BY EMAIL: comments@osc.gov.on.ca;
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July 12, 2013

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Attention: The 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
Tour de la Bourse
800, square Victoria,
C.P. 246, 22e étage
Montréal, Québec H4Z 1G3

Dear Sirs/Mesdames:

RE: Proposed Amendments to Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*, National Policy 62-203 *Take-Over Bids and Issuer Bids*, and National Instrument 62-103 *Early Warning System and Related Take-Over Bid and Insider Reporting Issues*

AGF Investments Inc. ("**AGF**") is pleased to respond to the specific questions of the Canadian Securities Administrators ("**CSA**") relating to the proposed amendments to Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*, National Policy 62-203

Take-Over Bids and Issuer Bids, and National Instrument 62-103 *Early Warning System and Related Take-Over Bid and Insider Reporting Issues* (collectively, the "**Applicable Legislation**" and such proposals collectively, the "**Proposed Amendments**") as set out in the Notice and Request for Comment published by the CSA on March 13, 2013 (the "**Notice**").

AGF continues to support the CSA in their overall objective to provide for greater transparency in the capital markets in respect of investor activity and intent through the system of early warning reporting and disclosure contained in the Applicable Legislation and the rationale that generally, greater transparency will foster greater market efficiency. However, AGF is concerned that implementation of certain of the Proposed Amendments may actually cloud this transparency by inviting a significantly higher volume of information into the capital markets, including from investors already precluded from being "active" with their holdings; contributing little in terms of relevant new information from which the market can use efficiently.

Set out below are responses to the questions posed in the Notice relating to the Proposed Amendments. For ease of reference, the responses have been numbered so as to correspond with the particular question in the Notice.

1. AGF agrees that the requirement for further reporting should be maintained at 2%. Reducing the threshold would add significant volume to the amount of filings under both the early warning system and alternative monthly reporting ("**AMR**") system available to eligible institutional investors ("**EIIs**"). Where the change in the level of positions held are as a result of actions taken by the issuer, in addition to there being no change of intent by the investor, AGF submits that this additional information would be largely irrelevant to the capital markets and would place an unnecessary and expensive burden on filers.

2. (a) AGF submits that for an EII filing under section 4.1 of NI 62-103, the one-day moratorium provisions under the Applicable Legislation are not applicable as set out in subsection 10.1(4) of NI 62-103. AGF understands however, that pursuant to section 4.4 of NI 62-103, a 10-day moratorium exists for EIIs who become disqualified from filing under the AMR system. AGF submits that regardless of the threshold determination, rather than imposing a moratorium on an early warning system filer, greater fairness and efficiency in the capital markets can be achieved from requiring the disclosure of the information immediately following the close of the market. This would allow time for the capital markets to absorb the information in time for the following trading day's session and not have an EII filing under section 4.4 of NI 62-103 sit idle on the side while other market participants act on the information.

Also, as discussed further in this letter, AGF respectfully submits that, in any event, a reduction in the threshold to report under the early warning system should not be implemented for passive investors and EIIs.

(b) Given the proposed definition of "equity equivalent derivative" and corresponding deeming provision, AGF submits that the moratorium provisions should not apply as the proposed definition is overly broad and would capture a number of transactions irrelevant to the objective of informing the capital markets of intended further activity. For example, where an investor seeks only to replicate the performance of an underlying security or basket of securities, the amount of the derivative position should not be included in the early warning calculation as there is no control or direction over the securities in so far as the investor's ability to vote the underlying securities or hold title and rights to the underlying securities. Further, the holder of the underlying securities and the rights thereto should already be complying with the early warning provisions such that the interest in such securities would already be disclosed to the capital markets. AGF submits that the proposed definition and provision deeming the derivative investor to have control or direction over the underlying securities would, in the case where such investor only seeks to obtain economic exposure, require the investor to file information that would be of little or no value in signaling intent to the capital markets with respect to the particular issuer of the underlying securities. In addition, this information may have the unintended result of confusing or misleading the capital markets.

AGF submits that only with respect to circumstances where the derivative actually entitles the holder to the voting rights attaching to the securities, should such securities be included in the early warning calculation as the ability to act on the securities by the derivative investor (in fact, having control or direction) is beyond simply obtaining economic exposure. Where the derivative provides that such rights are exercisable at the option of the derivative investor, the securities should be included in the early warning calculation. Alternatively, where such rights are exercisable at the option of the issuer, the securities should be excluded from the early warning calculation as the derivative investor is not in a position to control such rights.

(c) Please refer to our response in #2(a) above.

3. AGF agrees.

4. (a) AGF submits that reducing the threshold for EIIs reporting under AMR is unnecessary as the nature of the investments is passive, which will not change. Requiring passive investors to increase the volume and frequency of reporting such investments will not provide any additional meaningful information to the capital markets. Rather, by increasing the volume of filings, there is the possibility of misinterpretation of the information by unsophisticated investors which may create unnecessary volatility or heightened trading volumes as a result. In addition, this volatility may not be particularly in the interests of, and may adversely affect, smaller investors some of whom may hold positions in registered accounts and may find themselves in circumstances to have to liquidate certain holdings within such accounts due to mandated withdrawal schedules, requirement for income or otherwise. AGF respectfully submits that the rationale for lowering the early warning reporting threshold contained in the Proposed Amendments, namely to address increased shareholder activism and provide greater information, is neither applicable nor additionally insightful to the capital markets in the context of the passive nature of investments.

   (b) EIIs filing under AMR are, by the nature of their activities, passive investors and are also large institutional investors. Under the AMR system, the investments reported are passive and there is no intention to engage in the solicitation of proxies or otherwise intend to persuade the corporate actions of the issuer. As previously stated, the proposed reduction in the threshold will require significantly increased reporting (contributing little relevant information relating to the passive investors) and involve increased compliance costs, which depending on the particular circumstances of the EII may result in increased costs being passed along to clients.

   AGF submits that where an EII becomes ineligible to file under AMR, the early warning threshold should apply as the intentions with respect to the investment will have changed, precipitating the ineligibility. Thus, if the early warning threshold is reduced to the 5% level, then EIIs ineligible under AMR, as with "active" investors, should be required to report at this new level.

5. AGF submits that mutual funds should not be required to file under the early warning reporting requirements as there is no significant benefit to the capital markets in obtaining this information. Mutual funds currently exist and operate in a regulated environment, including under National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, National Instrument 81-102 *Mutual Funds*, National Instrument 81-106 *Investment Fund Continuous Disclosure* and National Instrument 81-107 *Independent Review Committee for Investment Funds*, all which require a mutual fund to comply with investment and diversification

restrictions and a robust system of continuous disclosure. For example, absent exemptive relief, the control provisions of NI 81-102 prohibit a mutual fund from holding more than 10% of the outstanding equity securities of an issuer or acquiring securities for the purpose of exercising control over or management of the issuer. Additionally, the continuous disclosure provisions of NI 81-106 already impose a requirement on a mutual fund to regularly publicly disclose, with routine frequency, its top holding positions, which would be the only securities likely to trigger an early warning filing requirement. Also, the investment objectives, strategies and benchmarks are all disclosed publicly, including, on a daily basis, the Net Asset Value of the mutual fund.

In addition, many EIIs who are investment fund managers and portfolio managers, already, under the reporting system of AMR, incorporate the investments held in mutual funds under their purview in their routine periodic filings. AGF believes however, other investment funds not currently subject to the same disclosure, restrictions and governance requirements as mutual funds under NI 81-102 (eg., pooled funds, exchange-traded funds and closed-end funds (until any final amendments to NI 81-102 by CSA under Phase 2 of its Modernization of Investment Fund Product Regulation project bringing such funds into the regime are implemented)) should be subject to the early warning reporting system at the mandated threshold.

6. AGF submits that the efficacy of the early warning system should rest in the view that the intention of the investor holding the position is what is most relevant to the capital markets. As previously mentioned, if the intention of the investor is solely to replicate the investment performance of an underlying security or basket of securities, the holding of such derivative positions is not and should not be relevant information. AGF believes there is a possibility that the capital markets may be misled by the increased volume of filings and additional confusion caused by the additional derivative information proposed in the form requirements as the focus of persons accessing such filings is typically limited to the amount of the position held and identity of the filer holding such position.

7. As previously mentioned, AGF respectfully disagrees with the inclusion of certain derivatives in the early warning calculation where the voting rights attaching to the securities are not available to the holder. However, AGF agrees that direction should be included in NP 62-203 regarding what derivatives are covered by the definition, the reason for the inclusion, and how to arrive at a determination to include or exclude the derivative.

8. As mentioned above, AGF believes that the efficacy of the early warning system should be predicated on the intent of the investor holding the position. This information should be most relevant to the capital markets followed by the buy/sell action of the investor before turning to the aggregate holdings (filings should not be first triggered by the mere level of holdings as there are many reasons why a position reaches a level that are beyond the control of the party reporting). Thus, AGF agrees with the proposed disqualification from the AMR system for an EII who solicits or intends to solicit proxies from securityholders on matters relating to the election of directors of the issuer or to a reorganization or similar corporate action involving the securities of the issuer.

9. AGF agrees with the reasoning for the need to consider certain conditions occurring under securities lending arrangements when determining the reporting obligation under the early warning system. As mentioned, AGF believes the most relevant consideration should be the intention of the holder. There are circumstances in securities lending arrangements which warrant the requirement for reporting under the early warning system. For example, where a party borrows for the express purpose to vote a proxy or accumulate positions to become involved in actions that impact the operations of the issuer. However, there are many circumstances in which AGF believes, in its experience, where the reporting requirement should not be triggered. For example, where a party borrows the securities solely to secure dividend income flows and has no other intention. In such circumstances, the holding is not particularly relevant or helpful to the capital markets as generally, once the entitlement to the distribution is obtained, the securities are returned to the lender. Also, AGF submits that generally, there is no interest on the part of the borrower in engaging in the solicitation of proxies or engaging in actions that impact the operations of the issuer. In addition, certain securities lending programs conducted through an agency relationship are not contemplated in the proposed amendments as with EIIs who direct aggregate positions through management over a collection of commingled vehicles. Circumstances like this are where clients are offered a collection of investment funds as alternatives to segregated mandates and a securities lending arrangement has been entered into by the advisor with the custodian of the particular fund to act as lending agent. The advisor is not directly involved in the lending and has minimal transparency in the lending contracts of the lending agent with the borrower. In such circumstances, AGF submits that the lender is not in a position to readily meet the reporting requirements as the lender continues to reflect ownership of the securities on its books as is entitled to receive the securities back at any time.

AGF respectfully submits that further consideration of the Proposed Amendments with respect to securities lending arrangements should be made to adequately address the foregoing circumstances as the amendments have been focused on the control or direction of a position rather than the intent of the holder of the position.

10. AGF agrees with the proposed definition.

11. Please refer to our response in #9 above.

12. Refer refer to our response in #9 above.

13. AGF has no comment as this is inapplicable.

14. As previously mentioned, AGF submits that where there is no transfer of the rights of the shareholder to the derivative holder, reporting the position would not be relevant or insightful disclosure to the capital markets. Only where the intent is to obtain ownership of the securities or where there are rights that flow to the derivative holder, should a reporting requirement be imposed. Again, the additional filings would contribute to increased confusion where persons accessing the reports tend to focus solely on the aggregate position held resulting in increased volatility which can have an adverse affect on the efficiency and stability of the capital markets and its participants.

15. Please refer to our response in #14 above.

We thank you for the opportunity to respond to the request for comments in the Notice. We look forward to continued constructive dialogue to ensure that the Proposed Amendments lead to rules that are beneficial for investors.

Yours very truly,

Mark Adams
Senior Vice President, General Counsel & Corporate Secretary
AGF Investments Inc.