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Delivered by Email

TO: 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
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Me Anne-Marie Beaudoin
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Dear Sirs/Mesdames:

RE : Response to CSA notice and request for comment Modernization of Investment Fund Product Regulation – Alternative Funds

This letter is submitted on behalf of Canadian Imperial Bank of Commerce and its affiliates (collectively, "**CIBC**"), in response to the Request for Comment on the Modernization of Investment Fund Product Regulation – Alternative Funds published

by the Canadian Securities Administrators (the "**CSA**") on September 22, 2016 (the "**Proposed Amendments**").

We would like to thank the CSA for the opportunity to provide our comments on the Proposed Amendments. We support the CSA's initiative to modernize regulation of investment funds with an objective of providing greater diversification of investment strategies, taking into consideration the evolution of alternative strategies in the market place, while remaining focused on investors' protection.

We have reviewed the response letter of the Investment Fund Industry of Canada on the Proposed Amendments and are generally in agreement with their comments.

Below are some general comments on the Proposed Amendments, and comments on specific CSA's questions.

General Comments

Definitions

"Illiquid Assets"

As part of this initiative, we would suggest that the CSA provide clarity on the definition of "illiquid assets". First, we note that NI 81-104 currently provides that "public quotation" used in the definition of the term "illiquid asset" (…), includes any quotation of a price for foreign currency forwards and foreign currency options in the interbank market. We question why a similar interpretation was not included under the definition of "public quotation" in the Proposed Amendments. We also submit that a security should not automatically be deemed to be an illiquid asset only because such security cannot be readily disposed of through market facilities on which public quotations in common use are widely available. We urge the CSA to clarify or make necessary changes to the definition of "illiquid assets" in this context.

"Precious Metal Funds"

We note that a "precious metal fund" is defined under NI 81-104 Commodity Pools as "a mutual fund that has adopted fundamental investment objectives, and received all required regulatory approvals, that permit it to invest in precious metals or in entities that invest in precious metals…". We note that the underlined disclosure has not been included in the definition of "precious metal fund" under the Proposed Amendments. We submit that the investment objectives of existing precious metal funds generally provide that the fund may also invest in companies involved in the precious metal sector or industry. As such, investment in precious metals can be direct or indirect, through investments in companies. We believe that the proposed definition should be revisited on that basis.

Consolidation of prospectuses

With an objective of streamlining the disclosure documents and reducing costs for investors, we urge the CSA to consider allowing fund managers the discretion to consolidate alternative funds and "conventional" mutual funds under the same prospectus. We note that most of the disclosure under the form requirements will apply similarly to both "conventional" mutual funds and alternative funds, with the exception of the labelling and proposed new disclosure for alternative funds. We believe that the distinctions between these funds can be dealt with in the form requirements with clear and concise disclosure. For example, under a consolidated prospectus, the labelling for alternative Funds could still appear on the cover page but could be presented as a separate heading - Alternative Funds – under which all alternative funds would be listed. We further submit that investors will receive the Fund Facts document for an alternative fund in lieu of the prospectus. The Fund Fact document will contain key information about the alternative fund which should be sufficient for an investor to make an informed decision. In our view, the information that will appear in a prospectus with respect to alternative funds would be no different whether it is under a separate prospectus or in a consolidated prospectus with other "conventional" mutual funds.

Collateral

As portfolio assets are pledged as collateral to support borrowing, shorting and specified derivatives transactions, we submit that the use of collateral (re-hypothecation) by borrowing agents or prime brokers is important to reduce costs for alternative funds. Curtailing the use of collateral could put alternative funds at a competitive disadvantage in comparison to their unregulated peers, because the ability to re-hypothecate subsidizes the costs and fees charged to alternative funds by the borrowing agent/ prime broker resulting in lower fees for the funds. Borrowing agents/ prime brokers that are IIROC members are governed by rules that require segregation of those client assets that are fully paid for, but are permitted to re-hypothecate unsegregated client assets that are pledged as collateral for margin loans and other credit consuming transactions. Allowing a similar measured approach as in the IIROC regulations would allow for an even playing field for alternative funds.

Specific Question relating to the Proposed Amendments

Definition of "Alternative Fund"

1. Under the Proposed Amendments, we are seeking to replace the term "commodity pool" with "alternative fund" in NI 81-102. We seek feedback on whether the term "alternative fund" best reflects the funds that are to be subject to the Proposed Amendments. If not, please propose other terms that may better reflect these types of funds. For example, would the term "nonconventional mutual fund" better reflect these types of funds?

We do not take issue with the proposal to replace “commodity pool” with the use of “alternative fund”.

Investment Restrictions

Asset Classes

2. We are seeking feedback on whether there are particular asset classes common under typical “alternative” investment strategies, but have not been contemplated for alternative funds under the Proposed Amendments, that we should be considering, and why.

In our view, the following asset classes common under the typical “alternative” investment strategies should be contemplated: non-guaranteed mortgages, private equity, private debt, and real estate.

Concentration

3. We are proposing to raise the concentration limit for alternative funds to 20% of NAV at the time of purchase, meaning the limit must be observed only at the time of purchasing additional securities of an issuer. Should we also consider introducing an absolute upper limit or “hard cap” on concentration, which would require a fund to begin divesting its holdings of an issuer if the hard cap is breached, even passively, which is similar to the approach taken with illiquid assets under NI 81-102? Please explain why or why not.

We support the proposal to raise the concentration limit for alternative funds to 20% of the NAV at the time of purchase. This recognizes that alternative funds may be more concentrated in a single issuer as part of their investment strategies. We do not however recommend introducing an absolute upper limit or “hard cap” as we do not think it is necessary to do so. In fact, we believe that introducing a “hard cap” could be harmful to a fund as it could hinder the orderly unwind of a position.

Illiquid Assets

4. We are not proposing to raise the illiquid asset limits for alternative funds under the Proposed Amendments. Are there strategies commonly used by alternative funds for which a higher illiquid asset investment threshold would be appropriate? Please be specific.

We believe that strategies commonly used by alternative funds, such as real estate and certain arbitrage strategies, would require a higher illiquid asset investment threshold. We encourage the CSA to consider adopting a higher limit in illiquid assets at time of purchase for alternative funds.

5. Should we consider how frequently an alternative fund accepts redemptions in considering an appropriate illiquid asset limit? If so, please be specific. We also seek feedback regarding whether any specific measures to mitigate the liquidity risk should be considered in those cases.

Yes, the CSA should consider how frequently an alternative fund accepts redemptions in considering an appropriate illiquid asset limit. The illiquid asset limit could vary based on the redemption cycle (i.e. monthly, quarterly or annual redemption cycle).

6. We are also proposing to cap the amount of illiquid assets held by a non-redeemable investment fund, at 20% of NAV at the time of purchase, with a hard cap of 25% of NAV. We seek feedback on whether this limit is appropriate for most nonredeemable investment funds. In particular, we seek feedback on whether there are any specific types or categories of nonredeemable investment funds, or strategies employed by those funds, that may be particularly impacted by this proposed restriction and what a more appropriate limit, or provisions governing investment in illiquid assets might be in those circumstances. In particular, we seek comments relating to non-redeemable investment funds which may, by design or structure, have a significant proportion of illiquid assets, such as 'labour sponsored or venture capital funds' (as that term is defined in NI 81-106) or 'pooled MIEs' (as that term was defined in CSA Staff Notice 31-323 Guidance Relating to the Registration Obligations of Mortgage Investment Entities).

Please refer to our comments under question 5. In our view, the maximum amount of illiquid assets for non-redeemable investment funds should be higher than the proposed cap at 20% of NAV at the time of purchase.

Borrowing

8. Should alternative funds and non-redeemable investment funds be permitted to borrow from entities other than those that meet the definition of a custodian for investment fund assets in Canada? Will this requirement unduly limit the access to borrowing for investment funds? If so, please explain why.

We believe that alternative funds and non-redeemable investment funds should also have the ability to borrow from foreign lenders and have a broader access to other Canadian lenders. We note that permitting alternative funds and non-redeemable funds to borrow only from entities that meet the definition of custodian would restrict borrowing to a limited number of Canadian prime brokers (i.e. those affiliated with a bank or trust company that is qualified to act as custodian). We think it would be beneficial for these funds to have access to other prime brokers that may not meet the custodian definition as well as to foreign lenders (subject to meeting criteria set by the CSA). Reducing the choice of lenders to only Canadian lenders that meet the definition of custodian in Canada could potentially result in higher costs to the funds and to their investors.

Total Leverage Limit

9. Are there specific types of funds, or strategies currently employed by commodity pools or non-redeemable investment funds that will be particularly impacted by the proposed 3 times leverage limit?

We submit that the use of leverage for a fund does not imply that it will be riskier than another fund that does not employ leverage. It is our view that the notion of leverage can't be considered as a "one size fits all approach" as factors like volatility of investment strategy types will impact the notion of risk attached to it. We also believe that the proposed 3 times leverage limit would be insufficient for certain alternative strategies, including currency management strategies, commodity strategies, managed futures, and fixed income strategies, as it would not be enough to provide decent returns to investors.

For example, we don't believe that a currency management strategy using five or six times leverage would be more riskier than an emerging equity strategy using a 3 times

leverage limit considering that G10 currencies volatility will tend to be in the 8% range (annualized) whereas emerging equities would be in the 18% range.

We would support a higher overall leverage limit in order to accommodate most of the alternative strategies. The maximum amount of leverage would be disclosed in the prospectus and Fund Facts of the fund as suggested under the Proposed Amendments such that an investor and its advisor will have this information available to make an informed decision.

10. The method for calculating total leverage proposed under the Proposed Amendments contemplates measuring the aggregate notional amount under a fund's use of specified derivatives. Should we consider allowing a fund to include offsetting or hedging transactions to reduce its calculated leveraged exposure? Should we exclude certain types of specified derivatives that generally are not expected to help create leverage? If so, does the current definition of "hedging" adequately describe the types of transactions that can reasonably be seen as reducing a fund's net exposure to leverage?

To avoid any confusion in the assessment of the total leverage exposure calculation, we would suggest that the CSA first clarifies the concept of "notional amount".

We believes that certain specific derivatives and certain short sales that are used for hedging purposes should be excluded from the total leverage calculation. Similarly, short sales that are classified as hedges should also be excluded from the 50% limit on short selling.

We note that the IIROC rules deal with a variety of hedged offsets. Although we recognize that there may be monitoring and valuation considerations, we submit that hedged offsets that have generally been accepted under the IIROC rules should be considered by the CSA.

Disclosure

Fund Facts Disclosure

13. Are there any other changes to the form requirements for Fund Facts, in addition to or instead of those proposed under the Proposed Amendments that should be incorporated for alternative funds in order to more clearly distinguish them from conventional mutual funds? We encourage commenters to consider this question in conjunction with proposals to mandate a summary disclosure document for exchange-traded mutual funds outlined in the CSA Notice and Request for Comment published on June 18, 2015.

We have concerns with the proposed content for the Fund Facts and the length that the disclosure could take, potentially pushing the Fund Facts to longer than 4 pages.

In our view, the proposed content for the Fund Facts should appear in its appropriate location on the document rather than in a textbox. For example, the disclosure about the asset classes and/or investment strategies and the sources of leverage should be under the "What does the fund invest in?" section. Any necessary risk disclosure should be under the "How risky is it?" section. Leverage information (ratio) could potentially appear under the "Quick facts" section or with the sources of leverage under the "What does the fund invest in?" section.

In our view, the label alternative fund could appear on the first page similarly as what is being proposed for the prospectus. This would avoid additional disclosure such as “this mutual fund is an alternative fund” since this would be obvious from the labelling.

We are also very concerned with the proposition to add disclosure that compares alternative funds with other “conventional” mutual funds. Although this is not our preferred approach, if the CSA considers it is necessary to distinguish these funds from other mutual funds, we would recommend that the definition of alternative funds be used in the Fund Facts rather than a disclosure suggesting a comparison with other mutual funds.

14. It is expected that the Fund Facts, and eventually the ETF Facts, will require the risk level of the mutual fund described in that document to be disclosed in accordance with the CSA Risk Classification Methodology (the Methodology) once it comes into effect. In the course of our consultations related to the Methodology, we have indicated our view that standard deviation can be applied to a broad range of fund types (asset class exposures, fund structures, manager strategies, etc.). However, in light of the proposed changes to the investment restrictions that are being contemplated, we seek feedback on the impact the Proposed Amendments would have on the applicability of the Methodology to alternative funds. In particular, given that alternative funds will have broadened access to certain asset classes and investment strategies, we seek feedback on what modifications might need to be made to the Methodology. For example, would the ability of alternative funds to engage in strategies involving leverage require additional factors beyond standard deviation to be taken into account?

Since the Methodology was only released on December 8, 2016 and was not developed for alternative funds, we have not had sufficient time to consider all the impacts the Proposed Amendments could have on its applicability to alternative funds. We believe that the Methodology will notably need to be adapted to take into consideration any leverage limit. We ask the CSA to continue working with the industry to assess the necessary changes to the Methodology for alternative funds.

We appreciate the opportunity to comment on the consultation. If you should have any questions on our comments, please do not hesitate to contact me at 514 876-2073.

Yours truly,

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