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VIA ELECTRONIC MAIL

Mutual Fund Dealers Association of Canada («MFDA»)

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Re: MFDA Proposed New Policy No. 11 on Proficiency Standards for the Sale of Alternative Mutual Funds

Dear Sirs / Mesdames,

We are writing in response to the MFDA publication for comment on the proposed new Policy No. 11 - Proficiency Standards for the Sale of Alternative Mutual Funds (Bulletin #0885-P) published on November 25, 2021. This letter is being submitted on behalf of National Bank Investments Inc. («NBI»). As a leading provider of retail investment solutions in Canada, we are dedicated to providing a diverse range of investment funds to meet the evolving needs of clients.

Being an investment fund manager of both private and publicly offered alternative mutual funds, we appreciate the opportunity to provide our comments prior to the adoption of this new policy by the MFDA. We fully support the adoption of proficiency standards with respect to the sale of alternative mutual funds, and agree in very large measure with the proposed new policy. We nonetheless would like to submit the comments and suggestions which are outlined below, for your consideration.

Prospectus Exempt Alternative Mutual Funds

Based on our experience, we are of the view that alternative mutual funds sold under a prospectus and alternative mutual funds sold under a prospectus exemption call for quite different approaches from a KYP / proficiency perspective.

As stated in the purpose of the Policy, these subsets of alternative mutual funds differ in several aspects. For example, prospectus exempt alternative funds are not subject to regulatory investment restrictions, can be less transparent and liquid than alternative mutual funds sold under a prospectus, and can only be sold to investors who meet certain criteria. Relative to mutual funds sold pursuant to a prospectus, there are less regulations for prospectus exempt mutual funds and regulations or regulatory oversight may differ across jurisdictions.

For all these reasons, alternative mutual funds sold under prospectus exemptions are extremely diverse in structure, employing a tremendous variety of investment strategies. Being much less constrained than those sold under a prospectus, these funds may engage in sophisticated strategies that may – or may not – be addressed in the various courses outlined in the proficiency requirements set forth under the proposed policy.

Consequently, we are of the opinion that while the proposed policy makes perfect sense for alternative mutual funds sold under a prospectus, the policy's requirements would likely provide a false sense of comfort with respect to the adequate proficiency related to the distribution of a large sample of alternative mutual funds sold under prospectus exemptions. We respectfully submit that a prescriptive requirement of the nature set forth in the proposed policy would be difficult to adjust in a manner that would appropriately address the myriad investment strategies covered by prospectus exempt alternative mutual funds. Rather, we believe that principles-based requirements for Approved Persons to have adequate proficiency (as set forth in MFDA Rule 1.2.3) provide a more appropriate approach with respect to such funds.

Considering the foregoing, we would suggest that the proposed policy be adjusted accordingly, so that Members will have the flexibility to ensure that Approved Members distributing alternative mutual funds under prospectus exemptions have the education, training and experience that a reasonable person would consider necessary to perform the activity competently, without the policy prescribing specific courses that may not be appropriate given the nature of the funds they distribute.

We thank you again for the opportunity to comment on the proposed new policy. Should you require any further information or have any concerns regarding the foregoing, please do not hesitate to contact us.

Yours truly,

NATIONAL BANK INVESTMENTS INC.

Per: 

Marie Brault
Vice-President, Legal Services