



February 29, 2012

VIA E-MAIL

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

Gordon Smith  
British Columbia Securities  
Commission  
PO Box 10142, Pacific Centre  
701 West Georgia Street  
Vancouver, British Columbia  
V7Y 1L2  
E-mail: [gsmith@bcsc.bc.ca](mailto:gsmith@bcsc.bc.ca)

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

Dear Sirs and Mesdames:

**RE: CSA Staff Consultation Note 45-401 Review of Minimum Amount and Accredited Investor Exemptions - Public Consultation**

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## Background

Greystone Managed Investments Inc. (Greystone) thanks the Canadian Securities Administrators for the opportunity to respond to the CSA Staff Consultation Note 45-401 Review of Minimum Amount and Accredited Investor Exemptions – Public Consultation.

Incorporated in 1988, Greystone provides discretionary investment management services to institutional investors such as pension funds, endowment funds, nonprofit organizations, universities, unions and corporations across Canada. Greystone is registered as a portfolio manager -



adviser and exempt market dealer in all Canadian provinces, as well as an investment fund manager in Saskatchewan.

As at December 31, 2011, Greystone's assets under management were approximately \$34 billion. Greystone's investment management strategies are offered to Canadian institutional clients either as a separately managed account or as a pooled fund depending on the dollar amount invested by the client. For example, Greystone's Canadian equity investment strategy is offered to institutional clients as a separately managed account and as a pooled fund.

As of February 29, 2012, Greystone manages 28 pooled funds. Greystone's pooled funds are not available for purchase by the general public, except by Greystone employees under an exemption. Greystone's pooled funds are distributed on a prospectus exempt basis to accredited investors. Typically, Greystone clients with investment assets between \$5 to \$50 million will invest in Greystone's pooled funds. Offering pooled funds to clients maximizes efficiencies by providing better portfolio diversification, lower trading and market impact costs (best execution), fair allocation of investment opportunities as well as providing similar investment performance for all clients in the pooled fund. Pooled funds allow for the grouping of assets of like-minded investors and permit a single investor to share in a much larger investment program than would be possible otherwise. To this extent, pooled funds can be beneficial investments for individual and institutional investors alike.

Greystone's institutional-oriented business model can present challenges to regulators attempting to define the business and the risks associated with it. Greystone advises institutional "accredited investors" as defined in National Instrument 45-106 or those defined as "permitted clients" in National Instrument 31-103. Generally, Greystone's clients are large Canadian institutions whose authorized representatives are seeking to implement the firm's long-term investment management strategies via a formal consultant-driven process. Greystone works with Boards of Trustees, pension plan consultants, insurance companies and the like, rather than individual investors. The rules and regulations arising from consultations similar to this one should consider not only the impact to the retail investors but also the implications for institutional managers and their clients. Greystone's submission to the questions posed in this consultation focuses on the potential impact on institutional investment managers and their clients.



## Responses to Consultation Questions

We have limited our responses to those questions that are relevant to Greystone's business and our clients.

### Minimum Amount Exemption and Accredited Investor Exemption

1. What is the appropriate basis for the minimum amount exemption and the accredited investor exemption?

Relative to Greystone's business model, the appropriate basis for the minimum amount exemption and the accredited investor exemption is having the financial resources, the relevant sophistication and investment experience.

2. Does the involvement in the distribution of a registrant who has an obligation to recommend only suitable investments to the purchaser address any concerns?

Yes, we believe it does. Greystone acts as a portfolio manager - adviser in a fiduciary duty capacity for all of our clients whether they are in a separately managed or a pooled fund account. Greystone also understands that as an exempt-market dealer, we have an obligation to recommend only suitable investments to clients. Many of Greystone's current and prospective clients seek out Greystone's investment strategies through a request for proposal process with the assistance of an investment consultant. This process ensures that Greystone understands the client's needs and can work with the client to implement a strategy, which is suitable for the client and their particular needs.

### Minimum Amount Exemption

3. Do you have any comments on the issues involving the minimum amount exemption?

Greystone agrees that the size of the investment does not assure investor sophistication or access to information. The size of the investment alone is an indicator only of the investor's ability to withstand financial loss.

If the current \$150,000 threshold for the minimum amount were to change (increased or repealed), this would not have a big impact on Greystone's ability to offer pooled fund strategies to our institutional clients as our standard minimum investment amount far exceeds the current minimum amount exemption threshold. Greystone typically depends on the accredited investor exemption given our clients are institutional investors. Greystone would use the minimum amount exemption only to the extent that a client does not meet one of the accredited investor definitions.



4. Are there any other issues you may have with the minimum amount exemption?

None

***Potential options regarding the minimum amount exemption***

12. Are there alternative qualification criteria for the minimum amount exemption?

At this time, Greystone does not heavily rely on the minimum amount exemption. However, Greystone's view is that the minimum amount exemption does not assure investor sophistication and may not be in the best interest of the individual investor. In the case of institutional investors, their total assets are typically much larger and would therefore have the ability to withstand financial losses. Further, institutional investors are generally more sophisticated and have access to in house professionals and/or consultants who are sophisticated and experienced in investing. An alternative qualification criteria for individual investors should be that they have the relevant sophistication and investment experience.

**Accredited Investor Exemption**

***Issues involving the Accredited Investor exemption***

17. Do you have any comments on the issues regarding current thresholds for income and assets, qualification criteria, use of the exemption to raise capital or compliance with qualification criteria?

At this time, Greystone's clients are institutional investors, including registered pension plans, registered charities and financial institutions. Greystone does not sell its investment strategies to individual investors, except as permitted through an exemption for its employees. To this extent, the current thresholds for income and assets and qualification criteria for individuals are not applicable to our current business model and our institutional clients. However, thresholds for income and assets for individuals do not necessarily assure individual investor sophistication.

Greystone does not use the accredited investor exemption for the purposes of raising capital.

18. Are there any other issues you may have with the Accredited Investor exemption?

In some instances, it can be difficult for institutional investors to identify which accredited investor definition is applicable to them and will rely on the catch all definition (m) where the person has net assets of at least \$5 million as shown on its most recently prepared financial statements. These types of institutional accounts include "master trusts", union funds, health and disability funds, and professional organizations which are created under provincial legislation but are not technically government agencies.



There may be an opportunity to expand the types of institutional accredited investors and more clearly articulate the types institutional investors included in the accredited investor definitions.

***Potential options regarding the Accredited Investor exemption***

23. What qualification criteria should be used in the accredited investor exemption for individual investors?

Rather than using income and asset thresholds for individuals, the more appropriate qualification criteria should be based on the individual investor's investment sophistication, objectives, investment experience, work experience and education. Registrants have an obligation to recommend suitable investments based on knowing the client and understanding the product being recommended to ensure it is suitable for the particular client. Just because a client has a high income and asset base, does not mean the client should necessarily invest in a product offered under the accredited investor exemption. The product needs to be suitable for the client, which is incumbent on the registrant to ensure. In addition, for more novel and complex products, the more sophisticated the client should be and the disclosures for the product should clearly set out the risks associated with the particular investment in plain English.

24. If we changed the qualification criteria, what would the impact be on capital raising?

Greystone does not use the accredited investor exemption for capital raising purposes. There would be no impact to our business.

28. Should an investor's accredited investor status be certified by an independent third party, such as a lawyer or qualified accountant?

Greystone is not of the impression that by having an investor's accredited investor status certified by an independent third party, such as a lawyer or qualified accountant would add value to our client base due to the sophistication of our clients. A certification by a third party would add cost for the client. If the registrant or firm were to absorb this added cost, it would likely be passed on to the client through higher fees.



31. Other options. Are there other alternatives that we should consider?

Greystone would ask the securities commissions to consider having clearer, more user-friendly accredited investor definitions as well as potentially expanding the types of institutional investors that qualify as accredited investors.

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

Respectfully submitted on behalf of Greystone,

Jacqueline Hatherly  
Chief Compliance Officer & Legal Counsel