

March 14, 2014

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

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and

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and

Me Anne-Marie Beaudoin, Corporate Secretary  
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Dear Sirs/Mesdames:

**Re: Proposed Amendments to National Instrument 45-106 *Prospectus and Registration Exemptions* Relating to the Short-term Debt Prospectus Exemption and Proposed Securitized Products Amendments (the “Proposed Amendments”)**

The Canadian Advocacy Council<sup>1</sup> for Canadian CFA Institute<sup>2</sup> Societies (the CAC) appreciates the opportunity to comment on the Proposed Amendments.

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<sup>1</sup>The CAC represents the 13,000 Canadian members of CFA Institute and its 12 Member Societies across

The CAC generally supports the added restrictions provided in the Proposed Amendments which help protect investors purchasing short-term debt and short-term securitized products in the exempt market.

As noted in one of the questions in the Request for Comments, the primary condition of the proposed revised short-term debt prospectus exemption relates to credit ratings. The CAC believes that investors should not rely solely on opinions provided by rating agencies in their investment decisions, but should conduct their own thorough research into all proposed investments, including short-term debt and asset-backed securities, prior to investing. As CFA charterholders, we must exercise diligence, independence, and thoroughness in analyzing investments, as well as have a reasonable and adequate basis, supported by appropriate research and investigation, for any investment analysis, recommendation, or action.

We are also concerned that enshrining credit ratings within legislation as the primary standard of reference of investment risk provides an enhanced air of legitimacy to credit raters' opinions. Investors can be misled into thinking that if a certain credit rating is considered "investment grade" by the regulators, then any security carrying that rating may be automatically accepted as an appropriate investment by investors as well. A prime example is the ABCP crisis, which is examined thoroughly in the Request for Comments, where some conduits holding AAA rated instruments became completely illiquid.

Another question in the consultation asks about alternative or additional conditions in addition to using credit ratings that would materially enhance investor protection. We support the CSA initiative that is currently underway with respect to potentially imposing a fiduciary duty on registrants, and strongly support imposing a statutory best interest standard on registered dealers providing advice to clients, including advice on privately placed securities such as commercial paper and asset-backed securities. Such a standard would help to ensure that an investment in privately placed securities is in fact in a client's best interests, which would materially enhance investor protection.

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Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at <http://www.cfasociety.org/cac>. Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx>.

<sup>2</sup> CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 113,000 members in 140 countries and territories, including 102,000 CFA charterholders, and 137 member societies. For more information, visit <http://www.cfainstitute.org/>.

In the event minimum ratings must continue to be a condition to the two new proposed exemptions, the CAC supports the requirement for having a minimum of two ratings for each of the short-term debt exemption and the short-term securitized products exemption. If an issuer is required to work with two different rating agencies, it will reduce the incentive for “rating shopping”, as well as potential conflicts of interests within the rating agencies themselves (who are paid by the issuers they rate). We appreciate that such a requirement would increase the cost on issuers who would not otherwise seek a second rating, but believe that the benefits arising from the increase in investor protection would outweigh the increased costs.

The CAC supports the proposed requirement that the short-term debt prospectus exemption would be unavailable if the designated rating organization has announced that a credit rating it has issued for the commercial paper is under review and may be downgraded such that the minimum credit rating condition would no longer be met.

### **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 [chair@cfaadvocacy.ca](mailto:chair@cfaadvocacy.ca) on this or any other issue in future.

(Signed) *Ada Litvinov*

**Ada Litvinov, CFA**  
**Chair, Canadian Advocacy Council**