THE INVESTMENT FUNDS INSTITUTE OF CANADA | L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA

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Delivered by Email comment@osc.gov.on.ca; consultation-en-cours@lautorite.qc.ca

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorite des marches financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
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
Autorite des marches financiers
800, rue du Square-Victoria, 22e etage
C.P. 236, tour de la Bourse
Montreal QC H4Z 1G3

Dear Sirs and Mesdames :

RE: Proposed National Instrument 52-112 Non-GAAP and Other Financial Measure Disclosure, Proposed Companion Policy 52-112 Non-GAAP and Other Financial Measures Disclosure, and Related Proposed Consequential Amendments and Changes

The Investment Funds Institute of Canada (IFIC) appreciates the opportunity to comment on Proposed National Instrument 52-112 Non-GAAP and Other Financial Measure Disclosure, Proposed Companion Policy 52-112 Non-GAAP and Other Financial Measures Disclosure, and Related Proposed Consequential Amendments and Changes (collectively, the Proposed Instrument). IFIC supports the Canadian Securities Administrators' (the CSA) goal of providing investors with quality information.

IFIC is the voice of Canada's investment funds industry. IFIC brings together 150 organizations, including fund managers, distributors and industry service organizations to foster a strong, stable investment sector where investors can realize their financial goals. The investment funds industry has a long-standing history of supporting measures to enhance investor protection and increase transparency in the adviser-client relationship while continuing to preserve investor choice. We continue to support these initiatives.

Overview

IFIC seeks clarity on the application of the Proposed Instrument to the specific disclosure requirements for investment funds included in National Instrument 81-106 Investment Fund Continuous Disclosure (NI 81-106). IFIC concerns relate primarily to:

1. Specific calculations/requirements prescribed by NI 81-106, and
2. Non-specific calculations/requirements prescribed by NI 81-106.

Specific Calculations/Requirements

NI 81-106 explicitly prescribes the calculation for items like Management Expense Ratio (MER), MER before waivers or absorptions, Pricing NAV, Trading Expense Ratio, and Portfolio Turnover Rate, which are required to be included in the Management Report of Fund Performance (MRFP). While we acknowledge the exclusion of "specific financial measures" in the Proposed Instrument, there could be some ambiguity as to the application of the proposed amendments to all required disclosures in the MRFP, and other documents.

IFIC believes there is a risk in interpretation of which items will fall within the scope of the Proposed Instrument versus those that are excluded by virtue of the 'specific financial measures' exclusion in paragraph 2(2), and is therefore seeking explicit clarity from the CSA. Absent clarity, there is a risk that certain disclosures become less comparable between individual funds as some funds may include them as non-GAAP measures disclosure and some may not. Further, applying the disclosure, reconciliation and other requirements of the Proposed Instrument imposes undue costs to the fund (discussed below), especially given these items are required to be included by securities law to begin with.

Non-specific Calculations/Requirements

NI 81-106 requires several disclosure items that could be considered "specific financial measures" but for which there are not clearly prescribed requirements. For example, the Management Discussion of Fund Performance (MDFP) section of the MRFP will typically include, both implicitly by the language in NI 81-106 as well as in general industry practice, some sort of performance attribution analysis (by investment type, geography, currency, etc). There is a risk that these types of required disclosures could meet the definition of an Other Financial Measure, especially when comparisons to other periods are included for context. This would create a scenario where some funds are, for example, reporting attribution characteristics as non-GAAP measures and some are not, reducing comparability and potentially causing confusion. Further, such additional disclosure would create undue costs on the fund as noted above.

IFIC feels this is especially problematic given the explicit direction in NI 81-106 for a fund manager to use their judgment in deciding how to discuss the fund's performance. NI 81-106 states that the MDFP is "intended to give the reader the ability to look at the investment through the eyes of management by providing both a historical and prospective analysis." Further, NI 81-106 says **"(t)he description of the disclosure requirement is intentionally general" and "(t)his Form contains a minimum number of specific instructions in order to allow, as well as encourage, investment funds to discuss their activities in the most appropriate manner and to tailor their comments to their individual circumstances."**

We believe that fund managers will be discouraged from a more meaningful discussion of the fund's performance 'tailored to their individual circumstances' if they are required to include additional disclosures, reconciliations, etc. for non-GAAP measures. Similarly, they may be discouraged if they run the risk of including attribution and other relevant analysis that subsequently gets identified as a non-GAAP measure but has not been disclosed as such. Further, we believe it will encourage more boilerplate and less useful disclosure, despite the caution included in NI 81016 to **"(a)void the use of boilerplate language" and not to "simply disclose the amount of change in the financial statement item from period to period.**

Impact

Were any of the items highlighted above to be construed as non-GAAP financial measures or other financial measures, the additional disclosures and required reconciliations would make the disclosures required by NI 81-106 more unwieldy, and unnecessarily so as there do not appear to be non-GAAP issues for investment funds subject to NI 81-106. Without further clarity it could also make the required disclosures under NI 81-106 less comparable, with some funds reporting measures as non-GAAP while other funds do not. The Proposed Instrument would impose unnecessary additional costs on a fund, and ultimately the investor, through the administrative costs of producing the additional disclosures or in seeking exemptive relief from them. Finally, it could encourage less meaningful disclosure by fund managers in areas like performance attribution where the requirements of NI 81-106 are not explicit.

Conclusion

We understand that there were no specific concerns raised regarding non-GAAP measures used by investment funds subject to NI 81-106. Further, we believe investors understand and are accustomed to the disclosures currently being provided for funds under NI 81-106. We believe that investment funds subject to NI 81-106 should therefore be exempt from the Proposed Instrument. This would maintain the comparability of key disclosures between individual funds and continue to meet the extensive, prescriptive and well-understood disclosure requirements of NI 81-106. This will also limit the risk of unintended consequences that reduce meaningful discussion in areas such as performance attribution.

IFIC appreciates the opportunity to comment on the Proposed Instrument. We would be pleased to provide further information or answer any questions you may have. Please feel free to contact me by email at jparker@ific.ca or by phone at 416-309-2319.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

By: John Parker
Vice President & CFO