



August 23, 2013

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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
19th 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 (Québec) H4Z 1G3

Dear Sirs and Mesdames:

RE: CSA Notice and Request for Comments

This letter is submitted on behalf of RBC Capital Markets in response to CSA Notice and Request for Comment published on March 27, 2013 (the “**Notice**”) concerning Phase 2 of the CSA’s modernization project (the “**Modernization Project**”). We appreciate the opportunity to provide comments and thank you for your consideration of our response.

We refer to the letter submitted by Edward Waitzer on behalf of a group of bank owned dealers (the “**Dealer Letter**”) as well as the letter submitted August 2, 2012 by Barbara Amsden on behalf of the Investment Industry Association of Canada (the “**IIAC Letter**”). We confirm our support of both letters, including our support of the efforts to modernize regulation to ensure market efficiency and enhancement of investor protection. We are writing this response to reinforce the need to have a holistic consultation on a regulatory framework for closed end funds (“**CEFs**”) which, as noted in

the Dealer Letter, we may not be able to definitively discuss until we have a better understanding of the redesign of NI 81-104 which will create a more comprehensive framework for “alternative funds” (the “**Alternative Funds Proposal**”).

Closed End Funds - Differences

Both the Dealer Letter and the IIAC Letter provide background on the nature of the CEF industry and its importance to the Canadian capital markets. We would like to reiterate the importance of CEFs in providing investors with a broader range of investment choice and access to product innovation. Although we agree that there are core investment protection issues which should generally apply to publicly offered investment funds, there are fundamental differences between mutual funds and CEFs which militate in favour of having distinct regulatory regimes that recognize these fundamental differences. These differences do not create regulatory arbitrage but rather, require appropriate regulatory frameworks for products that offer different investment attributes.

CEFs are not meant to replicate mutual funds, but rather to provide investors with another option to fulfill more specific investment needs. CEFs can be used to add to a portfolio that includes a variety of products and to provide yield in a portfolio different from that available in a mutual fund. They provide investors with access to innovative investment strategies and exposure to asset classes that may not be available to them through mutual funds. Investors should be able to access the yield, strategies and assets that fit within their chosen portfolio.

It is our view that the differences between CEF’s and open ended mutual funds warrant a different operational and regulatory approach that should be maintained. CEFs are not continuously offered, they are marketed through registered investment dealers for a limited period of time. Compared to mutual funds, many CEFs employ institutional type strategies that may include the use of investment tools such as leverage, shorting and various hedging strategies. Others may provide access to a more focused or specialized portfolio. Given their often more sophisticated or focused nature, CEFs are offered under long-form prospectuses that are vetted and approved by the issuer, registered investment dealers and legal counsel. This means that, as described in the Dealer Letter and the IIAC Letter, compensation models and organizational cost structures are different.

We believe that the investment attributes CEFs offer investors and the manner in which they have developed in the Canadian market are such that there should be formal, focused consultation on the regulatory regime that applies to CEFs. Such consultation should focus on ensuring all constituencies have a clear understanding of the CEF market and the existing regulatory framework in order to establish any necessary and appropriate regulatory changes.

As described in the IIAC letter, CEF regulation and the process of bringing a CEF to market is already more complex than for conventional mutual funds and the CSA has not expressed many concerns with respect to CEFs. CEFs are reporting issuers and all information regarding the CEF is made public via SEDAR. One concern is set forth in OSC Staff Notice 81-711, *Closed-End Investment Fund Conversions to Open-End Mutual Funds*. While we do not think that this is a major concern for the market, we

believe as the Dealer Letter explains, that this is something that can be addressed by requiring an investment fund manager to refund the organizational costs borne by a fund if it converts within a prescribed period following its initial closing or if the intention to convert is disclosed in the fund's IPO prospectus. Any other specific concerns with the CEF market should be addressed with rules tailored to the CEF market as opposed to imposing regulations meant for conventional mutual funds, on CEFs.

Proposed Amendments

As indicated in the Dealer Letter and the IIAC Letter, there are core requirements that we agree should be imposed on all investment funds. However, for the reasons outlined above as well as in the Dealer Letter and the IIAC Letter, we do not believe that the regulatory framework for mutual funds should be imposed on CEFs beyond these core requirements. In particular, we do not agree with the proposed application of NI 81-102 investment restrictions to CEFs or the prohibition on CEF managers from being reimbursed for offering or organizational expenses.

Investment Restrictions – In the Notice, the CSA proposes that CEFs be subject to the same investment restrictions and practices in NI 81-102 because those investment restrictions are suitable for retail investors who invest in pooled products (citing the diversification requirements as an example of one such requirement) and they are consistent with investment funds as passive investments. This reasoning fails to recognize that CEF investors are not necessarily investing in a CEF in order to have a fully diversified investment product but rather, they may be looking to add certain return elements to broader overall investment portfolio strategy. Investors may also want to take advantage of the unique and innovative trading strategies that are offered through CEFs. As described in the IIAC Letter, “the top 35 CEFs by market capitalization (excluding commodity funds) have experienced an average five-year total return of 20.2% during a highly volatile period, compared to a 17.6% return on conventional (excluding money market) mutual funds. We believe that investors should not be prohibited from participating in a market that can enhance their portfolios and provide higher returns.

Organizational Costs – One of the existing differences between CEFs and conventional mutual funds is that it is not prohibited for closed-end funds to reimburse managers for offering or organizational expenses while such a prohibition does exist with respect to conventional mutual funds. We strongly urge the CSA to consider the comments in the Dealer Letter and IIAC Letter on any proposal to impose this prohibition on CEFs. As described in those letters, the cost to bring a CEF to market in a single closing is significantly higher than it is for conventional mutual funds which are offered in a manner that is not available for CEFs. Although the organizational costs are higher, investors in CEFs generally pay lower management fees. We believe it is appropriate to allow managers of CEFs to be reimbursed for offering and organizational expenses and we note that this was recognized in the 2012 amendments to NI 81-102. Most of these organizational costs are mandatory in nature and designed to comply with regulatory requirements or to ensure that the prospectus contains full, plain and true disclosure with respect to the

offering in question, and does not contain any misrepresentations. Organizational costs are fully disclosed in every CEF prospectus.

We agree that that Modernization Project is necessary in order to review existing regulations and issues in the investment funds market to ensure market efficiency and enhancement of investor protection. We urge you to consider the comments in the Dealer Letter and the IIAC Letter which describe the differences between conventional mutual funds and CEFs and to apply the appropriate framework to CEFs on a holistic basis with NI 81-104 fully developed which will continue to provide investors with more choice in investment products. We look forward to continued discussions and consultations on these issues with you and with other stakeholders.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'K. Gavelin', is written over a horizontal line.

Kirby C. Gavelin
Managing Director, Global Investment Banking
Head, Equity Capital Markets, Canada