

THE ASSOCIATION OF GLOBAL CUSTODIANS

THE BANK OF NEW YORK
BROWN BROTHERS HARRIMAN
CITIBANK, N.A.
INVESTORS BANK & TRUST COMPANY
JPMORGAN CHASE BANK
MELLON FINANCIAL
THE NORTHERN TRUST COMPANY
RBC GLOBAL SERVICES
STATE STREET BANK AND TRUST COMPANY

COUNSEL AND SECRETARIAT TO THE ASSOCIATION:

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July 2, 2004

Mr. Wayne Adams, Director General
Legislative Policy Division
Policy and Legislation Branch
Canada Revenue Agency
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Ottawa, Ontario
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CANADA

Mr. Jim Gauvreau, Director
Competent Authority Services Division
International Tax Directorate
Canada Revenue Agency
344 Slater Street
5th Floor, Minto Place
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Ottawa, Ontario
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CANADA

Re : Canada–France Income Tax Treaty and Canadian Mutual Funds Trusts & Pooled Funds Trusts

Dear Messrs. Adams and Gauvreau:

On behalf of the Association of Global Custodians (the "Association"),¹ we are writing in connection with the development of a competent authority procedure for

¹ The Association is an informal group of nine custodian banks with affiliates and branches in numerous countries that provide global custody services to cross-border institutional investors. The members of the Association are listed in the letterhead above.

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Canadian pooled and mutual fund trusts. Specifically, we are writing regarding the submission made to you on behalf of The Royal Trust Company by their solicitors, Torys, in a letter dated December 4, 2000.

Background

In its December 4, 2000 letter, The Royal Trust Company requested, on behalf of its clients, that a competent authority procedure be initiated in Canada to settle the issue of the entitlement of various Canadian entities, including pooled and mutual fund trusts. Specifically, the letter sought to provide (a) reductions in the rate of French withholding tax on dividends and interest, and (b) partial repayment of avoir fiscal attached to French dividends under the Canada-France Income Tax Treaty.²

The Association has become concerned with the response delay to The Royal Trust Company's request for resolution to the need for a competent authority procedure for Canadian pooled and mutual fund trusts. We are therefore writing to request your support in the competent authority procedure and to elevate this issue in order to obtain a quick and satisfactory resolution.

In order to determine the Euro amount of tax reclaims for Canadian pooled and mutual fund trusts currently suspended in France - pending resolution of this issue - we have conducted a survey among our members. This survey revealed that funds in excess of Euro 60 million (C\$100 million) are currently owed to Canadian pooled and mutual fund trusts and their predominantly Canadian resident investors. These same investors, if investing directly rather than through such funds, would have received their entitlements some time ago.

Request

Association members are becoming increasingly concerned over the scale of outstanding reclaim moneys and the time that has lapsed since the issue was originally raised three and a half years ago. We would be grateful therefore if you would raise the issue with your French competent authority counterpart in order to obtain an expedient resolution. Additionally, we would appreciate your assistance in advising us as to the latest position and expectations for resolution of this matter.

² The letter also sought to establish the procedural arrangements for providing treaty relief to Canadian pension funds and the eligibility of trusts established solely for the benefit of Canadian pension funds for similar relief. We understand that outline agreement has now been reached with the French competent authority in this connection and we shall be writing to you separately to confirm the procedures to be adopted.

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If you would like to discuss this matter directly we would be delighted to arrange a meeting or conference call. Please feel free to contact Patrick Costello, Chair of the Association's Tax Issues Committee (617/382-4588) or the undersigned at your convenience. We look forward to hearing from you.

Sincerely,



Margaret R. Blake
Counsel to the Association

Cc: Eric Fancelli
Ministère de l'économie et des Finances
Direction de la Législation Fiscale

Gilles Pellitier, Special Advisor
Canada Revenue Agency