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
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
New Brunswick Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

The Secretary
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E-mail: comments@osc.gov.on.ca

-and-

Me Anne-Marie Beaudoin
Corporate Secretary
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Dear Sir/Madam:

Re: Proposed Amendments to Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* and 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* (the "Proposed Amendments")

Thank you for the opportunity to comment on the Proposed Amendments. Alberta Investment Management Corporation (AIMCo) is one of Canada's largest and most diversified institutional investment fund managers, with an investment portfolio of approximately $69 billion. We are a Crown Corporation and we invest globally on behalf of 28 pension, endowment and government funds in the Province of Alberta.

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AIMCo supports the principle of transparency in capital markets. AIMCo finds that the relative benefits of disclosure must be weighed against institutional investors' need to ensure confidentiality of business strategy in order to protect our fiduciary duty to client beneficiaries.

AIMCo suggests that the OSC and AMF consider broader, systemic issues of voting efficacy and the impacts of complex derivatives upon share ownership to ensure that the results of any shareholder vote actually reflect the views of a majority of bona-fide shareholders. As the Proposed Amendments are aimed at both the professional and the regular investor, we also suggest that the OSC and AMF consider whether the proposed disclosure format is sufficient to permit the regular investor to readily access filings to use the proposed information as disclosed.

AIMCo suggests that the intent of the amendments, to increase transparency by harmonizing the Canadian market regulations with the US regulatory market, may in fact trigger unintended consequences such as the flight of capital away from Canadian markets. The unique attributes of the Canadian market feature an abundance of small and medium sized enterprises (SME's) so that investor positions in absolute dollars appear relatively highly concentrated than for similar investments in the U.S.

Ensuring clarity of interpretation for the Proposed Amendments is paramount to ensure investors are consistent in their reporting. We suggest several illustrative examples be provided to investors to avoid the confusion of any incorrect interpretations of threshold calculations.

AIMCo has responded only to the questions for consideration viewed as most applicable to AIMCo, as listed below:

1. *Do you agree with our proposal to maintain the requirement for further reporting at 2% or should we require further reporting at 1%? Please explain why or why not.*

   We agree with the proposal to maintain the requirement for further reporting at 2%. Given the lack of turnover and the relatively low liquidity for Canadian markets, investors could potentially attribute undue importance to an early warning report on 'benign', incremental acquisitions or dispositions at lower thresholds of 1% of an issuer. This could in turn potentially impact the market price of these securities. Dropping the threshold to 1% will substantially increase the number of filings, creating a flurry of activity with questionable benefits.

2. *(a) Do you agree with our proposal to apply the moratorium provisions at the 5% level or do you believe that the moratorium should not be applicable between the 5% and 10% ownership levels? Please explain your views.*

   We suggest that any moratorium provisions be aligned with the disclosure requirement (currently at 10% ownership.)

(b) The moratorium provisions apply to acquisitions of "equity equivalent derivatives". Do you agree with this approach? Please explain why or why not.

   Equity equivalent derivatives which provide holders with the ability to vote the underlying securities should be required to disclose such holdings to reveal 'empty voting,' and the moratorium provision would apply. This would improve stakeholder's ability to discern voting

influence. By contrast, a strategy of overly frequent reports on synthetic positions to reveal 'hidden ownership' by passive investors may simply serve to create 'noise' rather than add true value in the marketplace.

(c) *Do you think that a moratorium is effective? Is the exception at the 20% threshold justified? Please explain why or why not.*

The current moratorium is effective in encouraging investors to file reports on time.

The 20% threshold is significant and therefore is a justifiable exception.

3. *With the Proposed Amendments to the early warning reporting threshold, we do not propose to further accelerate early warning reporting during a take-over bid.*

(a) *Do you agree?*

AIMCo would agree.

(b) *If you disagree, how should we accelerate reporting of transactions during a take-over bid? Should we decrease the threshold for reporting changes from 2% to 1%? Or do you think that requiring early warning reporting at the 3% level is a more appropriate manner to accelerate disclosure? Please explain your views.*

N/A

4. *The Proposed Amendments would apply to all acquirors including EIIs.*

(a) *Should the proposed early warning threshold of 5% apply to EIIs reporting under the AMR system provided in Part 4 of NI 62-103? Please explain why or why not.*

AIMCo, as an EII reporting under AMR, is of the view that this requirement may incur an onerous reporting burden on institutional investors.

(b) *Please describe any significant burden for these investors or potential benefits for our capital markets if we require EIIs to report at the 5% level.*

The co-ordination of internal reporting to include derivatives and securities lending combined with stock ownership to compute overall ownership levels may ultimately prove to be a net benefit. However, ensuring accurate and timely reporting, considering several 'moving parts' would be burdensome. The offered exemption for securities lenders would alleviate this burden somewhat.

5. *Mutual funds that are reporting issuers are not EIIs as defined in NI 62-103 and are therefore subject to the general early warning requirements in MI 62-104. Are there any significant benefits to our capital markets in requiring mutual funds to comply with early warning requirements at the proposed threshold of 5% or does the burden of reporting at 5% outweigh the potential benefits? Please explain why or why not.*

N/A

6. *As explained above, we propose to amend the calculation of the threshold for filing early warning reports so that an investor would need to include within the early warning calculation certain equity derivative positions that are substantially equivalent in economic terms to conventional equity holdings. These provisions would only capture derivatives that substantially replicate the economic consequences of ownership and would not capture partial-exposure instruments (e.g., options and collars that provide the investor with only limited exposure to the reference securities). Do you agree with this approach? If not, how should we deal with partial-exposure instruments?*

   As previously mentioned, derivatives that immediately confer voting rights on an investor should be reported above the threshold. However, there is a lower likelihood that several other categories of derivatives would lead to any significant level of control, so that an exception for centrally cleared derivatives might be a viable option. Perhaps it is time to revisit the question of whether derivatives that do not confer voting rights constitute meaningful ownership requisite for disclosure.

   Another concern is that the requirement to disclose 'net exposure' could mask 'actual ownership' i.e. including control over voting securities. If an investor, for example, owned 11% of the securities of an issuer, but also held a short index total return swap with -2% exposure to the same issuer, then, under the Proposed Amendments, no reporting would in fact be required. We suggest that requisite disclosure should apply to actual ownership of securities, at or above a given threshold, in addition to any derivative holdings, rather than on a net exposure basis.

   Similarly, if the actual ownership of securities is below the threshold but crosses the threshold through derivatives holding, a report should then be required for both holdings. Yet the complexities of such a rule could quickly become difficult for market participants to apply, underscoring the need for simplicity and clarity.

7. *We propose changes to NP 62-203 in relation to the definition of equity equivalent derivative to explain when we would consider a derivative to substantially replicate the economic consequences of ownership of the reference securities. Do you agree with the approach we propose?*

   A key criteria as to whether an equity equivalent derivative is included for reporting purposes should be whether or not it confers voting rights. If it does, the counterparty with control over the voting rights of the securities (or the ability to direct the voting) should disclose such control.

8. *Do you agree with the proposed disqualification from the AMR system for an EII who solicits or intends to solicit proxies from security holders on matters relating to the election of directors of the reporting issuer or to a reorganization or similar corporate action involving the securities of the reporting issuer? Are these the appropriate circumstances to disqualify an EII? Please explain, or if you disagree, please suggest alternative circumstances.*

   We agree that the AMR system should only be available to passive investors. We question the ability of a regulator to distinguish investor mal-intent and the definition of "intends to solicit proxies." AIMCo supports the principle of shareholder democracy which may manifest itself in engaging with the issuer, or in a public press release, including collaborative engagement with other investors, none of which would, in our view, constitute any untoward intention to " solicit proxies" detrimental to shareholder interests.

9. *We propose to exempt from early warning requirements acquirors that are lenders in securities lending arrangements and that meet certain conditions. Do you agree with this proposal? Please explain why or why not.*

   We agree that lenders should be exempt from the early warning requirements, provided that they have an unfettered right to recall the securities prior to a vote, as AIMCo does.

10. *Do you agree with the proposed definition of "specified securities lending arrangement"? If not, what changes would you suggest?*

    We agree with the proposed definition of a specified securities lending arrangement.

11. *We are not proposing at this time an exemption for persons that borrow securities under securities lending arrangements as we believe securities borrowing may give rise to empty voting situations for which disclosure should be prescribed under our early warning disclosure regime. Do you agree with this view? If not, why not?*

    As previously mentioned, in the interests of good corporate governance investors with control over a sufficient number of voting securities should not remain anonymous; and investors who participate in securities lending arrangements should disclose these positions.

12. *Do the proposed changes to the early warning framework adequately address transparency concerns over securities lending transactions? If not, what other amendments should be made to address these concerns?*

    To ward off any potential confusion in the event both lenders and borrowers report ownership and control over the same securities, borrowers should be explicitly required to disclose if the securities they have borrowed may be recalled by the lender. The filing format or presentation of such information should be distinguishable and easily accessible.

13. *Do you agree with our proposal to apply the Proposed Amendments to all reporting issuers including venture issuers? Please explain why or why not. Do you think that only some and not all of the Proposed Amendments should apply to venture issuers? If so, which ones and why?*

    In the interests of simplicity, and clarity of interpretation, we suggest the Proposed Amendments be applied in a uniform manner with respect to all reporting issuers.

14. *Some parties to equity equivalent derivatives may have acquired such derivatives for reasons other than acquiring the referenced securities at a future date. For example, some parties to these derivatives may wish to maintain solely an economic equivalency to the securities without acquiring the referenced securities for tax purposes or other reasons. Would the proposed requirement lead to over-reporting of total return swaps and other equity equivalent derivatives? Or would the possible over-reporting be mitigated by the fact that it is likely that parties to equity equivalent derivatives would qualify under the AMR regime?*

    There is a real danger that reporting by parties holding equity equivalent derivatives with an economic equivalency (total return swaps or TSR's) and by parties with equity equivalent derivatives that confer 'actual ownership' with voting power could lead to an over-reporting of total positions and contribute to confusion in the marketplace.

15. *If the proposed new requirement does lead to an over-reporting of these derivatives, is this rectified by the requirement in the early warning report for acquirors to explain the purpose of their acquisition and thereby clarify that they do not intend to acquire the referenced securities upon termination of the swap?*

    Clarification of which parties retain voting control versus those that merely have an economic interest would benefit the market.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at on this or any other issue in future.

Yours sincerely,

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