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April 10, 2012

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

c/o John Stevenson, Secretary

Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55
Toronto, ON M5H 3S8
Via Email: jstevenson@osc.gov.on.ca

c/o Me Anne-Marie Beaudoin, Corporate Secretary

Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montreal, (Québec) H4Z 1G3
Via Email: consultation-en-cours@lautorite.qc.ca

Dear Sirs/Mesdames:

RE: Response to Request for Comment on 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*

This letter is submitted on behalf of Canadian Imperial Bank of Commerce and its affiliates (collectively, "**CIBC**"), in response to the Request for Comment on 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 Manager* ("**Proposed MI 32-102**") published by the securities regulators in Ontario, Québec, New Brunswick and Newfoundland and Labrador (the "**Exemption Jurisdictions**").

We have also reviewed the Proposed Multilateral Policy 31-202 *Registration Requirement for Investment Fund Managers* ("**Proposed MP 31-202**") published by the securities regulators in the other jurisdictions of Canada (the "**Policy Jurisdictions**").

General Comments

We are very concerned that the Canadian Securities Administrators ("**CSA**") are proposing two distinct approaches to registration of investment fund managers. We believe that the lack of harmonization among the Canadian jurisdictions will result in

investors' confusion and concern and may give rise to implementation difficulties as set out below. We cannot see a policy rationale for the lack of harmonization. We only see disagreement among regulators, which we believe is not in the best interests of investors or the investment fund industry.

For the reasons set out in our Response to Request for Comments on Proposed Amendments to NI 31-103 *Registration Requirements and Exemptions – Registration of Internal and Certain Domestic Investment Fund Managers* dated January 12, 2011, CIBC does not support a registration regime for domestic and foreign investment fund managers that would require registration based on the mere presence of security holders or active solicitation of investors in the jurisdiction. We also have the additional comments below on Proposed MI 32-102.

We are supportive of the registration regime proposal outlined in the Proposed MP 31-202 and strongly encourage the Exemption Jurisdictions to reconsider their position and adopt one harmonized regulatory proposal consistent with the Proposed MP 31-202.

Non- Resident Investment Fund Managers

Under the Proposed MI 32-102, non-resident investment fund managers would be exempted from the requirement to register in the jurisdiction in circumstances where there are no significant connecting factors in the local jurisdiction. The Exemption Jurisdictions are of the view that the distribution of investment fund securities in the local jurisdiction and presence of investors in a jurisdiction is a significant factor to that jurisdiction as it give rises to investment fund manager activities in that jurisdiction, including the delivery of financial statements and other reporting, calculating net asset values and fulfilling redemption and dividend payment obligations.

Under the Proposed MP 31-202 , an investment fund manager would only be required to register in a jurisdiction if it directs or manages the business, operations or affairs of the investment fund in that jurisdiction in a manner that establish a real and substantial connection in that jurisdiction. The Policy Jurisdictions do not expect that any single function or activity of an investment fund manager would be determinative. As such, the mere presence of security holders and the solicitation of investors would not automatically require an investment fund manager to register in a jurisdiction.

We agree with the narrower interpretation of the Policy Jurisdictions of the registration requirement that the mere presence of security holders and the solicitation of investors should not automatically require an investment fund manager to register in a jurisdiction. We believe that in order to determine if there is a significant connecting factor to a jurisdiction, the actual investment fund manager activities performed in the jurisdiction should be considered with no single function or activity being determinative. We do not agree that the distribution of securities in a jurisdiction shall automatically lead to the conclusion that an investment fund manager is directing the business, operations or affairs in that jurisdiction. We believe that the distribution of investment fund securities in a jurisdiction is relevant in the context of the dealer registration. We note that this was reflected under section 7.3 of the companion policy 31-103CP which states "If it (investment fund manager) distributes units of the fund directly to investors, it should consider whether it may have to be registered as a dealer."

We further believe that a registration regime based on the mere presence of security holders in a jurisdiction could create situations that would be difficult, if not impossible, to monitor for an investment fund manager. For example, a security holder may move in a jurisdiction that requires the investment fund manager to register in that jurisdiction by the mere presence of that security holder. When would the registration trigger start? In such situation, the investment fund manager may not immediately be informed of the

presence of the security holder in that jurisdiction and may never have intended to register in that jurisdiction. The investment fund manager may decide to force the redemption of units held by that security holder rather than having to register in the jurisdiction thereby creating investor dissatisfaction and confusion. Another example is a situation where a security holder moves to a jurisdiction in which the investment fund manager is not registered but the security holder continues to maintain his/her account in a jurisdiction that does not require registration? Would the presence of the investor in the jurisdiction or the distribution of securities in the jurisdiction of the account location be the trigger for registration? This is even more complex for nominee accounts. Would investment fund managers need to consider where the jurisdiction of residence of the end security holder is located or where the dealer's account is located when determining where they need to be registered? In the mutual fund industry practices, investors' information for nominee accounts is often not provided or not available to investment fund managers. These are just some examples of the complexity and confusion that the implementation of the Proposed MI 32-102 approach could create.

For the reasons set out above, we urge the Exemption Jurisdictions to reconsider their approach and adopt the Proposed MP 31-202.

Transition Period

We consider that the transition periods for registration of non-resident investment fund managers in both the Proposed MI 32-102 and the Proposed MP 31-202 are insufficient. Non-resident investment fund managers that are not currently registered in a jurisdiction of Canada and that will have to apply for registration in one or more jurisdictions must be provided with sufficient time to prepare for registration. We note that investment fund managers were provided with a one year transition period when National Instrument 31-103 came into force. Accordingly, we recommend that a similar transition period be provided for non-resident investment fund managers.

We appreciate this opportunity to provide our comments on Proposed MI 32-102. Please do not hesitate to communicate with the undersigned at the number appearing above should you have any questions regarding the foregoing or wish to discuss it further.

Yours truly,

/s/ Geneviève Ouellet

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Senior Counsel, CIBC Legal Department