

August 23, 2013

Delivered By Email: [comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca), [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

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

**Attention:**

The Secretary  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, 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, QC H4Z 1G3

Dear Sirs and Mesdames:

**RE: CSA Notice and Request for Comments  
Proposed Amendments to National Instrument 81-102 Mutual Funds Companion  
Policy 81-102 CP and Mutual Funds and Related Consequential Amendments (the  
“Notice”)**

We are writing to inform you of our support for, and endorsement of, the positions adopted by BMO Capital Markets, CIBC, National Bank Financial Inc., RBC Capital Markets, Scotia Bank and TD Securities in their letter regarding the Notice dated August 22, 2013. We have reviewed their letter and feel strongly that closed-end fund regulation should be done in consultation with closed-end fund market participants, including investment fund managers, portfolio managers, dealers, custodians, auditors, legal advisers, the TSX and IIROC. We believe it is important to recognize that closed-end funds are different than mutual funds and should be regulated differently. We are particularly concerned that the proposed amendments with respect to investment restrictions and the requirement that investment fund managers pay operational

expenses will have a negative impact on the closed-end fund industry and investor choice by limiting innovative products and reducing the number of new entrants in the market place.

As a manager of both mutual funds and closed-end funds, we do not agree with the CSA's proposition in the Notice that it is necessary to "level the playing field". In our view, the playing field is already level in that, as an investment fund manager, we have the option to launch funds of different types depending on our view as to what is most appropriate for the specific investment strategy.

The Notice recognizes that closed-end funds differ from mutual funds in certain respects, but suggests that such differences do not "provide a sufficient policy basis to support the absence of any investment restrictions". Absent compelling evidence and analysis of problems, we do not believe that this view should be the basis for the general imposition of new regulatory burdens. The Notice concludes that elements of NI 81-102 represent "fundamental requirements" without disclosing the basis for this conclusion.

As noted above, in the closed-end fund sector, liquidity, leverage, shorting and other investment tools are determined by the issuer and investment dealer on a given offering based on what is appropriate for a particular closed-end fund having regard for its investment objectives and strategy. A number of factors are taken into consideration in determining appropriate limits. For example, investors in closed-end funds are not necessarily seeking diversification in a particular fund and, as such, a 10% (or other) concentration limit may not be appropriate to such fund. To suggest (as the Notice does), that just because many closed-end funds comply with certain limits on leverage, etc., does not mean that all closed-end funds should be required to adopt these restrictions, or that they purport to reflect industry best practices. This disregards the specialized nature of closed-end funds and has the potential to stifle innovation and investor choice. Any proposed thresholds should take into account investment strategy, rather than adopt thresholds based on parameters that most (or even all) of the existing closed-end fund products comply with today.

Unfortunately, It is impossible to analyse fully the impact that the proposed investment restrictions would have on closed-end funds without knowing more about the proposed Alternative Funds Framework. If the Alternative Funds Framework were to provide a viable framework for new funds, certain investment restrictions applicable to closed-end funds (for e.g., illiquidity, concentration, restrictions to investments in physical commodities, leverage, use of derivatives and short selling) might be less problematic. However, with the Alternative Funds Framework only being proposed at a highly conceptual level, it is impossible to know if it would provide a viable alternative for the closed-end fund sector. Our concern is particularly acute, given the degree to which the Notice extend beyond that which was signalled in Staff Notice 81-322. For this reason alone, absent some pressing investor protection concern (which has not been identified in the Notice), we submit that consideration of these proposals should be deferred and addressed in conjunction with the proposed Alternative Funds Framework.

Assuming any of the proposals in the Notice relating to investment restrictions are ultimately adopted, we submit that existing closed-end funds should be grandfathered from the provisions of proposed NI 81-102 and NI 81-104. In the interests of market efficiency and transparency, we recommend that informing the CSA's intention to do so should be announced immediately. In any event, grandfathered funds should continue to be able to conduct their business,

operations and affairs in all respects in compliance with their constating or governing documents and on the basis previously approved by the CSA (and those who have chosen to invest).

We believe closed-end funds are fulfilling their role as a complement to mutual funds, individual securities and other less sophisticated financial products. The closed-end fund industry innovates and involves highly qualified specialists in a variety of professions and in doing so it bolsters the Canadian capital markets and creates jobs. We submit that regulatory reform should not be undertaken on a piecemeal basis and without a clear evidentiary basis.

Aston Hill Capital Markets Inc. (formerly Connor, Clark & Lunn Capital Markets Inc.) is a leading provider of investment products having raised over \$2.5 billion in assets. The manager is part of Aston Hill Financial Inc., diversified asset management company with a suite of retail mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds. The company is also engaged in the administration of Argent Energy Trust. Aston Hill Financial has offices in Calgary, Toronto and Halifax. Aston Hill Financial Inc. has over \$7.8 billion in assets under management.

Should you have any questions with respect to this letter, please contact the undersigned at 416-583-2336

Yours truly,

A handwritten signature in cursive script, appearing to read "Neil Murdoch".

Neil Murdoch  
President and CEO