

**MEMO# 14793**

June 11, 2002

## **INSTITUTE COMMENTS ON CANADIAN MUTUAL FUND CONCEPT RELEASE**

[14793] June 11, 2002 TO: INTERNATIONAL COMMITTEE No. 44-02 INTERNATIONAL MEMBERS No. 13-02 INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 23-02 RE: INSTITUTE COMMENTS ON CANADIAN MUTUAL FUND CONCEPT RELEASE On June 7, 2002, the Institute submitted a comment letter to the Canadian Securities Administrators (CSA)<sup>1</sup> commenting on a concept release that the CSA had issued earlier this year. The CSA's concept release proposed a new framework for regulating the Canadian mutual fund industry, focusing on five areas: (1) registration of mutual fund managers; (2) mutual fund governance; (3) product regulation; (4) disclosure and investor rights; and (5) regulatory presence.<sup>2</sup> A copy of the Institute's comment letter is attached. The Institute's comment letter focuses on a single aspect of the concept proposal – the imposition of a minimum capital requirement on mutual fund managers. The concept proposal indicated that Canadian fund managers will be required to meet minimum capital requirements under the new regime being considered by the CSA, but sought comment on whether a minimum capital requirement is justified and, if so, in what amount.<sup>3</sup> The Institute's letter argues against the imposition of a capital requirement. The letter expresses the view that the amount being considered by the CSA is excessive, unnecessary and will have anti-competitive effects on the Canadian fund industry. The letter argues that, in the Institute's view, other aspects of mutual fund regulation and the use of insurance are far more effective than minimum capital requirements as a means of managing operational risk for fund managers and protecting 1 The CSA is an umbrella organization comprised of the thirteen provincial and territorial securities regulators in Canada. 2 Concept Proposal 81-402, "Striking a New Balance: A Framework for Regulating Mutual Funds and their Managers" (March 1, 2002). The release also is available on the Internet. See [http://www.osc.gov.on.ca/en/Regulation/Rulemaking/Notices/conceptpro/cpro\\_81-402\\_20020301\\_proposal.pdf](http://www.osc.gov.on.ca/en/Regulation/Rulemaking/Notices/conceptpro/cpro_81-402_20020301_proposal.pdf). 3 Proposal at 31-32; Issue for Comment No. 31. 2 consumers. The letter therefore recommends that the CSA not apply capital requirements to fund managers at the levels being considered. Robert C. Grohowski Associate Counsel Note: Not all recipients receive the attachment. To obtain a copy of the attachment, please visit our members website (<http://members.ici.org>) and search for memo 14793, or call the ICI Library at (202) 326-8304 and request the attachment for memo 14793. Attachment (in .pdf format)