February 29, 2012

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
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o Gordon Smith
British Columbia Securities Commission
PO Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2

c/o Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22 étage
C.P. 246, tour de la Bourse
Montreal, Québec
H4Z 1G3

Re: CSA Staff Consultation Note 45-401 Review of Minimum Amount and Accredited Investor Exemptions (the "Consultation Note")

Dear Sirs/Mesdames:

We appreciate the opportunity to comment on the questions raised in the Consultation Note about the Minimum Amount (MA) and Accredited Investor (AI) Exemptions.

Gluskin Sheff + Associates Inc. (GS+A) is an independent investment firm that manages portfolios for high net worth investors, including entrepreneurs, professionals, family trusts, private charitable foundations and estates. We also serve a select number of institutions as clients. GS+A is registered as an adviser (portfolio manager) and investment fund manager in Ontario, Alberta, British Columbia, Manitoba, New Brunswick, Northwest Territories, Nova Scotia, Quebec and Saskatchewan.

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Each client of GS+A enters into a managed account agreement, pursuant to which GS+A is given full discretionary authority to trade in securities for the account without obtaining the specific consent of the applicable client to the trade. After an initial meeting between the client and the portfolio manager to discuss the client's investment goals and objectives, the portfolio manager will make investment recommendations to the client that describe the strategies that GS+A will employ to meet these objectives.

GS+A has created a number of pooled funds, each with different investment objectives and strategies, in order to best service its clients by pooling assets, where appropriate, in order to take advantage of economies of scale and administrative efficiencies when executing trades. Only managed account clients of GS+A are invested in the GS+A pooled funds.

With that background, we would like to make the following comments and provide the following responses to specific questions in the Consultation Note.

From our perspective, the aspect of the "accredited investor" exemption in NI 45-106 that gives us the greatest concern is the Ontario carve-out from clause (q) of the definition, and we wish to address that specifically.

In order to permit non-accredited investor clients of GS+A to invest in the GS+A pooled funds, GS+A sought and obtained relief from the Ontario Securities Commission. However this relief is subject to restrictions which do not apply where GS+A invests such clients' assets directly in the same underlying securities held in the GS+A pooled funds. In our view this distinction has no reasonable basis, as we discuss in the following responses to certain specific questions raised in the Consultation Note:

1. What is the appropriate basis for the minimum amount exemption and the AI exemption? For example, should these exemptions be premised on an investor's:
    - financial resources (ability to withstand financial loss or obtain expert advice),
    - access to financial and other key information about the issuer,
    - educational background,
    - work experience,
    - investment experience, or
    - other criteria?

We note that the above enumerated factors do not include access to professional advice. Without commenting on personal criteria suggestive of investor sophistication, it is clear to us that an investor who has the benefit of a registered professional portfolio manager, making the investment decision on behalf of the investor, ought to have available to him or her an exemption that would allow the investor full access to financial products deemed by the portfolio manager to be suitable for the investor. The managed account category of the AI exemption recognizes this.

We can see no reason why a managed account client does have the benefit of such an exemption when investing directly in portfolio securities but does not, in Ontario, have that benefit when investing in those securities through an investment fund. An investment fund can offer the client diversification, greater

access to certain financial products and brokerage cost and other savings from economies of scale that a direct investment will not. In our view, this arbitrary distinction fetters a portfolio manager's ability to discharge its statutory duty to act in the best interests of non-accredited managed account clients where those interests are best served by investment in a pooled product (without having to invest a minimum of $150,000 – or more - in that product). This is particularly true where the pooled product is managed by the same portfolio manager.

The exclusion of investment fund securities from the managed account category in Ontario is particularly perplexing when one considers that there are multiple levels of regulatory oversight in place to protect an investor purchasing a security of an investment fund. There is an initial level of investor protection in the form of the portfolio manager's KYC and suitability assessment. Once the investor's assets are invested in an investment fund, there are additional levels of protection in that both the investment fund manager and the fund's portfolio manager are subject to regulatory oversight aimed at ensuring that clients (the fund and its investors) are treated honestly and fairly.

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?

The involvement of a registered portfolio manager addresses all of the concerns, in our view.

To determine suitability, a registrant must conduct know-your-client due diligence and know-your-product due diligence. To conduct know-your-product due diligence, the registrant must have access to information about the issuer and the security. The AI and MA exemptions relate to the nature of the information that must be made available to investors (and their advisers) on a distribution, and are premised on the theory that certain investors have sufficient sophistication and/or access to information so as not to require the assistance of a prospectus to make an investment decision.

In the context of an investment fund, there is clearly no need for a prospectus to sell securities of that investment fund to a portfolio manager acting on behalf of a managed account where that portfolio manager is also the manager of the investment fund. The portfolio manager has access to all information respecting the investment fund. The portfolio manager can determine suitability of that security for the managed account without the benefit of a prospectus. There is no rationale to deny a prospectus exemption in that scenario.

We feel that providing Canadian investors with fair access to a broad array of financial products is important. There are many financial products that are simply not available to the large majority of Canadian investors, because they are not offered by prospectus. Investment funds that employ hedge strategies are among such products. The use of certain hedge strategies and specialized derivative instruments can increase the risk of investment, or can reduce the risk of investment, depending on how they are used. Only the most sophisticated investors and investment professionals can make that determination.

In our view, once an investor engages a registered portfolio manager, and leaves discretionary investment decisions to that professional, there is no need to distinguish among such investors as to which investment

products they are to have access to. That professional has a statutory duty to assess suitability and has the proficiency to assess the investment products.

In summation, we would ask that in considering the various options regarding the AI and MA exemptions outlined in the Consultation Note, and the policy considerations behind them, the OSC also consider removing the carve-out from clause (q) of the definition of "accredited investor" in NI 45-106. The Ontario carve-out is based on the assumption that improper uses and abuses of the managed account category within the AI exemption under the old regulatory regime can persist under the current regulatory regime of National Instrument 31-103. The industry scandals that gave rise to the Commission's concerns predate the current regulatory regime. We respectfully submit that such an assumption is no longer supportable in light of the CSA's initiatives aimed at investor protection that have put the emphasis on prudent and honest business practices of registrants.

Thank you for this opportunity to share our views on this very important subject.

Regards,

David R. Morris
Chief Financial Officer