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September 28, 2016

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
The Manitoba Securities Commission
Financial and Consumer Services Commission (New Brunswick)
Nova Scotia Securities Commission
Ontario Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan

Attention: Robert Blair, Acting Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8

Me Anne-Marie Beaudoin, Corporate Secretary
Autorité des marchés financiers
800, rue du Square-Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal, Québec H4Z 1G3

Dear Sirs/Mesdames:

RE: Canadian Securities Administrators Consultation Paper 33-404 *Proposals to Enhance the Obligations of Advisers, Dealers and Representatives Toward their Clients*

AGF Investments Inc. ("**AGF**") is writing to provide comments in respect of the Canadian Securities Administrators (the "**CSA**") Consultation Paper 33-404 *Proposals to Enhance the Obligations of Advisers, Dealers and Representatives Toward their Clients* (the "**Paper**") describing:

- ten specific reforms to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "**Targeted Reforms**"); and
- a general regulatory best interest standard ("**Regulatory BI Standard**").

AGF provides asset management services globally to institutions and individuals. AGF's products include a diversified family of mutual funds, mutual fund wrap programs and pooled funds. AGF also manages assets on behalf of institutional investors including

pension plans, foundations and endowments. AGF is registered in the categories of Investment Fund Manager, Mutual Fund Dealer, Exempt Market Dealer, Portfolio Manager, and Commodity Trading Manager.

Although institutional clients may purchase AGF mutual funds directly from AGF, AGF predominantly distributes these funds through unaffiliated dealers for its retail investment fund business. As a result, AGF has direct experience with the challenges facing independent mutual fund manufacturers as they try to get their products on the shelves of third-party dealers to provide access to Canadian investors. Further, due to AGF's experience with working with dealers of all sizes, AGF appreciates the consequences of the Targeted Reforms on dealers, advisers, and investors.

AGF is grateful for the opportunity to provide feedback to the CSA on the topics for consideration raised in the Paper. AGF's primary concerns with respect to certain of the proposed Targeted Reforms stem from the likely unintended consequences of such reforms on investors, particularly as they impact investor choice regarding investment products, and accessibility and affordability of investment advice.

In the Paper, AGF asserts that the CSA may not be giving enough credibility to the overarching "value of advice" provided by advisers. In addition to receiving advice from an adviser on suitable investment products for the investor's portfolio, an investor also derives value from a broader spectrum of services provided by his/her adviser, including:

- adjusting to life events that change the investor's financial circumstances and financial plan;
- understanding current market events and explaining how they may impact the investor's portfolio;
- monitoring the investor's portfolio and rebalancing as necessary based on the investor's risk tolerance and objectives; and
- building an investment and retirement plan to help ensure the investor has enough money in retirement.

As a strong proponent of the "value of advice" principles, we are concerned that many of the Targeted Reforms, as proposed, would have a detrimental impact on small to medium sized dealers and their advisers, and small account investors. The CSA Investor Education Study 2016 by the Innovative Research Group for the CSA indicates that 70% of investors use their advisers as a source for investing information. In addition, recent data indicates that 80% of Canadian investors have less than $100,000 to invest. As a result, the unintended consequences of the Targeted Reforms would certainly be felt quite extensively.

AGF firmly agrees with the CSA that an investor's interests should come first, and appreciates the CSA's desire to enhance investor protection through the Targeted Reforms and/or Regulatory BI Standard. Nevertheless, AGF strongly encourages the CSA to consider the consequences of the Targeted Reforms and Regulatory BI Standard and ensure that they do not produce outcomes that limit or reduce investment choice and access to affordable investment advice.

Impact on Investors, Registrants and Capital Markets

39) What impact would the introduction of the proposed targeted reforms and/or a regulatory best interest standard have on compliance costs for registrants?
40) What impact would the introduction of the proposed targeted reforms and/or a regulatory best interest standard have on outcomes for investors?
41) What challenges and opportunities could registrants face in operationalizing:
(i) the proposed targeted reforms?
(ii) a regulatory best interest standard?
42) How might the proposals impact existing business models? If significant impact is predicted, will other (new or pre-existing) business models gain more prominence?

Less investment choice:
Some of the proposed Targeted Reforms would inevitably result in less investment choice for investors. In particular, the know your product and suitability Targeted Reforms will require representatives to develop a deeper understanding of all investment products (including mutual funds) offered on a firm's shelf. Representatives will also require enhanced training and firms will require additional resources (as described in further detail later in the letter). These Targeted Reforms are simply not practical/feasible for many firms with a broad product shelf. As a result, these Targeted Reforms will inherently encourage dealers to (i) offer a limited suite of investment products (including mutual funds); (ii) restrict their product offerings to proprietary products only; and/or (iii) limit their shelf to low cost products with low risk. All of these consequences would reduce the diversity of investment products available for an investor. AGF submits that this is not in the best interest of investors.

Less access to affordable investment advice:
Only dealers with scale will be able to afford the increased costs to ensure compliance with the proposed Targeted Reforms and Regulatory BI Standard. This would invariably result in a reduction of the small to medium sized dealers and consolidation in the industry. Further, the increased cost to registrants of compliance with the Targeted Reforms will inevitably be passed down to investors and result in the increased cost of advice for investors. As a result of the reduction of dealers and the increased cost of compliance on such dealers, investors, particularly those with small investments, will likely have less access to affordable investment advice. Such consequences are evident from the reforms undertaken in the UK, and seem inconsistent with the best interests of investors.

Overly prescriptive:
Certain of the Targeted Reforms are overly prescriptive and likely unwanted by some clients. Such Targeted Reforms presume that: all investors are in need of the same level of protection; all investors would willingly provide additional disclosure upon request to their adviser; and all investors are seeking financial advice from their dealers/advisers akin to financial advice they would receive from a full service financial planner. Investors that are simply seeking to invest a small portion of their investable assets in a relatively simple investment transaction would likely hesitate in providing such detailed disclosure. Further, certain of the Targeted Reforms are currently set out in the rules of the MFDA

and IIROC. As such, the CSA should work with or defer to these SROs to enhance any rules necessary and/or provide additional guidance on the interpretation of such rules.

Other regulatory initiatives:

The timing of the Targeted Reforms is of concern. The CSA appear to be motivated to implement some or all of the Targeted Reforms without necessarily waiting to see the impact of the mutual fund "point of sale" fund facts delivery rules that came into force on May 30, 2016, or the CRM-2 regulatory changes, the last elements of which came into force on July 15, 2016. As a result of these existing reforms, market developments have already started to influence product and service offerings by firms and advisers. With its recently announced multi-year study, the CSA clearly recognizes the importance of understanding the impact of these reforms. AGF respectfully submits that an analysis of the existing reforms should be fully developed before imposing further regulatory changes. Further, Canada clearly has a robust securities regulatory environment, and does not have similar systemic issues of other jurisdictions in terms of investor disadvantage and the corresponding heightened need for dealer/adviser scrutiny, which were the driving factors for introducing similar reforms in such other jurisdictions. We should not be influenced by such other jurisdictions, but rather base our need for regulatory reform on careful analysis of our current regulatory regime and investor and registrant behaviour. To this end, AGF questions the imminent "need" for further reforms, without the benefit of analysis for how existing reforms may already prove beneficial to investors. The current fast pace and piecemeal nature of all of these reforms makes it extremely difficult for the industry to respond effectively to regulatory changes as part of the regulatory consultations, including with respect to highlighting all of the practical implications that may occur.

Application is too broad:

The implications of the Targeted Reforms on each registrant category are unique and need to be understood further in the context of the different investment advice delivery models within each category. A "one size fits all" approach does not recognize that dealers/advisers have segmented their clients according to the type of client (i.e. a one-time transactional client versus a client that relies heavily on his/her adviser versus an institutional client), level of service and variety of products they require, as well as the business model of the registrant. For example, there are generally three types of services offered by advisers: (i) investment advice; (ii) financial planning; and/or (iii) implementation/execution. Even within each of these buckets, there are various ranges of services on offer, as investor need and demand dictates. If there are certain concerns that are particular to a registrant category (or an advice delivery model within such category) then the Targeted Reforms should address those concerns in particular instead of being a "catch all". More flexibility is required in addressing the valid objectives that such Targeted Reforms and the Regulatory BI Standard are intending to address.

Product scope:

The Targeted Reforms apply to all "products". AGF is requesting that the CSA provide additional clarification around the definition of "products".

General comments:
The above represents AGF's high level comments on the Targeted Reforms and Regulatory BI Standard. These are further reflected within our comments below on the specific Targeted Reforms (that are directly relevant to AGF) and the Regulatory BI Standard.

In the Paper, the CSA has set out a number of specific practices that are not meant to be caught under the Regulatory BI Standard, such as the offering of proprietary products by firms and advisers having to always recommend the lowest cost product. AGF requests that the CSA clarify that these practices are also meant to be excluded from the application of the Targeted Reforms.

Targeted Reforms

#1 – Know Your Product (Representative)

7) Is this general approach to regulating how representatives should meet their know your product obligation optimal? If not, what alternative approach would you recommend?

Support for purpose of Targeted Reform:
AGF appreciates the importance of an adviser understanding the unique attributes of an investment product and its value when conducting a suitability analysis. In theory, AGF is supportive of the intention behind this Targeted Reform as it ensures advisers are vetting products based on attributes and suitability. Nonetheless, the practical implications of the Targeted Reform are not in the best interests of investors as set out below under "Less investment choice".

Less investment choice:
This Targeted Reform requires advisers at mixed/non-proprietary firms to know about every product on a firm's shelf, which will require extensive training, resources, and cost. As a result, an unintended consequence of this Targeted Reform will be the likely shrinking of product shelves at mixed/non-proprietary firms, which is not in the best interest of investors as it limits investors' choices in investment products.

Other Targeted Reforms sufficient:
AGF submits that the Targeted Reforms dealing with increased proficiency, know your client, and suitability obligations are sufficient in addressing concerns that this know your product (representative) Targeted Reform was intending to alleviate.

Sophistication of institutional clients:
Institutional clients are sophisticated investors with extensive resources and experience. Institutional clients generally negotiate their own investment policy statement and restrictions, and appreciate and manage the tax implications and other costs associated with their investments. As a result, institutional clients with discretionary accounts should be excluded from the application of any revised standard for the know your product Targeted Reform.

#2 – Know Your Product (Firm)

8) The intended outcome of the requirement for mixed/non-proprietary firms to engage in a market investigation and product comparison is to ensure the range of products offered by firms that present themselves as offering more than proprietary products is representative of a broad range of products suitable for their client base. Do you agree or disagree with this intended outcome? Please provide an explanation.
9) Do you think that requiring mixed/non-proprietary firms to select the products they offer in the manner described will contribute to this outcome? If not, why not?
11) Will this requirement raise challenges for firms in general or for specific registration categories or business models? If so, please describe the challenges.
12) Will this requirement cause any unintended consequences? For example, could this requirement result in firms offering fewer products? Could it result in firms offering more products?
13) Could these requirements create incentives for firms to stop offering non-proprietary products so that they can fit the definition of proprietary firm?
15) Do you think that categorizing product lists as either proprietary and mixed/non-proprietary is an optimal distinction amongst firm types? Should there be other characteristics that differentiate firms that should be identified or taken into account in the requirements relating to product list development?
59) Would additional guidance with respect to conducting a "fair and unbiased market investigation" be helpful or appreciated? If so, please provide any substantive suggestions you have in this regard.
60) Would labels other than "proprietary product list" and "mixed/non-proprietary product list" be more effective? If so, please provide suggestions.
61) Is the expectation that firms complete a market investigation, product comparison or product list optimization in a manner that is "most likely to meet the investment needs and objectives of its clients based on its client profiles" reasonable? If not, please explain your concern.

Support for intended outcome:

AGF agrees with the CSA that the intended outcome of the market investigation and product comparison requirements for mixed/non-proprietary firms is to ensure such firms offer products that are representative of a broad range of products suitable for their client base. Nonetheless, AGF does not believe that this Targeted Reform will accomplish the intended outcome once in practice.

Less access to affordable investment advice:

Small to medium sized mixed/non-proprietary firms do not have the infrastructure to be able to conduct a "fair and unbiased market investigation" to the extent proposed. Extra costs for the infrastructure to ensure compliance with this Targeted Reform could invariably force many firms to exit the business or simplify their business. If the small firms are forced out of business or required to consolidate then small investors, who may not qualify for accounts at the larger dealers based on minimum asset thresholds, will have less access to affordable investment advice (as seen in the UK).

Costs borne by investors:
Market investigation, product comparison, and the optimization process proposed by this Targeted Reform will require additional resources and training at many, if not close to all, firms impacted – the costs of which would inevitably be passed down to the investors.

Less investment choice – reduction in firms and investment products:
The increased obligations to do market investigation and product comparison apply only to mixed/non-proprietary firms. As a result, these firms may be persuaded to become proprietary firms. It may be cheaper for such firms to either limit their product offering to a firm's specialization or develop additional specializations through hires rather than incur the expenses of meeting this Targeted Reform as a mixed/non-proprietary firm. Further, third-party data for product comparison purposes may not be as readily available, current, or complete, forcing some firms to adopt a proprietary model to ensure compliance with regulatory obligations. As a result of the reduction in mixed/non-proprietary firms, there would invariably be less investment product choice for investors.

There will also likely be a shrinkage of the product shelves at mixed/non-proprietary firms as firms become more selective and offer shelves that firms think would survive regulatory scrutiny. As a result, there will be less investment product choice for investors. Firms may be less willing to recommend non-core or alternative investment products as they are generally viewed as more expensive, more risky or less liquid than other investment products. For example, certain emerging market and global equity investment funds could fall into this bucket despite being an important asset class for certain investors. This would inevitably lead to a reduction in product shelves.

Unreasonable expectations re: "most likely to meet the investment needs and objectives of its clients":
The expectation that firms complete a market investigation, product comparison or product list optimization in a manner that is "most likely to meet the investment needs and objectives of its clients based on its client profiles" is unreasonable. This proposed condition to the know your product Targeted Reform effectively regulates investment outcomes rather than processes. The CSA should not regulate investment outcomes, which is something that is done by the markets, as the risk of loss from investing in the capital markets is always a possibility.

Clarification re: "reasonable universe":
It appears the CSA is providing discretion to the firms to assess "reasonableness" but some additional guidance may be helpful. For example, there are countless Canadian equity funds so would an adviser have to review and compare all of the funds or a sample of the funds (how do you narrow down the sample size?)?

Clarification re: "appropriately representative":
Pursuant to the suitability Targeted Reform, the CSA has indicated that the cost of the product must always be considered. If high fees are always unsuitable for an investor, then do low fees always trump performance (AGF expresses similar concerns with the suitability Targeted Reform)? Therefore, when assessing whether the product shelf is

"appropriately representative", should firms only consider whether the low fee products are available? AGF is requesting that the CSA clarify what is "appropriately representative".

Further, the requirement to consider whether a firm's product offering is "appropriately representative" for a client is unreasonable given that it is not possible for any dealer to offer a complete product offering (i.e. across asset classes, security types, and geographic dispersion) nor is it reasonable to consider rejecting a client on the basis that a particular product is not available to the adviser (i.e. a term deposit/GIC) particularly if the adviser is not licensed to sell such product (i.e. prospectus exempt securities or deposits/leveraged accounts).

Misleading terminology:
AGF is requesting that the CSA clarify the definition of "proprietary" i.e. would this include fund on fund structures where the underlying funds are managed by third-parties? If so, the terminology appears to be misleading as a proprietary firm may still provide investors with access to third-party managers and products.

Existing rules and deference to SROs:
Know your product rules are clearly defined in the MFDA and IIROC rules for registrants and allow for the fair and flexible application of such rules based on a registrant's registration category. As such, the CSA should work with or defer to these SROs to enhance existing rules, as necessary, based on the SROs' experience with auditing and regulating such registrants.

#3 – Conflicts of Interest

1) Is this general approach to regulating how registrants should respond to conflicts optimal? If not, what alternative approach would you recommend?
2) Is the requirement to respond to conflicts "in a manner that prioritizes the interest of the client ahead of the interests of the firm and/or representative" clear enough to provide a meaningful code of conduct? If not, how could the requirement be clarified?
3) Will this requirement present any particular challenges for specific registration categories or business models?

Support for "prioritizing client's interest":
AGF supports the CSA's proposal to codify the requirement that firms respond to conflicts "in a manner that prioritizes the interest of the client ahead of the interests of the firm and/or representative". As an Exempt Market Dealer and Mutual Fund Dealer, AGF already holds itself to this standard.

Existing rules and deference to SROs:
The MFDA and IIROC have clear rules, even viewed as more stringent, for registrants on the management of conflicts of interest. The CSA should work with or defer to these SROs to enhance these existing rules, as necessary, as the SROs are better suited to provide flexible rules that can be tailored for specific business models.

Standing instructions for conflicts:
The Paper proposes that the CCO update the UDP, executive management, and board of directors (or equivalent) about any material conflicts of interest that were reported to the CCO by an employee. AGF recommends that standing instructions, similar to what is in place for IRC approved conflicts of interest, be considered by the CSA for all other conflicts of interest. The CCO would then only update the UDP, executive management, and board of directors (or equivalent) in the event of a material conflict of interest that is not addressed by a standing instruction or a failure to comply with a standing instruction.

Support for "reasonable basis that client fully understands":
AGF supports the proposal that firms have a reasonable basis to conclude that a client fully understands the disclosure regarding the conflicts of interest. AGF is requesting the CSA to clarify the extent to which a firm/representative must go to have a "reasonable basis" for believing that a client fully understands the implications and consequences of the conflict. For example, it is not practical to conduct a test with investors to assess whether they "fully understand" the implications. It should be sufficient for the adviser to explain the conflict to the client and respond to any questions posed by the client.

Support for disclosure requirements:
AGF supports the CSA's proposed requirement to disclose such conflicts in a manner that is prominent, specific, clear and meaningful.

Timing of disclosure will impact best execution:
The suggested timing of disclosing conflicts to a client prior to entering into a transaction and providing the client with a reasonable time to assess the conflict will impact best execution and access to markets/investments.

OBA disclosure not manageable:
The Paper proposes that any disclosure regarding conflicts of interest would also include all outside business activities ("**OBA**") of the firm and applicable representatives. AGF submits that OBAs change often and depending on the number of OBAs, the volume of disclosure to clients would not be manageable, cost effective, or beneficial for the clients.

Disclosure to institutional clients:

44) Is it appropriate that disclosure by firms be the primary tool to respond to a conflict of interest between such firms and their institutional clients?

AGF submits that disclosure alone to institutional clients should be sufficient due to their sophistication in understanding and appreciating the unique attributes of investment products and the capital markets.

Definition of "institutional client" should not change:

46) Is this definition of "institutional client" appropriate for its proposed use in the Companion Policy? For example: (i) where financial thresholds are referenced, is $100 million an appropriate threshold?; (ii) is the differential treatment of institutional clients articulated in the Companion Policy appropriate?; and (iii) does the introduction of the "institutional client" concept, and associated differential treatment, create excessive complexity in the application and enforcement of the conflicts provisions under securities legislation? If not, please explain and, if applicable, provide alternative formulations.
47) Could institutional clients be defined as, or be replaced by, the concept of non-individual permitted clients?

The proposed definition in the Targeted Reform is different from the current categories of non-individual accredited investor ("**NIAI**") and non-individual permitted client ("**NIPC**"), which will create discrepancies in the application of securities laws as the asset thresholds are significantly different. This creates operational and compliance uncertainty. AGF submits that the definition of "institutional client" should be consistent with the already existing NIPC regulatory definition given that the industry business models and processes are currently designed based on this. The CSA's motivation and rationale for proposing a revised definition is unclear.

Currently, a NIPC (lower asset threshold than proposed definition) can waive suitability and a NIAI (lower asset threshold than proposed definition) can purchase prospectus exempt products without signing a risk acknowledgement form. These definitions set by the CSA confirm an assumption of knowledge and understanding of the services and products that are being purchased by the clients. Why then is it presumed that "institutional clients" (higher asset threshold) do not understand conflicts of interest and that disclosure alone is not sufficient to address the conflicts for such clients?

Further, certain institutional clients (i.e. new investment fund products (including top funds in a fund on fund structure) or pension funds), that are sophisticated investors but fail to meet the asset thresholds (as they are in the start-up phase) for the new definition of "institutional client" would not want to be burdened by the additional disclosures and consents, especially if they impede best execution.

Sales practices should apply broadly:

49) Are specific prohibitions and limitations on sales practices, such as those found in NI 81-105, appropriate for products outside of the mutual fund context? Is guidance in this area sufficient?
50) Are limitations on the use of sales practices more relevant to the distribution of certain types of products, such as pooled investment vehicles, or should they be considered more generally for all types of products?

National Instrument 81-105 *Mutual Fund Sales Practices* prohibitions and limitations are currently specific to mutual funds. AGF submits that these should be applied more broadly to similar products i.e. pooled investment vehicles, segregated funds and even ETFs that are being offered through the broker/dealer channel.

#4 – Relationship Disclosure

24) Do you agree with the proposed disclosure required for firms that offer only proprietary products? Why or why not?

The use of the terminology "proprietary", "mixed", and "non-proprietary" is misleading to investors. AGF submits that the disclosure required for a proprietary firm is valuable, only if the proprietary firm does not offer its client access to any third-party managed products i.e. no fund on fund structures where the underlying funds are managed by third-party managers. More clarity around these terms is warranted.

#5 – Proficiency

AGF supports the CSA's proposal to enhance proficiency requirements for registrants.

#6 – Statutory Fiduciary Duty When Client Grants Discretionary Authority

AGF supports the CSA's proposal to introduce a statutory fiduciary duty for registrants when a client grants such registrants discretionary authority.

Regulatory BI Standard

AGF is a strong advocate of placing the client's interests ahead of its own and fully supports the CSA with this principle. AGF appreciates the CSA's guidance regarding the intentions and limitations of the Regulatory BI Standard. Nevertheless, AGF submits that the Regulatory BI Standard, as proposed in its current form, warrants further consideration as it creates legal uncertainty. The lack of harmony across the CSA with respect to the Regulatory BI Standard also creates confusion regarding the interpretation and application of the Regulatory BI Standard. AGF requests that the concerns of the CSA jurisdictions, such as the British Columbia Securities Commission, be addressed and communicated to the public and the Regulatory BI Standard be given further consideration by the CSA.

We thank you for the opportunity to raise the above issues with you. We look forward to continued constructive dialogue with respect to the Targeted Reforms and Regulatory BI Standard.

Yours very truly,

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