September 12, 2011

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
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
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903 Box 55
Toronto, Ontario M5H 3S8

c/o Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22 étage
C.P. 246, tour de la Bourse
Montreal, Québec
H4Z 1G3

Dear Sirs/Mesdames:

Re: AIMA Canada's Comments on Proposed Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* relating to Cost Disclosure and Performance Reporting

This letter is being written on behalf of the Canadian National Group (**"AIMA Canada"**) of the Alternative Investment Management Association (**"AIMA"**) and its members to provide our comments to you on the Canadian Securities Administrators' (**"CSA"**) proposed amendments (the **"Proposed Amendments"**) to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**"NI 31-103"**) and Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the **"Companion Policy"**) relating to proposed cost disclosure and performance reporting requirements.

AIMA was established in 1990 as a direct result of the growing importance of alternative investments in global investment management. AIMA is a not-for-profit international educational and research body that represents practitioners in hedge fund, futures fund and currency fund management – whether managing money or providing a service such as prime brokerage, administration, legal or accounting. AIMA's global membership comprises over 1,250 corporate member firms (with over 5,500 individual contacts) in more than 40 countries, including many leading investment managers, professional advisers and institutional investors. AIMA's Canadian national group, established in 2003, now has over 70 corporate members.

The principal aims of AIMA are to provide an interactive and professional forum for our membership and act as a catalyst for the industry's future development; to be the pre-eminent voice of the industry to the wider financial community, institutional investors, the media, regulators, governments and other policy makers; and to offer a centralized source of information on the industry's activities and influence, and to secure its place in the investment management community.

For more information about AIMA Canada and AIMA globally, please visit our web sites at www.aima-canada.org and www.aima.org.

This comment letter has been prepared by a working group of the members of AIMA Canada, comprised of managers of hedge funds and fund of funds, and accountancy and law firms with practices focused on the alternative investments sector.

Comments

AIMA Canada supports the objective of ensuring that clients of all dealers and advisers receive clear and complete disclosure of all charges associated with their accounts and meaningful reporting of how their investments perform. However we have some concerns over the proposals as outlined. We have reviewed the proposals carefully and have outlined below our comments for your consideration.

Definition of "Client" and "Account"

The proposal's objective is to improve disclosure and reporting to clients of the registrant but the terms "client" and "account" are not defined anywhere in the documents. We believe that it is important that the Companion Policy clarify that when an investment is made in a fund through another dealer the disclosure and reporting responsibilities for the account statement lie with the other dealer, not the Investment Fund Manager (the "IFM"), which may also be registered as a dealer.

We believe that this responsibility is as per section 14.14 (3.1) of NI 31-103 but think that it is worth reiterating. This also ensures that an investor receives reports from only one registrant.

In addition we believe that it should be noted or clarified that registered accounts, e.g. RSP, TFSA and RESP accounts, can be or are to be treated separately from any non-registered accounts of the investor. This is consistent with industry practice and reflects the fact that these accounts receive different legal treatment for income and tax purposes. An investor and their adviser would normally already be considering each type of account separately as part of the investment plan.

We would also like to point out another situation common to our members that we believe is not contemplated in the proposals. The client of a PM will often open an account with another registrant to act as custodian, e.g. a RSP account with TD Waterhouse, and will in effect become a client of the other registrant; receiving statements, paying some charges etc. However the client will give investment management authority for the account to the PM. We believe that in such cases both the PM and the custodian would technically be required to provide the annual account information and performance reporting. This would not only be duplicative but also likely inconsistent as the custodian may not have all the information required to report accurately, e.g. if the PM charges fees outside of the account.

In our opinion such a situation should be addressed in the proposals. Our belief is that the annual reporting obligations should be the responsibility of the PM since they are likely best placed to have all the necessary information. When a registrant is acting solely as a custodian and for the execution of orders, and investment management responsibility lies with another registrant, it should be clear that they are not responsible for annual reporting, i.e. the investor is the client of the PM. Alternatively it could be stated that a registrant can be relieved of the responsibility to provide the annual reporting with the consent, in writing, of the investor.

Disclosure of Operating Charges

The proposals require that the annual account statement include the total amount of each operating charge related to the account paid by the client in the 12 month period and the aggregate amount of such charges (section 14.2(4.1)(b)). Operating charges are defined as including items such as administration fees, management fees and performance fees.

AIMA Canada's members are often registered as a Portfolio Manager ("PM"), Exempt Market Dealer ("EMD") and IFM for funds which they have established. As an EMD, the registrant may sell units of a fund, managed by the registrant, directly to an investor and this may be the only relationship between two. Funds will have various charges included in their management expense ratio ("MER"), including items that are operating charges as defined.

Our understanding is that the intent of the proposals is that an account statement include operating charges paid directly by the client, and not indirectly through the portfolio investments (including funds) in the client's account. Accordingly, the proposals would

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NOT require, at an individual level, an allocation of charges incurred within a fund to an individual investor. Due to the potential confusion arising from the definition of operating charges we recommend that the Companion Policy make clear that charges incurred within a fund and included in the MER of the fund are not required to be disaggregated and reported at the individual investor level. This is our interpretation of the comment in section 14.2 of the Companion Policy under the heading Annual Charge and Compensation Disclosure, i.e. "We do not expect registered firms to provide clients with information on product related charges…".

If this is not the intent then there are significant information and allocation methodology issues that require extensive discussion.

Timing of Delivery of Account Statements and Performance Reports

The proposals require that an investors receive an account statement and performance report including certain information every 12 months (sections 14.2(4.1) and 14.15(1)). This requirement is potentially open to the interpretation of delivering the information in the anniversary month of the account opening.

In the view of AIMA Canada the Companion Policy should clarify that the requirement for the initial statement containing performance reporting is met with the delivery of the information on a calendar quarter, semi-annual or year-end basis subsequent to the anniversary of the account opening. For example, if an investor opens an account in August 2011 then the dealer can deliver the first statement containing performance information for the period ending September 2011 or December 2011, whichever is its normal reporting cycle. This facilitates the operational processes for the PM or EMD in that all of its clients will receive these statements at the same time. If this is not the intent then the industry implementation and process costs will increase due to the necessity of producing the information for a different set of clients each month.

If the CSA is in agreement with this approach then other changes are required in the NI 31-103 proposals, e.g. section 14.16 (1) (c) should be clear that the initial report may cover a period other than 12 months.

Definition of "Net Amount Invested"

In our opinion the definition of Net Amount Invested requires clarification with respect to withdrawals from an account. The definition specifies that Net Amount Invested is after the deduction of all withdrawals of cash or securities out of the account, but it is not clear if the withdrawals are to be shown at market or at cost. The wording could be interpreted to mean that withdrawals should be shown at market. The two approaches can lead to very different performance reports for an investor.

We have attached to this letter as Appendix A an example showing the two possible approaches. AIMA Canada believes that the definition of Net Amount Invested should be clear that withdrawals are to be shown at original cost in order to correctly reflect the

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change in the market value of the account.

We would like to point out that our recommended approach is also consistent with the requirement in section 14.14 (5.2) for an account statement to show the original cost for each security position. The original cost derived from the account statement would be reconcilable to the Net Amount Invested and Change in Value from the performance reports.

In order to facilitate investor understanding of the performance report we also recommend that Net Amount Invested be split to show Contributions and Withdrawals separately, particularly with respect to the reporting since inception.

Issues for Comment

<u>Use of Tax Cost as Alternative to Original Cost</u>
AIMA Canada does not support the use of tax cost in reporting to clients. It is not meaningful at an account level as taxes are not filed this way, but rather on a per investment basis. In addition "net amount invested", as defined, excludes reinvested distributions. This is inconsistent with tax cost and many dealer systems. In our view use of tax cost would increase confusion about the data being reported.

<u>Companion Policy s. 14.14 - Market Value of Securities</u>
In our opinion the guidance provided is sufficient.

Conclusion

We appreciate the opportunity to provide the CSA with our views on the Proposed Amendments. Please do not hesitate to contact the members of AIMA set out below with any comments or questions you might have. We would be happy to meet with you in order to discuss our comments should you wish to do so.

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Yours truly,

ALTERNATIVE INVESTMENT MANAGEMENT ASSOCIATION

By:

Ian Pember
On behalf of AIMA Canada and the Legal & Finance Committee

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APPENDIX A - Calculation of Net Amount Invested and Impact on Performance Reporting

Assume that an investor opens an account on January 1st and the account has the following transactions and growth during the year.

	Market Value (MV)	Cost	Units	MV/Unit	Cost/Unit
Jan 1 investment	$1,000	$1,000	100.0	$10.00	$10.00
Apr 30 market growth	$300	$0	0.0	$3.00	$0.00
April 30 account values	**$1,300**	**$1,000**	**100.0**	**$13.00**	**$10.00**
May 1 client requested withdrawal of $200 ($200 @ $13/unit = 15.4 units)	($200)	($154)	(15.4)		
May 1 closing account values	**$1,100**	**$846**	**84.6**	**$13.00**	**$10.00**
Dec 31 market growth	$400	$0	0.0	$4.73	$0.00
Dec 31 account values	**$1,500**	**$846**	**84.6**	**$17.73**	**$10.00**
Performance Reporting Jan 1 - Dec 31	**Withdrawals on MV Basis**	**Withdrawals on Cost Basis**			
Opening balance	$0	$0			
Net amount invested ($1,000 - $200)	$800				
Net amount invested ($1,000 - $154)		$846			
Change in market value	$700	$654			
Ending market value	$1,500	$1,500			

On a Market Value basis the change in market value is misstated due to the fact that when the investor withdrew $200 a portion of that withdrawal (15.4 units X $3/unit = $46) was a withdrawal of the growth in market value of the account. Following the Market Value approach the change in market value reported to the investor overstates the value added by the manager of the fund, i.e. $700 implies growth in the per unit value of $8.27 ($700 / 84.6 units) versus the actual growth of $7.73 ($654/ 84.6 units = $7.73/unit, i.e. $17.73 - $10.00).

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