

April 10, 2012

Via Electronic Mail

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

John Stevenson, Secretary
Ontario Securities Commission
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Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
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**Re: Proposed Multilateral Instrument 32-102 and Companion Policy
32-102CP—Registration Exemptions for Non-Resident Investment
Fund Managers**

Dear Madame Beaudoin and Mr. Stevenson:

The Investment Adviser Association (IAA)¹ welcomes the opportunity to comment on Proposed Multilateral Instrument 32-102 and Companion Policy 32-102CP—Registration Exemptions for Non-Resident Investment Fund Managers. The IAA is a not-for-profit US association that represents the interests of investment adviser firms registered with the US Securities and Exchange Commission (SEC). The IAA's members manage assets for a wide variety of institutional and individual clients, including pension plans, trusts, investment

¹ For more information, please visit our website: www.investmentadviser.org.

funds, endowments, foundations, and corporations, and many of our members manage assets on behalf of clients in Canada.

The October draft revision to National Instrument 31-103 proposed two registration exemptions for international investment fund managers. In particular, it proposed that international investment fund managers would be exempt from registration if Canadian security holders held less than \$50 million of fund assets. We commented that this threshold is too low and would lead many international investment fund managers to bypass the Canadian market to avoid the burdens of registration.² We appreciate that Multilateral Instrument 32-102 eliminates the threshold of \$50 million in sales to permitted Canadian clients. We believe removing this requirement will allow non-resident investment fund managers to continue to offer their funds to permitted clients, thereby providing Canadian investors with the benefits of international diversification and expertise.

We are disappointed, however, with the bifurcation of rules among jurisdictions. We believe that having two separate sets of requirements in Canada will lead to unnecessary complication, confusion, and uncertainty for non-resident investment fund managers. Without uniformity, fund managers will have to continuously review their activities, clients, and shareholders on a jurisdiction-by-jurisdiction basis. Promulgating a harmonized, streamlined, and consistent regulatory framework across Canada will make the registration analysis more efficient and more certain, and will facilitate compliance within the framework. International investment fund managers will find it easier to do business in Canada pursuant to a single standard.

We therefore urge you to join together with the other nine Canadian regulators and adopt Multilateral Policy 31-202. Multilateral Policy 31-202 would require an international investment fund manager to register in a jurisdiction only if it engages in the activities of a fund manager *in* that jurisdiction. We believe this “nexus to the jurisdiction” analysis is the better approach to registration requirements for non-resident managers than the “exemptions” approach proposed in Multilateral Instrument 32-102. We further support the notion that a determination of whether registration is required under the nexus approach should account for the totality of the functions and activities of the manager and that the mere presence or solicitation of investors should not automatically trigger a requirement to register. The Multilateral Policy 31-202 approach is more appropriately tied to statutory authority and concepts of substantive jurisdictional reach. It is also a simpler and more easily understood standard with which to comply.

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The IAA understands the efforts to provide oversight of fund managers that privately place funds in Canada. We encourage the Ontario Securities Commission, the Autorité des marchés financiers, the New Brunswick Securities Commission, and the Financial Services Regulation Division of Newfoundland and Labrador to take the steps necessary to align Multilateral Instrument 32-102 with the Multilateral Policy 31-202.

² See Letter to John Stevenson, Secretary, Ontario Securities Commission and Me Anne-Marie Beaudoin, Corporate Secretary, Autorité des marchés financiers, from Jennifer S. Choi, IAA, dated January 31, 2011.

We appreciate the opportunity to provide our views on these issues and would be pleased to provide any additional information. Please contact me at (202) 293-4222 with any questions regarding these matters.

Respectfully Submitted,

A handwritten signature in black ink that reads "Paul D. Glenn". The signature is written in a cursive style with a large, looping initial "P".

Paul D. Glenn
Special Counsel