August 31, 2011

VIA EMAIL (jstevenson@osc.gov.on.ca)

Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8

Attention: John Stevenson

Dear;

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorite des marches financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Office of the Attorney General, Prince Edward Island
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Government of Yukon
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut

Re: CSA Notice/Request for Comments (the "CSA Notice") – Proposed National Instrument 41-103 ("NI 41-103") and Proposed Amendments to National Instrument 45-106 ("NI 45-106") and National Instrument 45-102 ("NI 45-102")

Thank you to the Canadian Securities Administrators ("CSA") for seeing the necessity for and thereby requesting industry feedback regarding NI 41-103 and the proposed amendments to NI 45-106 and NI 45-102.

We are a non-deposit taking trust company incorporated under the *Loan and Trust Companies Act* (Alberta). One of our three operating divisions provides the administration of self directed registered accounts, the vast majority of which hold exempt market securities. As of the date of this letter, we hold an estimated $2.25 billion dollars in exempt market securities in our clients' accounts. As such, we have extensive knowledge of the exempt market from the investor, issuer,

and dealer perspectives. Further, as we are registered to conduct business in the provinces of British Columbia, Alberta, Saskatchewan, and Manitoba, and having clients across the country, we understand the exempt market issues from a national level.

In discussion with certain industry stakeholders, we have concluded that many issuers, dealers and investors may be unnecessarily prejudiced by the implementation of NI 41-103 and the related amendments to NI 45-106 and NI 45-102.

As our focus is solely on the exempt market, we have not provided comments on proposed National Instruments 51-106 or 52-109.

As you will note, we have provided you with our general feedback on the proposed rules and amendments and then have provided responses to some of your questions (our responses are limited to the questions surrounding the "Proposed Exempt Distribution Rules" and are numbered according to those found in the CSA Notice).

General Commentary

While the collapse of the sub-prime market in the United States has had major spillover effects into the international economy, we are of the belief that there is not sufficient evidence to indicate that the current rules in Canada governing the sale of securitized products are inadequate. It is well documented that Canada fared better than a vast majority of developed nations during the financial crisis and is a testament to our existing regulatory framework. It is our view that the proposed rules and amendments are attempting to fix a problem that does not exist, and may not ever exist, in our country.

Numerous steps have been taken in the past couple years to improve the exempt market industry as a whole and rather than further modify rules, more time and resources should be dedicated to the following:

- further educating those individuals active in the exempt market industry so they remain compliant and can improve their operations;

- registration of those individuals and firms that have completed the necessary requirements to become registered as exempt market dealers or intermediaries;

- enforcing the existing rules against those that are knowingly operating outside of the current regulations; and

- educating the general public about what exempt market securities are and how they differ from traditional investments.

We find it troubling that the CSA begins its commentary (see Section 2(a)) by acknowledging the importance of securitization to the economy but then proposes rules and amendments that effectively remove securitized products from the exempt market. It is our view that by denying issuers access to the primary prospectus exemptions (being the accredited investor exemption, the private issuer exemption, the offering memorandum exemption and the minimum amount investment exemption (collectively referred to herein as the "Existing Exemptions")), the CSA is effectively removing securitized products from the exempt market and is unnecessarily hampering our economy. The new Securitized Product Exemption is so narrow that is not

meaningful to issuers. By creating such a narrow exemption, the regulators are essentially saying that securitized products are not available for the exempt market which contradicts the same regulator's view that securitized products are important to our economy.

It is our submission that the Existing Exemptions reflect the proper balance between protecting investors and market integrity versus providing access to capital and stimulating the economy. Further, we do not feel there is any evidence to indicate that the Existing Exemptions are inadequate or in any way failed us during the financial crisis. If regulators truly want to protect investors and promote market integrity, we would suggest that the marketplace need more time to understand and adjust to the current regulatory framework before further changes are made. At a certain point, the regulations are overcomplicating the marketplace making the regulation meaningless to individuals and inaccessible to issuers. As such, we encourage you to reconsider implementing NI 41-103 and the related amendments to NI 45-106 and NI 45-102.

Question 1
We agree with your general principles 1 and 2 but disagree with principle 3. That is, we disagree with the specialized treatment of securitized securities. Are securitized securities really any different than any other security from the investor's perspective? That is, is a securitized product any more difficult to understand than a mining company security which requires comprehensive geological knowledge? We submit that it is not and that the third principle is not appropriate.

Question 27
As noted above, we submit that the product-centered approach is not appropriate as it relates to the exempt market. By its nature, the exempt market contains a wide spectrum of investment product types relating to the raising of capital for a wide range of underlying industries. We suggest that by proceeding with a product-centered approach, the regulators are proceeding down a slippery slope to provide product based securities regulation which would overcomplicate our securities regulation making it inefficient and unable to meet its objectives. The exempt market is intended to be a less complicated regime to access capital on a more economical basis, with easier to understand rules and less regulatory red tape. We submit that the Existing Exemptions are achieving this balance.

We believe that the addition of further product-centered rules will lead to further issuer and investor confusion, and suggest that the CSA's efforts would be best-utilized educating industry participants on existing rules and subsequently enforcing the same. Due to the implementation of National Instrument 31-103, the exempt market has undergone significant reform over the past couple years and is still in the process of changing, particularly in Western Canada. As opposed to reforming, it would be prudent for the CSA to use its resources to better educate and enforce the sufficient legislation that is already in place as opposed to adding more regulation to further confuse market participants.

Question 28
We are of the strong view that securitized products should be allowed to be sold in the exempt market. Provided the Existing Exemptions are followed, there is already sufficient protection afforded to investors. Under NI 45-106, there is an onus on the issuer to provide sufficient disclosure to each investor based upon their personal circumstances (an offering memorandum for example). Should the issuer not provide what NI 45-106 requires then they should be reprimanded accordingly. If the CSA is primarily concerned about the sale of this particular product class in the exempt market due to its inherent complexity, they should simply require that

sales of this product type in the exempt market be made exclusively by exempt market dealers as they are already required to assess both the offered securities and the suitability of the same for their clients.

Question 29
Issuers involved in the distribution of securitized products should retain the ability to rely on the Existing Exemptions. By eliminating the use of the Existing Exemptions for securitized products, the regulations are effectively eliminating this type of product from the exempt market altogether.

Question 30
We feel that the offering of securitized products to "permitted clients" only is the wrong approach. Why is an accredited investor intelligent enough to buy other complicated exempt market securities but they are not assumed to be intelligent enough to buy securitized products? Quite simply, more credit needs to be given to the intelligence of investors. If investors are given a proper amount of disclosure, they should be able to make the decision of whether or not they understand the prospective investment well enough to purchase it, more so if they have a registrant advising them. It shouldn't be simply assumed that securitized products are too complicated for the investing public and thereby should only be offered to "highly sophisticated" investors. While the CSA may want to explore the possibility of restricting who can sell securitized products, the CSA should not change the rules as to who can buy them. We believe having a registrant involved should address the CSA's investor protection concerns.

Question 39
Exempt market securities, be they securitized products or otherwise, are effectively non-liquid after issuance (except in very limited circumstances). As such, no additional amount of disclosure post-issuance will change the inherent limited liquidity of exempt market securities. Requiring issuers/sellers of securitized products to disclose information on a more regular and detailed basis than is already required will simply add costs to the marketplace with no benefit to the investors or the issuers. The focus should be on ensuring issuers comply with the initial disclosure requirements in their offering memorandum or other prospectus exemption sale document, not on an ongoing basis.

Thank you for your consideration of the above. Please feel free to contact the undersigned should you wish.

Craig Skauge
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Registered Plans & TFSA Division
Olympia Trust Company