



BC Notice 2013/01

**Notice and Request for Comment -
Proposed Revocation of BC Instrument 32-513 Registration Exemption for Trades
in Connection with Certain Prospectus-Exempt Distributions and BC Instrument
32-517 Exemption from Dealer Registration Requirement for Trades in Securities of
Mortgage Investment Entities**

Introduction

The BCSC proposes to revoke:

- BC Instrument 32-513 *Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions* (the NW exemption)
- BC Instrument 32-517 *Exemption from Dealer Registration Requirement for Trades in Securities of Mortgage Investment Entities* (the MIE exemption) (together, the exemptions)

Background

In 2009, the Canadian Securities Administrators (CSA) adopted National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. The rule created a new category of registration for exempt market dealers (EMDs). The CSA also revoked parallel registration exemptions for the section 2.3 (*accredited investor*), section 2.5 (*family, friends and business associates*), section 2.9 (*offering memorandum*) and section 2.10 (*minimum investment amount*) prospectus exemptions (together, the capital raising exemptions) in National Instrument 45-106 *Prospectus and Registration Exemptions*.

NW and MIE exemptions

British Columbia, Alberta, Manitoba, Saskatchewan, Northwest Territories, Nunavut, and Yukon provided an exemption from the requirement to register as EMDs for persons selling only private placement securities under the capital raising exemptions. The BCSC also issued comparable relief specifically for mortgage investment entities (MIEs).

The BCSC adopted the exemptions because at the time, it did not have the information to understand what impact the EMD registration requirement would have on private enterprise financing or investors.

Analysis

With the benefit of having the rule in place for almost three years, our analysis shows that:

1. Revoking the exemptions would have a negligible impact on capital raising

Private enterprises and mortgage investment entities do not rely significantly on this distribution channel for financing. Approximately 1% of capital (by dollar value) could be impacted.

2. Non-Compliance with the exemptions

There is significant non-compliance with the exemptions, thereby putting investors at greater risk. We conducted sample compliance reviews of NW filers and learned that 74% failed to provide purchasers of private placement securities with the risk disclosure required under the exemptions. When we looked at the MIE filers only in the sample, non-compliance with this requirement increased to approximately 90%. The risk disclosure obligation is fundamental to investor protection when buying from unregistered dealers.

3. Investors are most vulnerable to high-risk investments sold in the private placement market

Investors who are considering investing in private placement securities would be better protected if they purchase securities from a registered dealer. In particular, they would have the benefit of advice about whether a purchase is suitable for them before they invest.

The Commission proposes to revoke the exemptions because:

- (a) the impact on capital raising will be negligible
- (b) those relying on the exemptions are not complying with its investor protection conditions
- (c) private placement market investors will be better protected if they purchase securities through registrants

Request for comment

We welcome your comments about this proposal in writing on or before February 4, 2013. Deliver your comments and refer your questions to:

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We will not keep submissions confidential.

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Brenda M. Leong
Chair