



VIA E-MAIL: jstevenson@osc.gov.on.ca, consultation-en-cours@lautorite.qc.ca

April 5, 2012

Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Financial Services Regulation Division, Service NL
Government of Newfoundland and Labrador

Attention: John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1900, Box 55
Toronto, ON M5H 3S8

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

Dear Sirs and Mesdames:

Re: Proposed Multilateral Instrument 32-102 *Registration Exemptions for Non-Resident Investment Fund Managers* and Companion Policy 32-102CP *Registration Exemptions for Non-Resident Investment Fund Managers*

We are writing to provide our comments on Proposed Multilateral Instrument 32-102 *Registration Exemptions for Non-Resident Investment Fund Managers* (“**MI 32-102**”) and Companion Policy 32-102CP *Registration Exemptions for Non-Resident Investment Fund Managers* (“**CP 32-102**”) and, together with MI 32-102, the “**Exemption-Based Proposal**”). We have also reviewed and considered Proposed Multilateral Policy 31-202 *Registration Requirement for Investment Fund Managers* published by the securities regulators in British Columbia, Alberta, Saskatchewan, Manitoba, Prince Edward Island, Nova Scotia, Northwest Territories, Yukon and Nunavut (collectively, the “**Policy-Based Jurisdictions**”) on February 10, 2012 (the “**Policy-Based Proposal**”).

RBC Global Asset Management Inc. is a wholly-owned subsidiary of Royal Bank of Canada and provides a broad range of investment management services and solutions to investors across Canada, including through a variety of investment funds. As at December 31, 2011, RBC Global Asset Management Inc. had over \$250 billion in investment fund assets under management.

We are opposed to the Exemption-Based Proposal presented by the securities regulators in Ontario, Québec, New Brunswick and Newfoundland and Labrador (collectively, the “**Exemption-Based Jurisdictions**”) for the reasons discussed below, and we are supportive of the Policy-Based Proposal.

We are also very concerned that, in the age of harmonization of securities rules, members of the Canadian Securities Administrators (the “CSA”) have proposed two such fundamentally different approaches to the registration of non-resident investment fund managers. These differences go to how each jurisdiction approaches the threshold question of how to determine when the investment fund manager registration requirement is triggered in a jurisdiction, and the CSA members’ divergent approaches on what is essentially the same provision in each member’s securities legislation is perplexing. These divergent approaches do not appear to be based on regional differences amongst these markets and would, in our respectful submission, unduly complicate the regulation of investment fund managers in the Canadian capital markets. The CSA should be working to achieve a harmonized provincial and territorial securities regime wherever possible.

For the reasons set out below, we encourage the Exemption-Based Jurisdictions to re-consider their suggested approach to the registration of non-resident investment fund managers and to adopt the approach that has been proposed by the Policy-Based Jurisdictions.

Submission: The Presence of Security Holders and the Solicitation of Investors in a Jurisdiction Should not Automatically Trigger the Investment Fund Manager Registration Requirement

Securities legislation of the CSA jurisdictions provides that, unless a person or company has the benefit of an exemption, it shall not act as an investment fund manager unless it is registered. The legislation defines an investment fund manager as “a person or company that *directs the business, operations or affairs of an investment fund*” [Emphasis added]. The investment fund manager registration requirement is a separate registration category from, and, we would submit, should be approached as being distinct from, the adviser and dealer registration categories. In making that distinction in categories, we would further submit, there should be no overlap in the types of fundamental activities that would give rise to the requirement to register in each of these three distinct and separate registration categories.

We agree with the following statement that is contained in the Policy-Based Proposal:

We interpret directing or managing the business, operations or affairs of an investment fund to encompass oversight and direction of the fund, which establish a real and substantial connection to the jurisdiction. This does not require the investment fund manager to be physically present in the jurisdiction. What it does require is for the activities to take place in the jurisdiction.

We note that the Policy-Based Jurisdictions also present their view that “the presence of security holders and the solicitation of investors in a jurisdiction does not automatically require an investment fund manager to register,” and we fully support this view.

In contrast, we note that the Exemption-Based Jurisdictions have taken the position that the distribution of securities of investment funds in the local jurisdiction is a significant connecting factor to that jurisdiction, and on that basis, suggest that a non-resident investment fund manager would trigger the investment fund manager registration requirement if either the investment fund or the investment fund manager distributes or has distributed investment fund securities in the local jurisdiction.

We respectfully submit that this position is based on an overly-expansive interpretation of what factors would connect an investment fund manager to a jurisdiction in a manner sufficient to trigger the registration requirement. In our considered view, the distribution of the securities of an investment fund in a jurisdiction should not in and of itself lead to the conclusion that the investment fund manager of such a fund is “directing the business, operations or affairs” of the investment fund in that jurisdiction. Rather, we submit that the distribution of securities in a jurisdiction and any solicitation that occurs with respect thereto should be more relevant to the question of whether the entity concerned has triggered a dealer registration requirement in the jurisdiction and whether a prospectus requirement has also been triggered.

We agree with the view of the Policy-Based Jurisdictions that (a) there must be activity in a jurisdiction that creates a sufficient connection between an entity and the jurisdiction to require registration as an investment fund manager, and (b) *the activity has to relate to the functions of an investment fund manager*. For example, an entity should not trigger the investment fund manager registration requirement in a jurisdiction if it has no physical presence in that jurisdiction, has no employees in that jurisdiction, has no operations in that jurisdiction and otherwise has no connection to that jurisdiction aside from the fact that investors who have purchased securities of an investment fund managed by that investment fund manager reside in that jurisdiction.

We note that implementation of the approach proposed by the Exemption-Based Jurisdictions would result in more investment fund managers having to register in multiple jurisdictions than would be the case should these jurisdictions adopt the approach taken by the Policy-Based Jurisdictions, but at what additional benefit? We believe that the additional costs and regulatory burden associated with more investment fund managers having to register in multiple jurisdictions have not been proven to be justifiable, particularly when these burdens would be the result of an interpretative position taken by the Exemption-Based Jurisdictions that is, in our respectful submission, overly expansive.

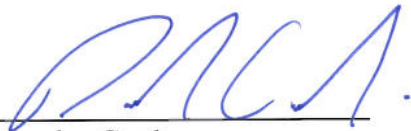
For these reasons, we agree with the interpretative approach to the investment fund manager registration requirement that is proposed by the Policy-Based Jurisdictions, and we do not support the approach that has been proposed by the Exemption-Based Jurisdictions.

We encourage the Exemption-Based Jurisdictions to revisit their approach to the registration of non-resident investment fund managers and to make it consistent with the approach that is proposed by the Policy-Based Jurisdictions. We hope that all of the CSA members will work together to harmonize the regulation of investment fund managers and other capital market participants.


Thank you for the opportunity to provide these comments. We would be pleased to discuss with you any of the matters outlined in this letter.

Yours truly,

RBC GLOBAL ASSET MANAGEMENT INC.

By: 

Douglas Coulter
President

By: 

Lorraine Lynds
Senior Counsel