Comment on Review of Accredited Investor Exemptions

From: David Ramsay, President, Calrossie Investment Management Inc.

The proposal to potentially increase the limits for accredited investor exemption needs to more fully weigh two key points: (1) the logistical advantages of managing a pooled fund compared with managing numerous individual accounts; and (2) the fact that some pooled funds are much less risky than others, and therefore merit a different regulatory regime.

My firm, Calrossie Investment Management Inc., is a licensed investment fund manager and I am a licensed portfolio manager. The firm's sole product is a pooled fund offering accredited investors a low cost alternative (1% MER) to conventional mutual funds and hedge funds. The fund combines a core holding of dividend-paying stocks with a more active trading strategy. It has substantially outperformed the market since inception in 2008.

If the accredited investor exemption were raised, my firm would still be able to offer legally the same investment portfolio and trading strategy to investors, but, for new investors below the new threshold, the investments would have to be provided through individual accounts (because accredited investor rules don't apply to individual accounts), creating substantial disadvantages in administration and trading.

The "regulatory view" on this outcome might be that it was favourable in that it would result in clients having individual accounts with investment portfolios tailored to each client's needs. However, our product is not an individually tailored product, and our investors are not looking for such a product. They invest with us in search of the better-than-average returns that we have obtained through the various investment strategies undertaken by the fund, strategies that are administratively difficult to undertake across a large group of accounts. Rather than tailoring the investments to each client, we instead determine if the fund is a good fit for the client through the KYC process. If the fund is a good fit, there is no need for an individual account. If it isn't, we don't offer them the fund. Furthermore, if the exemption limits were increased, the resulting higher administrative and trading costs for individual accounts would more than likely be passed on to the client through higher fees, diminishing the returns to the client, which is of key concern.

Turning to my second point - that not all pooled funds have equal risk - the accredited investor proposals do have merit in so far as they relate to funds that are not managed by licensed portfolio managers and where the securities in the funds are not all publicly traded. These sorts of pooled funds are much riskier. Real estate limited partnerships are a prime example of this type of fund and of a sector where investors clearly need further protection, as demonstrated by the regular sector debacles (e.g. First Leaside). Raising the accredited investor exemption is probably the least of the regulatory changes that are required for these types of funds.

For funds like my own, however, that are managed by licensed portfolio managers and that invest only in publicly traded securities, a more logical regulatory change would be a total removal of accredited investor requirements, as well as an opening up of such funds to RRSP investors. Easing investor access to this sort of pooled fund does not in any way reduce investor regulatory protection, when one considers the current regulatory environment for such funds. This protection includes:

- Being publicly-traded, all of the securities owned in these funds are themselves already subject to major regulatory oversight.
- The substantial hurdles to becoming and remaining a licensed portfolio manager.
- Annual required audits of pooled funds.
- Monthly calculation of net asset values (usually by third parties, which should be a requirement).
- KYC rules.
- The capital and other numerous compliance regulations surrounding investment fund managers.

In summary, being able to manage investors' money through a pooled fund offers substantial administrative and trading advantages compared with offering the same investments through individual accounts, with no investor protection disadvantage. In addition, pooled funds managed by licensed portfolio managers that invest solely in publicly traded securities should be viewed differently than other pooled funds that do not share these characteristics. As a result, accredited investor rules should be eliminated on this class of funds, rather than being raised.

Submitted by:

David Ramsay
President
Calrossie Investment Management Inc.

February 29, 2012