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TO: 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
Superintendent of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West , Suite 1903, Box 55
Toronto, ON M5H 3S8
Via Email: jstevenson@osc.gov.on.ca

c/o Me Anne-Marie Beaudoin, Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montreal, (Québec) H4Z 1G3
Via Email: consultation-en-cours@lautorite.qc.ca

Dear Sirs/Mesdames:

**RE: Response to request for comments on proposed amendments to NI 31-103
Registration Requirements and Exemptions – Registration of International
and Certain Domestic Investment Fund Managers**

This letter is submitted on behalf of Canadian Imperial Bank of Commerce (“CIBC”) and its affiliates acting as investment fund managers, in response to the Request for Comment on Proposed Amendments to National Instrument 31-103 *Registration Requirements and Exemptions* (“NI 31-103”) and Companion Policy 31-103CP *Registration Requirements and*

Exemptions (“CP 31-103”) published by the Canadian Securities Administrators (the “CSA”) on October 15, 2010 (the “Proposed Amendments”).

We would like to thank the CSA for the opportunity to provide our comments on the Proposed Amendments. Below are our comments on the registration of certain domestic investment fund managers discussed in the Proposed Amendments.

Domestic Investment Fund Managers

(a) General

We have seen a draft of the Investment Funds Institute of Canada (IFIC) comment letter with respect to the registration of domestic fund managers and generally support the points made therein.

We disagree with the CSA proposal that would require a domestic investment fund manager to be registered in another province or territory in addition to the province or territory where its head office is located, if the fund has security holders that are local residents of that province or territory and the domestic investment fund manager, or the fund it manages, has “actively solicited” (as described in the Proposed Amendments) local residents to purchase securities of the fund. As supported by IFIC in its draft submission, it is also our view that the investment fund manager’s client is the fund and not individual security holders of the fund. For that reason, we believe that a similar approach to the one taken by the CSA under NI 31-103 for registration of an adviser in the context of investment funds should apply to the registration of domestic investment fund managers.

Under NI 31-103, the CSA recognized that the adviser’s client is the fund and as such, the advice given by a portfolio manager to an investment fund does not “flow through” to the investors in the fund. In that context, an adviser must register as portfolio manager in the province or territory where the advice is received and where the advice is given, regardless of where the fund’s investors are located. We do not see why the interpretation should be any different for registration of domestic investment fund managers.

The CSA also proposes that registration of domestic investment fund managers be required in all jurisdictions where the investment fund manager conduct activities from a physical place of business. On the basis that the investment fund manager’s client is the fund, it is our view that registration of domestic investment fund managers would be sufficient if made in the local jurisdiction where the head office or principal place of business of the fund manager is located and where the fund in respect of which the investment fund manager is acting is established.

Investment fund managers may delegate or outsource certain of their activities to service providers who may or may not be located in the same jurisdiction where the company or person acting as investment fund manager is located or where the fund is established. Section 7.3 and Part 11 of CP 31-103, respectively, provide that, “*an investment fund manager may delegate or outsource certain functions to other service providers. However, the investment fund manager is responsible for these functions and must supervise the service provider.*” “*Registered firms are responsible and accountable for all functions that they outsource to a*

service provider". Requiring an investment fund manager to register in each jurisdiction in which it carries out certain investment fund manager activities from a physical place of business would potentially mean that registration as an investment fund manager would be required in those jurisdictions where the investment fund manager's activities have been delegated or outsourced. We do not believe that this approach is consistent with the spirit of CP 31-103 nor with the spirit of section 4.4-*Liability and Indemnification* of National Instrument 81-102, which both provide that a registrant or investment fund manager is responsible for the functions being outsourced or delegated, that is, regardless of where the service provider is located. It is our view that there are no additional protection measures being achieved for the fund or the investors in the fund by having the investment fund manager register in such other jurisdictions. We believe that the same principles apply where the investment fund manager's activities are carried out from an investment fund manager's physical location in a jurisdiction other than the jurisdiction of its head office.

(b) Federally regulated financial institutions

CIBC is a chartered bank (Schedule 1) and is acting as an investment fund manager for certain open-end investment funds, namely the CIBC Mutual Funds, the CIBC Family of Managed Portfolios and the Imperial Pools. The head office of CIBC is located in Toronto, Ontario.

In the Summary of Comments published on February 29, 2008, the CSA commented on the requirement for bank listed in Schedule I or II to the Bank Act (Canada) or a trust corporation registered under the *Loan and Trust Corporations Act* to register as investment fund manager. The CSA indicates the CSA jurisdictions would make local determinations concerning the registration of federally regulated financial institutions in the investment fund manager category. Ontario did not intend to require federally regulated financial institutions to register as investment fund managers. (Please see response to comment #574).

While we would have preferred to see the exemption from the investment fund manager registration for federally regulated financial institutions included in NI 31-103, we applaud the Ontario Securities Commission for amending the *Securities Act* (Ontario) to address the exemption from registration for financial institutions. Section 35.1 (1) of the Ontario Securities Act (Act) provides that a bank listed in Schedule I, II or III to the Bank Act (Canada) is exempted from the requirement to be registered under the Act to act as an investment fund manager, if the financial institution, in so acting, limits its activities to only those activities not prohibited by its governing legislation.

We have not yet seen the consequential legislative amendments or local exemption for the other CSA jurisdictions.

Since the head office of CIBC is in Ontario and banks are exempted from registration as investment fund manager in Ontario, CIBC is currently not registered as an investment fund manager in the jurisdiction of its head office.

We submit that federally regulated financial institutions should be exempted from registration as investment fund manager in all jurisdictions of Canada if the financial institution's activities are not precluded by its governing legislation. These exemptions are

necessary to avoid duplication in the regulatory oversight of banks and to ensure a complete harmonization of the registration regime.

We continue to believe that this issue should be addressed explicitly in NI 31-103 and the Proposed Amendments. Alternatively, and in order to allow for local exemption from the other CSA jurisdictions to be issued, we strongly suggest that an omnibus/blanket order exempting federally regulated financial institutions be issued by the other CSA jurisdictions.

Thank you for this opportunity to provide our comments. Please do not hesitate to communicate with the undersigned at the number appearing above should you have any questions regarding the foregoing or wish to discuss it further.

Yours truly,

/s/ Geneviève Ouellet

Geneviève Ouellet
Senior Counsel, CIBC Legal Department