dollar depreciates to C\$ 0.90
- (4) Market Exposure (C\$) plus Marked to Market Hedge (C\$)
- (5) Market Exposure (C\$) less NAV (C\$)

In the scenario above where the U.S. dollar appreciates (Day 2(a)), market exposure exceeds the NAV, which means the fund is leveraged e.g. a 10% loss on market exposure (-10% x C\$110) would produce an 11% loss of the NAV (C\$-11/100). This means that the fund would have to decrease its market exposure or increase its cash cover to remove the leveraged marked exposure. With the U.S. dollar having appreciated, the marked to market hedge is negative (i.e. in a loss position), so that it could not be used as cash cover even if NI 81-102 were amended to permit marked to market hedges to be so used. Accordingly the market exposure would have to be reduced to remove the leverage. This result would ensure policy objective (i) above is achieved.

Conversely, in the scenario where the U.S. dollar depreciates (Day 2(b)), there is a C\$10 market exposure deficit, meaning the fund is under invested to the detriment of investors. If the marked to market hedge could be used as cash cover, its C\$10 could be so used in conjunction with specified derivatives to obtain the necessary exposure to eliminate the C\$10 market exposure deficit. If the marked to market hedge could not be used as cash cover, the fund would be prevented, to its detriment, from achieving policy objective (ii) above.

Transactions in Specified Derivatives for Hedging and Non-hedging Purposes

We are in favour of the CSA's proposal to eliminate the term to maturity limits currently found in s. 2.7(1) of NI 81-102.

Mutual Fund Dealers

Commingling Restrictions

We agree with the CSA's initiative to eliminate the commingling restriction for a dealer regulated by the Mutual Fund Dealers Association of Canada ("MFDA). Investors often make movements in and out of cash alongside a purchase or sale of a mutual fund. The requirement to further separate out funds resulting from one requested transaction adds unnecessary complexity. As each individual trust account can incur banking fees, the need to maintain multiple trust accounts creates additional costs to the mutual fund dealer business. Several provinces have recently implemented blanket orders exempting MFDA dealers from the commingling restrictions, and it is a welcome amendment to remove this requirement altogether across Canada.

Interest Determination and Allocation

We support this initiative as the process to calculate amounts payable to investment funds or investors from interest earned in a mutual fund dealer's trust accounts is a manual process for which disproportionately small amounts (relative to the effort required to calculate those amounts and on a per issuer basis) are eventually rendered forward. Accordingly, we believe the administrative costs to comply with this compliance requirement far outweigh the benefits to capital markets from the distribution of interest from trust accounts.

Mutual Fund Ratings

Use of Mutual Fund Ratings in Sales Communications

We agree with the CSA's initiative to provide additional guidance in the reporting of third party mutual fund ratings in sales communications.

Amendments to NI 81-106

Aggregation of Short-Term Debt

The CSA is proposing to repeal sub-sections 3.5(4)-(5) of NI 81-106 in an effort to increase the transparency of a mutual fund portfolio and to evaluate the associated risks. Short term debt held in many non-money market funds is, for the most part, transitory money moving in or out of the fund and generally does not represent a tactical investment decision made by the portfolio adviser or client.

We suggest that short term debt (remaining term to maturity of 366 days or less) in aggregate amounts of less than 10% of the total net assets of the fund should still be permitted to be aggregated in financial reporting but, where greater than 10%, it should be detailed in financial reporting as it is more likely due to an inherent investment decision to hold short term debt as an asset class.

Calculation of Net Asset Value

The CSA notes it intends to add a new requirement that investment funds must make the net asset value ("NAV") of an investment fund available to the public at no cost. We request that the CSA clarify that it intends to require investment funds to make the "net asset value per security", (a term discussed in s. 9.1 of NI 81-106CP) available to the public.

We also suggest that the CSA include commentary in the companion policy to NI 81-106 indicating examples of methods that they would consider acceptable in order to satisfy this requirement. We believe that publishing the NAV on the website of the manager of the investment fund should satisfy this requirement. Furthermore, where an investment fund is subject to Part 14 of NI 81-106, but where certain series of that fund are only available to institutional clients, discretionary managed accounts, or otherwise not available to the general public, we suggest that the companion policy also indicate that the requirement should be modified so that the NAV would be made available to these specific clients, but not the general public.

III. Conclusion

We commend the CSA for actively seeking input from market participants on the Proposed Amendments. TDAM is grateful to have had the opportunity to provide its comments. We generally support the CSA's Proposed Amendments as they are codifying frequently granted exemptive relief. However, we believe that certain aspects of the Proposed Amendments may require further consideration or refinement as discussed in our responses and comments described above, particularly the proposed restrictions in respect of money market funds, given the effects this could have on the market for money market instruments in Canada, as well as the proposed definition of cash cover.

Should you have any questions, we would be pleased to provide further explanation with respect to matters described above at your convenience.

Yours truly,

A handwritten signature in black ink, appearing to read 'B. Palk', written in a cursive style.

Barbara Palk
President