

## CSA publish proposals relating to credit market turmoil issues



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On October 6, 2008 the Canadian Securities Administrators (the CSA) published CSA Consultation Paper 11-405 entitled "Securities Regulatory Proposals Stemming from the 2007 – 08 Credit Market Turmoil and its effect on the ABCP Markets in Canada" (the Consultation Paper). The Consultation Paper is divided into two parts, with the first part providing a narrative overview of the background to the credit market turmoil in the United States, its spread into Canada and its impact on the non-bank sponsored portion of the asset-backed commercial paper (ABCP) market in Canada. The second part of the paper sets out proposals made under the Concept Paper to deal with the credit market turmoil and related issues in Canada.

The Consultation Paper is the work of a working group or a subcommittee of the CSA which was formed on December 20, 2007 to consider securities regulatory issues stemming from the turmoil in international credit markets that began in August 2007 (the Committee). The Committee consists of representatives of the securities regulatory authorities in British Columbia, Alberta, Ontario and Quebec, and the Concept Paper states that the recommendations contained in it have not been approved by any securities regulatory authorities or the various provincial or territorial governments in Canada.

The Consultation Paper makes a number of proposals to deal with issues arising out of the credit market turmoil and invites comments on these proposals on or before December 20, 2008. Among the proposals included in the Consultation Paper are proposals to implement a regulatory framework for "approved credit rating organizations", which would require credit rating agencies to comply with "comply or explain" provisions of the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies, and proposals to amend the current short term debt exemption (available under section 2.35 of National Instrument 45-106 – *Prospectus and Registration Exemptions*) to make it unavailable for distributions of asset-backed short term debt, as well as to reduce reliance on credit rating agencies in Canadian securities legislation. Other proposals include a separate policy review to consider the appropriateness of the net financial asset threshold of the "accredited investor" exemption, and the "\$150,000 minimum investment amount" exemption, for prospectus exempt distributions. The Concept Paper also proposes coordinating with IIROC various regulatory initiatives focused on addressing the role of intermediaries that are registrants in distributing asset backed securities such as ABCP. Also proposed is a review of the terms "related issuer" and "connected issuer" in proposed National Instrument 31-103 – *Registration Requirements*, to ensure these definitions capture issuers of ABCP and similar products. It is also suggested that the CSA should review whether the concentration restrictions contained in National Instrument 81-

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102 – *Mutual Funds* for money market funds are appropriate, whether further restrictions on the types of investments a money market fund can make are required, whether assets such as asset-backed short-term debt are appropriate as eligible assets in the definition of “cash-cover” and “qualified securities” and whether short-term debt investments, including ABCP with a specified credit rating, should be permitted to be aggregated in a statement of investment portfolio.

Comments on these and other proposals discussed in the Concept Paper are invited to be made in writing, again, by no later than December 20, 2008.

For further information, please contact your Stikeman Elliott representative or any member of our Corporate Finance and Securities Group listed at [www.stikeman.com](http://www.stikeman.com)