



**AIM TRIMARK**

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**Via email**

June 20, 2007

The Member Commissions of the Canadian Securities Administrators

c/o Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, Ontario, M5H 3S8  
Attn: Mr John Stevenson, Secretary

and

Autorité des marchés financiers  
Tour de la Bourse  
800, square Victoria  
C.P. 246, 22 étage  
Montreal, Quebec H4Z 1G3  
Attn: Mme Anne-Marie Beaudoin, Directrice du secretariat

Dear Sirs / Mesdames:

**Re: Proposed National Instrument 31-103  
Registration Requirements**

AIM Trimark Investments (AIM Trimark) is pleased to provide our comments to the Canadian Securities Administrators (CSA) in response to proposed National Instrument 31-103 Registration Requirements (NI 31-103). AIM Trimark ([www.aimtrimark.com](http://www.aimtrimark.com)) is one of Canada's largest investment management companies with over \$50 billion in assets under management. A subsidiary of U.K.-based INVESCO PLC, which is among the world's largest independent investment managers, AIM Trimark employs approximately 900 people in its Calgary, Montreal, Charlottetown, and Toronto offices. AIM Trimark offers over sixty separate mutual fund products to investors and their advisors.

## **We Support the Overall Purpose of the Proposed National Instrument**

AIM Trimark fully supports the overall principle of increasing efficiencies in the registration regime across Canada. We believe in putting investor interests first and in enhancing capital market integrity.

### **Specific Comments**

We have some technical and other specific comments, which we hope you will find to be helpful.

#### **Exempt Market Dealer**

We support the principle of having one standard registration category across the country for dealing in exempt securities in place of the patchwork of registration categories which exist today. We recommend maintaining some limited exemptions from registration requirement. In particular, a firm that is registered as a mutual fund dealer should not also have to register in the category of exempt market dealer if the only exempt product it deals in is a security of its own pooled fund.

#### **Individual Registration Categories**

We believe limiting the registered supervisory positions to Ultimate Designated Person (UDP) and Chief Compliance Officer (CCO) somewhat detracts from the notion of a firm wide culture of compliance. An effective compliance program includes designated officers, responsible and accountable for specific parts of the business such as finance, sales and operations. This is not to suggest that individuals who are not registered would not take their responsibilities seriously or would not be effective.

Rather, the purpose of registering senior individuals charged with specific functions which have a compliance element to them is to:

- Promote a firm-wide culture of compliance
- Provide the regulators with the ability to deal directly with the designated individuals if they are not fit and proper for discharging their responsibilities
- Ensure that persons performing compliance functions have the requisite proficiencies

That is to say, the same good reasons for registering the UDP and CCO, as stated in the Supplement to the OSC Bulletin, would also apply to other individuals carrying out or responsible for overseeing functions with an important compliance element. In our view, these functions include finance, sales & marketing and operations.

Further, firms registered as dealers, who are not a member of a self regulatory organization (SRO), require a branch manager or designated supervisor category.

### Proficiency Requirements

With respect to the Portfolio Manager – Advising Representative category, the proposed National Instrument does not take into consideration the competency and experience of existing Portfolio Managers who may or may not currently meet the proposed proficiency requirements outlined in the National Instrument. We are concerned with the possibility of existing competent portfolio managers no longer being allowed to do their job simply because of new proficiency requirements. We suggest that the National Instrument be modified to allow for CFA equivalent education, training and experience for individuals registered as Portfolio Managers on the day the new Instrument goes into effect.

With respect to the Chief Compliance Officer category, both on the Portfolio Manager and Investment Fund Manager side, the proposed National Instrument does not take into consideration the competency and experience of existing Compliance leaders who may or may not currently meet the proposed proficiency requirements outlined in the National Instrument. We are concerned with the possibility of existing heads of Compliance no longer being allowed to do their jobs simply because of new proficiency requirements. The proficiency requirements appear to suggest that the CCO need either be a qualified Portfolio Manager, or a lawyer, or a Chartered Accountant. We don't believe these requirements are necessary for a CCO to be effective in their role. We suggest that the proficiency requirements be similar to the proficiency requirements outlined in the CCO requirements for a Dealer.

We recommend that the regulators and industry members focus on developing a Chief Compliance Officer certification program, which would be more meaningful, introduce a consistent standard, and ensure that CCO's have a minimum level of proficiency. Once developed, all CCO's would be required to meet proficiency requirements that are tailored for CCOs.

With respect to the time limits on examination proficiency, we recommend adding an educational provision to section 4.2(2). Specifically, for courses successfully completed more than 36 months before the date an individual applies for registration, the individual would not be required to re-write the course if they can demonstrate that they have maintained a certain level of education and awareness by the successful completion of related industry courses or participation in industry seminars or conferences.

### Trade Trigger vs. Business Trigger

We support the move to the business trigger, which is sensible. We require further clarity on the types of activities that would not be caught by the business trigger. For example, in the mutual funds industry, there are activities performed by Client Relations Representatives who provide information to clients or "wholesalers" who provide support to registered advisers. It would be helpful if the Instrument could clarify that these activities can be performed by non-registrants.

### SRO Membership

Our mutual fund dealer activities are restricted primarily to offering AIM Trimark mutual funds to AIM Trimark employees and family members of AIM Trimark employees. We previously received an exemption from the requirement for mutual fund dealers to become a member of the Mutual Fund Dealers Association (MFDA). It is not clear from the proposed National Instrument and the supporting commentary whether or not this exemption from SRO membership will be allowed to continue. We are seeking further comment on this item.

### Record Keeping

Section 5.20(2) requires firms to keep records in a manner that permits the record to be provided promptly to the regulator. We are seeking clarification on this requirement. Does this mean that all records are to be maintained on-site for the first two years? Does the record have to be the original hard copy or would an electronic version be sufficient?

### Complaint Handling

We ask that the National Instrument include a definition of what is considered a client complaint and suggest that the definition be limited to regulatory complaints and explicitly exclude complaints that relate to service matters or fund performance. This would not preclude firms from dealing appropriately with the service related complaints.

### Information Sharing

Part 8 of the proposed National Instrument imposes a requirement for a registered firm to disclose to another registered firm, who is considering hiring a former employee of the first firm, information relating to the former employee's suitability for hiring. We have privacy concerns with this requirement and also believe that this exposes the firm and its employees to possible litigation which, regardless of merit, will result in additional costs to the firm. Registered firms are required to complete and file with the regulator a termination notice detailing the reasons for a registered employee's departure. We suggest that the regulators and self regulatory organizations make these notices available upon request for firms considering hiring an individual who was previously registered with another firm. This would put the firm in a better position for determining an individual's candidacy for employment and remove any subjectiveness from the process.

### Further commentary

Thank you for the opportunity to provide our comments. We would be pleased to expand on the foregoing and respond to any questions at your convenience. Please feel free to contact the writer at 416-228-8411 or at [wayne.bolton@aimtrimark.com](mailto:wayne.bolton@aimtrimark.com).

Yours very truly,

AIM TRIMARK INVESTMENTS

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