VIA E-MAIL

December 22, 2025

Mr. Andrew Donelle and Mr. Zachary Fentiman
Tax Legislation Division
Tax Policy Branch
Department of Finance
90 Elgin Street
Ottawa, ON K1A 0G5

Dear Messrs. Donelle and Fentiman,

Re: Draft Legislative Amendments to the Qualified Investments Regime

Further to our videoconference on December 2, 2025, we are writing to provide you with feedback on the proposed amendments to the *Income Tax Act* (Canada) (**Tax Act**) and the *Income Tax Regulations* (**Regulations**) presented in the *Notice of Ways and Means Motion to Amend the Income Tax Act and the Income Tax Regulations* (**Draft Legislation**) that was tabled contemporaneous with the release of the 2025 Federal Budget (**Budget 2025**).

We understand that other stakeholders have made submissions with respect to the Draft Legislation. In the interests of not duplicating other detailed submissions, we wish to instead draw your attention to the following conceptual matters that may warrant further examination.

Reliance on the Existing Statutory Definition of an "Investment Fund"

Budget 2025 proposes the creation of two new categories of "qualified investments", which will be introduced as new paragraphs 5003(a) and (b) of the Regulations.

New Regulation 5003(b) incorporates, by reference, the concept of an "investment fund", which is currently defined in subsection 251.2(1) of the Tax Act.

When the definition of an "investment fund" was first added to the Tax Act, it was included in the statute to serve a very specific purpose (i.e., to exclude certain trusts from the ambit of the newly expanded "loss restriction event" rules in the Tax Act (**LRE Rules**)).

As we noted during our discussion, several conditions must be satisfied for a trust to qualify as an "investment fund" as defined in subsection 251.2(1) of the Tax Act. Most notably, the preamble to paragraph (b) of the statutory definition provides that a trust may only be an "investment fund" if "at all times throughout the period that begins at that later of March 21, 2013 and the time of its creation and that ends at [a particular time]", the trust satisfies a series of statutory requirements.

While the requirement that a trust effectively have always satisfied all of the enumerated statutory conditions to be an "investment fund" may make sound policy sense in the context of the LRE Rules, there is no compelling policy reason to require a trust to have satisfied a comprehensive set of statutory requirements in the past for units of the trust to be a "qualified investment" on a prospective basis.

In addition, among the statutory conditions to be satisfied for a trust to qualify as an "investment fund", the trust must "follow[] a reasonable policy of investment diversification". The foregoing phrase is not expressly defined in the Tax Act, which raises a degree of uncertainty that may limit the ability of registered plan investors to confidently conclude that units of a particular trust will be a "qualified investment" pursuant to new Regulation 5003(b). Once again, while the general phrase "follows a reasonable policy of investment diversification" may present a tolerable level of uncertainty in the context of the LRE Rules, such uncertainty may undermine the broader acceptance of the new category of qualified investments in the retail marketplace. From a portfolio management perspective, investment diversification is achieved at the portfolio or account level of an investor, not at the investment fund level. For example, a gold fund will only invest in gold; while such a gold fund is useful to provide small exposure in a diversified portfolio, the gold fund itself may not be viewed as having a reasonable policy of investment diversification. As such, we recommend the removal of this qualifying condition.

Technical Transition Impediment

As we noted during our discussion, liability for tax under Part X.2 of the Tax Act may inadvertently arise if a trust that is a "registered investment" decides to instead rely on new Regulation 5003(b) for its units to qualify as "qualified investments" and thereafter cease to exclusively hold qualified investments prior to its registration as a registered investment being terminated. Based on our discussions, we understand that you are aware of this technical deficiency and that steps will be taken to address it.

Elimination of a Public Channel to Verify Qualified Investment Status

During our discussions, we noted that there was a public good served by the list of registered investments being made publicly available via the Canada Gazette (formerly) and currently on the Government of Canada website. The elimination of the "registered investment" regime will eliminate this verifiable source of information that has been relied upon by members of the investing public to confirm that a particular investment is a qualified investment.

We understand from the Budget 2025 documentation that the categories of qualified investments encapsulated in new Regulations 5003(a) and (b) are intended, along with other existing categories of qualified investments, to capture securities that were formerly registered investments. Consideration should be given to potential statutory refinements or other means of providing registered plan investors with greater comfort that the status of investments that purportedly fall within the ambit of Regulations 5003(a) and (b) will not subsequently be subject to retrospective question.

We would be pleased to discuss the observations set out above at your convenience. If you have any questions, please do not hesitate to contact Katie Walmsley (kwalmsley@pmac.org) at 416-560-9419 or Victoria Paris (vparis@pmac.org) at 416-802-4347.

Yours truly,

Portfolio Management Association of Canada

"*Katie Walmsley*"

Katie Walmsley, President