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January 28, 2025

VIA EMAIL

Alberta Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Superintendent of Securities, Nunavut
Ontario Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

Attention:

Me Phillippe Lebel
Corporate Secretary and
Executive Director, Legal Affairs
Autorité des marchés financiers
consultation-en-cours@lautorite.qc.ca

The Secretary
Ontario Securities Commission
comments@osc.gov.on.ca

Dear Sirs/Mesdames,

Re: CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes; Modernization of the Continuous Disclosure Regime for Investment Funds

Introduction

We are writing to provide our comments on the CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes relating to Modernization of the Continuous Disclosure Regime for Investment Funds (the "**Consultation**"). Thank you for the opportunity to submit comments.

Invesco Canada Ltd. ("**Invesco Canada**") is a wholly-owned subsidiary of Invesco Ltd. ("**Invesco**"). Invesco is a leading independent global investment management company,

dedicated to delivering an investment experience that helps people get more out of life. As of September 30, 2024, Invesco and its operating subsidiaries had assets under management of approximately USD $1.8 trillion. Invesco operates in more than 20 countries in North America, Europe and Asia. Invesco Canada operates Invesco's Canadian business and maintains offices in Toronto, Montreal, Vancouver and Charlottetown.

General Comments

Invesco Canada is supportive of regulatory efforts to modernize continuous disclosure documents to investors and to reduce regulatory burden on investment funds. We are grateful for the CSA's continued engagement in this area and support the proposals in the Consultation. Our responses to the specific questions posed in the Consultation are contained in Annex A. In addition, we offer several suggestions and comments that in our view will help enhance the proposals and assist the CSA in meeting its stated goals.

Workstream One – Fund Report: General Instructions

The general instructions to proposed Form 81-106A mandate that the annual or interim fund reports (the "**Fund Reports**") only contain disclosures that are required or permitted. While we understand the rationale for standardizing Fund Reports, namely comparability and avoidance of information overload, we submit that providing context for certain required elements (including, performance, exposure to holdings and cost) may be necessary to prevent investors from drawing incorrect conclusions. For example, under Form 81-106A, a fund is required to provide its annual management expense ratio ("**MER**"), trading expense ratio ("**TER**") and fund expense ratio ("**FER**"). We are of the view, that those data points may not be indicative of what can be expected in the future, for example where a fund has undergone an investment objective or material investment strategy change or if a manager determines to commence or cease absorbing management fees or expenses. In those situations, the MER, TER and FER may be abnormally elevated or depressed. We believe providing context for the difference in these data points will improve the quality of disclosure to investors. While this context may be provided under "Other Material Information", in our opinion, investor comprehension is enhanced when disclosures on a single topic are grouped together.

We expect that the majority of funds will not seek to provide this context in Fund Reports and accordingly, we submit that the impact of a potential loss of standardization would be outweighed by the benefit of greater clarity provided to investors in certain circumstances.

Workstream One – Fund Report: Item 4 - Investment Objectives

The fund is required to disclose: (a) whether it has met its investment objectives over the last 12 months; and (b) the factors which would impact the fund's satisfaction of its investment objectives in the future. We offer the following comments:

(a) Discussion on whether the fund has met its objectives over the last 12 months

Form 81-106A requires each fund to provide a summary of the fund's success in achieving its objectives over the past 12 months and to include "key quantitative or qualitative metrics identified in the fund's investment objectives and strategies". The requirement to discuss a fund's objectives is problematic for the reasons set out below and we suggest that they be replaced with a discussion on the fund's performance or the results of the fund's operations over the past 12 months.

- Problem 1 – Long term nature of objectives: The vast majority of actively managed funds have investment objectives that are ***broad and long or medium-term*** in nature. Typical investment objectives are cast as having broad outcomes such as "income, capital appreciation and/or capital preservation over the long/medium-term by investing in a specific asset class or region". In our experience, very few funds include quantitative metrics in their investment objectives.

  Investment objectives are thus met by fulfilling these very broad descriptions, and to require disclosure as to whether these broad descriptions have been met is reductive and unhelpful to investors. If a fund does not invest in a specific asset class or region, per its objectives, that would be a material compliance breach and we suspect that all funds would have compliance systems in place to prevent this from occurring. Accordingly, the response to that portion of this disclosure would be static and boilerplate with no real insight being provided to investors.

  We also note that it may be misleading or confusing to describe long-term objectives, such as attaining income, capital appreciation and/or capital preservation, over a 12-month window. Further, this type of disclosure encourages investors to take a short-term view of investing as it implies that "long/medium-term" objectives can be met within 12 months.

- Problem 2 – Index Fund objectives: The investment objectives of passive exchange-traded funds ("**Index ETFs**") seek to replicate the performance of a specific index by investing in securities that are constituents of that index. An Index ETF would only fail to meet this objective if it has significant tracking error, for example, as a result of sampling. In our view, most Index ETFs should consistently meet this objective and accordingly, the responses to this disclosure would ordinarily be static and boilerplate.

- Problem 3 – sample response is not representative: The sample response provided for funds that do not have an environmental, social and governance ("**ESG**") mandate, is a discussion of the fund's assets under management ("**AUM**") which, in our view, is not indicative of whether the fund has met its investment objectives. If a change in a fund's AUM is determined to be an important factor for investors then we recommend that the heading be altered to "How the Fund's assets under management has changed over the last 12 months" and that the information be moved to a less prominent position as we do not believe such information is more relevant than performance and cost information. We note that the changes to a fund's AUM are already disclosed in the fund's financial statements.

- Problem 4 – ESG disclosure: As indicated earlier, funds typically do not provide quantitative disclosure in their objectives or strategies. Accordingly, we believe that this requirement relates primarily to ESG. While we agree that disclosure of ESG matters is appropriate in these reports, we do not believe that requiring ESG funds to determine if they are meeting their investment objectives is appropriate as it invites funds to be as conservative as possible to avoid regulatory and litigation risk, especially in light of the guidance from the CSA and new requirements under the *Competition Act* (Canada). We therefore suggest finding a better method to discuss ESG matters.

- Problem 5: Misalignment with current management report of fund performance ("MRFP") disclosure requirements: Current MRFP disclosure requires a fund to discuss the results of

their operations which is materially different to a discussion on whether the fund has met its investment objectives.

The stated rationale for the introduction of Form 81-106A is to improve the quality of the disclosure provided to investors and to reduce unnecessary regulatory burden of certain continuous disclosure requirements. We do not believe that the proposed disclosure meets either of these objectives as the disclosure: (i) may be misleading (in the case of funds with long/medium-term investment objectives) and static or boilerplate (in the case of Index ETFs); and (ii) differs from current MRFP disclosure requirements in a manner which carries higher regulatory and litigation risk and thus will result in investment fund managers ("**IFMs**") having to carefully consider the disclosure which significantly increases regulatory burden on IFMs and funds.

(b) Discussion on factors which will impact the fund's satisfaction of its investment objectives in the future

Form 81-106A requires an IFM to disclose factors that could materially impact the fund's ability to satisfy its investment objectives in the future. We are concerned that the CSA expects the IFM to predict future events in regulatory disclosure, and as such would ask for clarity that this is not the case. We believe that a more fruitful discussion would be an analysis of how future known material trends, commitments, events or uncertainties might reasonably be expected to affect the fund's performance. This requirement would be consistent with the "Recent Developments" section of the current MRFPs. As such, we suggest that the heading be revised to "Known material factors that may impact the fund's performance going forward".

To improve readability, we believe the performance section should be adjacent to the investment objectives and investment strategies' section.

Workstream One – Fund Report: 7- Performance

Form 81-106A requires a fund to show its performance and the performance of a broad-based index and, at the fund's discretion, a more narrowly based index which is more reflective of what the fund invests in. While the comparison to a broad-based index is a current requirement of MRFPs, there are certain instances where this requirement raises concerns:

(a) funds with mandates that require investment in specific sectors or regions;

(b) balanced funds which are required to invest in a mix of equities and fixed income where the broad-based indices are equity only and fixed income only; and

(c) Index Funds which seek to track the performance of a designated index and, while these funds may engage in sampling, it is unlikely that they will invest in securities that are vastly different to those in the designated index.

As a result of the constraints on these funds' abilities to invest in securities in the broad-based index, there will always be a performance differential between the fund and the broad-based index which a reasonable investor may attribute to the skill of the portfolio managers; rather than the fund's investment constraints. In addition, there may be a significant difference in the risk profile between the fund and the broad-based index which may not be evident to a

reasonable investor. Given the strict form requirements, funds are not able to provide an explanation of the reasons for these differences.

Part 15 of National Instrument 81-102 *Investment Funds* (“NI 81-102”) prohibits a fund from making misleading sales communications and the companion policy to NI 81-102 states that a sales communication could be misleading if it makes “unwarranted or incompletely explained comparisons to other investment vehicles or indices”.

As currently proposed, we are concerned that Form 81-106A can inadvertently cause misleading disclosure, given that Item 7(d) requires a summary of the contributors and detractors to performance relative to the broad-based index and, if provided, a more narrowly based index. While the sample report appears simple to understand, for the funds listed above, the discussion will necessarily be more complicated and we believe it would be confusing to investors.

We submit that a fund should only be required to provide comparative performance against an index which reflects the types of securities that the fund may invest in. In this regard, new and young funds are required under Item 5 of Appendix F of NI 81-102 to select a suitable index to determine their risk ratings and we believe that that index should be the index which is used for the purposes of the Fund Reports as this will increase consistency across various regulations. For funds with a sufficient track record and which do not require a designated index to determine risk ratings, we submit that the appropriate benchmark would be an index which such fund would use if it did not have a sufficient track record.

If the CSA determines that comparisons against a broad-based index is desirable, we request that:

a) balanced funds only be required to compare their performance against a blended benchmark which benchmark consists of fixed percentage allocations to an equity broad-based index and a fixed income broad-based index; and

b) Item 7(d) be modified to only require a summary of the contributors and detractors to performance relative to the more narrowly based index selected by the fund where both a broad-based index and a narrowly based index are disclosed.

Workstream One – Fund Report: 10 - Risks

Item 10(d) and 10(e) of Form 81-106A require disclosures on risk rating changes and specific fund risks added or removed “since the last Fund Report”, respectively. The proposals are inconsistent with respect to the reporting periods for these items.

Instruction (3) states that only specific fund risks added or removed from the prospectus since the last Fund Report need be disclosed. As such, this instruction ties the specific fund risk disclosures (Item 10(e)) to a prospectus filing.

Item 10(d) relating to a risk rating change does not include this linkage to a prospectus filing. Accordingly, it appears that for the risk rating change disclosures, a fund must run a risk rating each time a Fund Report is generated. In our view, this is inconsistent with Appendix F to NI 81-102 which requires risk ratings to be run at least annually and “whenever it is no longer reasonable in the circumstances”. We submit that the sole requirement to produce a Fund Report is not a circumstance that triggers running of a fund’s risk rating. We note that a risk

rating change constitutes a material change to the fund which necessitates, inter alia, the filing of a revised fund facts/ETF facts and an amendment to the prospectus which costs may be chargeable to a fund and thus ultimately borne by investors.

Accordingly, we submit that Item 10(d) should be clarified to require risk rating change disclosure if the fund has changed its risk rating through a prospectus filing since the last Fund Report.

Conclusion

We would be pleased to discuss our responses in greater detail at your convenience. Thank you for the opportunity to comment on this important matter.

Yours truly,

Invesco Canada Ltd.

Per: *(Signed) "Caroline Mingfok"*
Name: Caroline Mingfok
Title: VP, Legal & Associate General Counsel

Per: *(Signed) "Shalomi Abraham"*
Name: *Shalomi Abraham*
Title: SVP, Head of Legal – Canada & Assistant General Counsel

cc. Glenn Brightman, Chief Executive Officer, Invesco Canada Ltd.

Annex A
Specific questions for comment relating to the proposed amendments and proposed changes

GENERAL

1. Other Areas of Modernization

There are a number of initiatives that the CSAs are currently considering which we are supportive of and which we urge the CSAs to continue to progress to fruition, including introducing an access versus delivery model for continuous disclosure documents for investment funds.

2. Effective Dates and Exemptions

Currently, we have no concerns with the proposed implementation timelines.

WORKSTREAM ONE – FUND REPORT

3. Frequency of Preparation

We are comfortable with the frequency of preparation of the Fund Reports.

4. Forward Looking Information

While we are supportive of the need to provide a forward-looking disclaimer, in our view, the prominence of its positioning is not ideal, given: (a) the templated nature of the language; and (b) only one section of the Fund Report contains forward-looking information. The Behavioural Insights Team's report on page 12 at section 3.3 notes that "the primary effects suggest that information at the top of documents gets more attention and is more likely to be remembered than information in the middle". As such, we believe that the forward-looking disclaimer should be moved to a different portion of the Fund Report.

5. Years of FER Disclosure

We believe that FER disclosure should be provided for two years as the FER in a single year may not be reflective of the FER which can ordinarily be expected. The FER in a particular year may be elevated if the fund has undergone certain material changes such as investment objectives and investment strategies changes, mergers, etc. FER may also change due to permanent fee reductions or an IFM's decision to no longer waive or absorb fees or expenses. In addition, for funds that charge a performance fee, the FER may be materially different in years where a performance fee accrues versus those where one does not.

While Form 81-106A contemplates disclosure of a change in FER for a single series, we are not supportive of this approach as it implies that those changes would equally apply to other series. This is untrue particularly where a fund's series have different expense methodologies, for example, one series of a fund may pay incurred series expenses whereas another series of the same fund may charge a fixed administration expense in lieu of expenses.

Further, we believe that the quality of disclosure to investors is enhanced when a fund is able to provide context, if applicable, with respect to changes in a fund's FER. For example, if a fund has undergone material changes or if a fund has paid performance fees as described above, this should be disclosed in the FER section so that investors understand the elements that impacted the FER. While proposed Form 81-106A permits such context to be provided in the "Other Material Information" section, we do not believe it is intuitive for investors to cross reference that information rather it would be more insightful if the context is given in close proximity to the topic under review.

We submit that the comparison periods should be consistent with the comparisons that are currently provided in the MRFPs, namely: (a) annualized interim expense ratios should be compared to prior year's annual expense ratios; and (b) annual expense ratios should be compared to prior year's annual expense ratios.

6. MER Without Waivers or Absorptions

We are not supportive of this proposal because we do not believe that MERs without waivers or absorptions should be disclosed. This information is not disclosed in the fund facts which is provided at the point of sale. As the Fund Reports are designed to provide updated information to investors, this information is superfluous and confusing. We propose that IFMs footnote those series where fees and expenses are being waived or absorbed which is in keeping with the current practice for fund facts.

If the CSA determines that it is desirable to provide MERs without waivers or absorptions then we recommend that that information be disclosed at the series level and that it be disclosed with all other cost information as we believe investors' comprehension is enhanced when information pertaining to the same topic are grouped together.

7. ESG-Specific Disclosure

Please see our comments in our comment letter under the section "Workstream One – Fund Report: General Instructions".

8. Classes/Series of Performance Information

We are not supportive of the initiative to show performance for one series (being the series with the highest management fees) because, in our view, this information is not useful for investors who hold other series. Investors generally want to see information that is relevant to themselves and accordingly, we do not believe that providing performance for a single series improves the quality of disclosure provided to investors. Further, the series with the highest management fees may not have the longest track record nor may it be the series with the largest number of investors. In addition, certain series have fixed administration expenses and others may charge operating expenses. Accordingly, performance of one series may not be indicative of performance of another series.

While Form 81-106A directs the investor of other series to review the fund facts and the fund's designated website, we believe that asking investors to look at other documents is unhelpful, and will drive lower usage of these reports. In addition:

(a) In the case of the fund facts, it is not appropriate as this document is provided at the point of sale. A Fund Report is designed to provide an update following such sale. Accordingly, referring to stale dated information is not informative to the investor. If the intention is for investors to review a fund's current fund facts, we note that that data may also be stale dated; and

(b) In the case of the fund's designated website, it is not desirable because not all funds show performance or comparisons to broad-based benchmarks on their designated website. This requirement will impose a significant technology upgrade for IFMs and funds.

It is unclear from the Consultation whether the other series' performance on the designated website may be:

(i) posted in a single document which reflects all series of the fund or whether individual documents for each series of the fund will be required. The latter would be onerous for IFMs and funds; and

(ii) for periods that are different to those contemplated in the Fund Reports. Many IFMs that show performance data on their website, update such data each month with no record of historical data. Accordingly, as Fund Reports are posted 60 to 90 days after the interim or annual period, the funds' performance data on the designated website will be more current than the performance data in the Fund Reports so investors will not be able to compare the information in the Fund Reports to the information on the designated website. If IFMs are required to keep the performance for the other series for the same period as the Fund Reports, that may entail significant upgrades to the fund's designated website.

While we understand concerns that providing all series information in the Fund Reports may be overwhelming for investors, we submit that the information may be less overwhelming if a fund's annual returns are presented in a table format as opposed to separate bar charts for each series.

If the CSA determines that Fund Reports should only disclose performance for a single series, we request that flexibility be built into the Fund Reports to allow the IFM, in its discretion, to disclose performance of other series. The determination of which additional series' performance should be reflected should be at the IFM's discretion, which will be based on factors including, series inception date, series which have the largest number of investors, series which the IFM believes are being more prominently marketed.

9. Related Party Transactions

While we have no objection to moving related party transaction reporting to another regulatory reporting document, we note that these types of transactions may already be reported in a fund's financial statements so it may be superfluous to disclose these transactions in the IRC shareholder report. If it is desirable to disclose these transactions in the IRC shareholder report, please see our comments below under Workstream 2.

10. Liquidity

We question the need for liquidity disclosure as it is not clear how this information is relevant to an investor. We are concerned that this type of disclosure will lead an investor to believe that they may not freely be able to redeem their fund securities for cash. This is entirely inaccurate specifically with respect to ETFs which generally trade on the secondary market so liquidity is somewhat irrelevant. Further we note that the proposed liquidity analysis is a point in time and it may thus not be reflective of the fund's liquidity generally eg. a substantial purchase at the period end which has not settled will inflate the liquidity profile of the fund as the IFM is not able to deploy that cash until it has settled. Lastly, we understand that the CSA continues to consider whether liquidity rules or guidelines should be imposed. Accordingly, we believe that liquidity disclosure in the Fund Reports should only be required once those liquidity rules or guidelines have been finalized so that there is consistency across the industry.

If liquidity disclosure is deemed necessary then we recommend the following amendments.

- Instruction 2(d)(ii) states that "the date on which the asset is sold for cash…is the settlement date". Our understanding of this instruction is that it effectively equates trade date with settlement date. Accordingly, a security that is sold on January 5 with a settlement date of February 5, would be convertible into cash within 1 day as the date of sale is the date of cash settlement. We do not believe that this is the intent of the proposal and our comments below assume that trade date and settlement dates should remain separate and that the periods to be disclosed are the settlement dates.

- The introductory language states "The more of a fund's portfolio holdings that can be converted into cash within a short timeframe, the more liquid it is and the easier it will be to sell your holdings at a fair price". This statement, in our view, is misleading as certain securities, for example, floating rate bonds have longer settlement periods but this longer settlement period does not mean that they are not sold at a fair price. Similarly certain securities have settlement periods of two or more days, specifically securities in Europe, Asia and certain emerging market countries, and these securities may be as liquid as securities that settle on a one trading day ("**T+1**") basis.

- We are also concerned that the disclosure may lead investors to believe that they will not be able to receive redemption proceeds within prospectus disclosed settlement periods (generally T+1) for that percentage of the portfolio that has securities with settlement periods beyond T+1. This is particularly concerning for funds with international and global equity mandates as securities in those regions settle on a T+2 basis.

- We believe that there are two issues that arise with securities that have longer periods to convert to cash: (a) a fund will need to settle on a T+1 basis and as cash will not be available until cash settlement, the fund will need to borrow funds; and (b) portfolio securities will be sold at discounted prices which will impact the net asset value of the fund. Accordingly, we recommend that the introductory language be amended as follows:

  "The following pie chart illustrates the number of days needed to convert the fund's portfolio holdings into cash under normal market conditions. A fund will generally pay redemption proceeds within [one business day] of your redemption request. If the fund cannot convert its portfolio holdings into cash within [one business day], it will have to borrow cash to settle your redemption request. During periods of unusual market volatility or where the fund holds illiquid securities, a fund may have to value some of its portfolio holdings at a discount which will impact the net asset value of the fund. Decide whether you are comfortable with the liquidity of your fund's portfolio holdings."

- In addition, we believe that the current proposed disclosure is unnecessarily granular. Accordingly, we suggest that the timeframes be adjusted as follows: (i)1 to 2 days; (ii) 3 to 30 days; and (iii) more than 30 days.

11. Scholarship Plan MER

We have no comments on this item.

12. Other Material Information
We believe that this catch all provision should remain. However, as indicated throughout this comment letter, we do not believe that it should be used to provide context to content which is addressed elsewhere in Form 81-106A as discussions on a topic should be grouped in a single spot.

13. Designated Website Disclosure
We do not believe that any information on the Fund Report should be removed and placed directly on the designated website.

14. Cross-References to Designated Website
We are comfortable with the Fund Report directing investors to the designated website specifically for the Quarterly Portfolio Disclosure. We believe that this direction would specifically incorporate the Quarterly Portfolio Disclosure into the prospectus. We are, however, not comfortable with the Fund Report directing investors to the designated website for any other specific information as any such cross reference would result in such disclosure being incorporated into the prospectus. Given the potential liability attaching to prospectuses and regulatory disclosure documents for misrepresentations, we do not believe it is appropriate to expand the scope of that potential liability unless it is absolutely necessary.

15. Modifications for Specific Investment Funds
We have no comments with respect to this.

16. Additional Suggestions
Please see our suggestions in the body of the comment letter.

17. Investor Education
As dealers have the primary contact with investors, we suggest that the CSA collaborate with dealers to determine whether the suggestions provided are sufficient.

WORKSTREAM TWO - CONFLICTS
18. Additional Disclosure Elements
While we have no objection to providing the reporting contained in Form 81-107A, we do not agree with:

a) the inclusion of the definition of a “party related to the investment fund” as National Instrument 81-107 (“NI 81-107”) currently contains a definition of an “entity related to the manager”. The introduction of a similar but different definition introduces unnecessary complexity;

b) the requirement under section 2.5(1)(c)(ii) of NI 81-107 which requires a fund to provide “a brief description of any provision in securities legislation or any order made under securities legislation that imposes a requirement to… (a) provide disclosure about the transaction, (b) keep a record in respect of the transaction”. We do not believe that this information is relevant to an investor and it imposes a burden on funds which is, in our view, unnecessary; and

c) the requirement under item 4(k) of Form 81-017A which requires a fund to disclose the dealer involved in a related party transaction. We do not believe that this information is

relevant to an investor and the decision on which dealers to use on portfolio transactions is confidential and is proprietary to the fund and its investment fund manager.

WORKSTREAM THREE – FINANCIAL STATEMENTS

19. Stakeholders that would Benefit from Maintaining Disclosure

We are not aware of any investor who would benefit from maintaining series level disclosure in the financial statements.

ADDITIONAL INITIATIVE – IMPLEMENTATION OF FUND EXPENSE RATIO INTO FUND FACTS AND ETF FACTS

20. Timing Considerations

Currently, we have no concerns with the implementation timelines.