



BC Notice 2009/12

**Advance Notice of
National Instrument 31-103 *Registration Requirements and Exemptions*,
Companion Policy 31-103CP *Registration Requirement and Exemptions*,
BC Interpretation Note XX, and BC Instrument 33-5xx and its companion policy,
and consequential amendments to national and local instruments**

Introduction

The Canadian Securities Administrators have approved National Instrument 31-103 *Registration Requirements and Exemptions*, Companion Policy 31-103CP *Registration Requirements and Exemptions* (together, the national rule), and consequential amendments to national and multilateral instruments. Subject to Ministerial approval requirements, the National Rule will come into force on September 28, 2009 (the implementation date).

In addition, the British Columbia Securities Commission has approved BC Instrument 33-5xx and its companion policy, consequential amendments to local instruments and a related interpretation notice (BCIN).

We published the national rule for comment on February 20, 2007. We published it again on February 29, 2008, along with proposed national, multilateral and local consequential amendments.

Please refer to CSA Notice *Notice of National Instrument 31-103 Registration Requirements* dated July 17, 2009, which gives an overview of the national rule and national and multilateral consequential amendments. Appendix B to the CSA Notice describes the significant changes to those documents since the second publication. This notice describes BC Instrument 33-5xx the local consequential amendments (including significant changes to those amendments since the second publication) and the related BCIN.

Exempt market intermediaries – BC Instrument 33-5xx

In our last notice, the Commission signaled that we (and the Manitoba Securities Commission) intended to retain the registration exemptions in National Instrument 45-106 *Prospectus and Registration Exemptions* for capital raising, subject to a number of conditions.

We are now taking a slightly different approach and the other western provinces, except Saskatchewan, and the territories are also taking the same approach. Appendix D of the CSA Notice describes this approach. Instead of preserving the registration exemptions in

NI 45-106, we will issue a local order to implement the new registration exemption regime (see Appendices P and Q to this notice for the form of local order and related guidance). Saskatchewan is considering whether it will take this approach and will release a separate notice when it has made its decision.

The CSA is repealing the NI 45-106 capital raising exemptions from registration six months after the implementation date. See CSA Notice *Notice of Repeal and Replacement of National Instrument 45-106 Prospectus and Registration Exemptions and Related Forms and Companion Policy* for more information. The local orders providing registration relief in the western provinces and the territories will come into effect on the same date that the current registration exemptions for capital raising in NI 45-106 are repealed.

The BC order will contain conditions similar to those we originally planned to impose on persons trading securities under the NI 45-106 exemptions, including:

- a notice requirement (but no annual filing); and
- a risk acknowledgement statement tailored to the risks of purchasing through the exempt market intermediary.

The exemptions in the BC order are not available to those that are otherwise registered in any other jurisdiction or in any other category.

The BC order will also introduce new conditions, including a prohibition on providing clients with suitability advice and on handling client assets. This reflects what we expect today of persons relying on the registration exemptions in NI 45-106.

The orders in the other western provinces and the territories will prohibit anyone who has previously provided financial services to a purchaser (except under the capital raising exemptions) from using the exemption in the blanket order. We are considering whether it is appropriate to include this prohibition in the blanket order.

Transition considerations for exempt market intermediaries

In the western provinces and in the territories, a person that currently trades prospectus-exempt securities under the capital raising exemptions in NI 45-106 can continue to trade relying on the related registration exemptions in NI 45-106 for six months after the implementation date.

After the six months have expired, that same person must decide whether to continue trading relying on the local orders in the western provinces and the territories, or whether to register as an exempt market dealer under NI 31-103. That person must register as an exempt market dealer under NI 31-103 if the person is either registered as an exempt market dealer in another province or is registered in the western provinces or the territories in another category of registration. If the person must register, NI 31-103 provides a 12-month transition exemption so that the person must apply for registration as an exempt market dealer by September 27, 2010.

A person that starts trading prospectus-exempt securities under the NI 45-106 capital raising exemptions after September 28, 2009 must determine, before trading, whether the person can rely on the local orders in the western provinces and the territories or must, instead, register as an exempt market dealer. If the person must register, the person must do so before trading prospectus-exempt securities. If the person can rely on the local orders, that person must file an initial information report within 10 days of first trading in prospectus-exempt securities.

Consequential amendments to Parts 5 and 6 of the *Securities Rules*

The Commission has approved repealing almost all the registration related sections in Part 5 and all of Part 6 of the *Securities Rules*. We attach the amending instrument for the Rules as Appendix A.

We will also adopt new guidance for the NI 31-103 registration regime in BC Interpretation Note xx-5xx, which is attached as Appendix B.

Consequential amendments to local instruments, policies and forms

We will also amend, repeal and replace, revoke or rescind the following BC Instruments, policies and forms to

- eliminate local requirements, exemptions and guidance that are no longer necessary because they are covered in NI 31-103 and
- make necessary reference changes.

We attach the amending instrument for various BC Instruments as Appendices C and D; as well as orders revoking, repealing and replacing, and rescinding other instruments, policies and forms as Appendices E to O to this notice.

We will **amend**:

- BC Instrument 22-502 *Registration by the Investment Industry Regulatory Organization of Canada*
- BC Instrument 45-501 *Mortgages*
- BC Policy 45-501 *CP Mortgages*

We will **repeal and replace**:

- BC Policy 31-601 *Registration Requirements*
- BC Instrument 32-503 *Registration Exemption for Salesperson's Corporations*
- BC Instrument 33-506 *Exemption from cold calling restrictions for registered dealers*
- BC Instrument 45-512 *Real Estate Securities*
- BC Instrument 45-514 *The Employee Investment Act*

We will **revoke**:

- BC Instrument 31-503 *Exchange Contract Dealers Trading in Commodity Pool Securities*
- BC Interpretation Note 31-701 *Advising under the Securities Act*
- BC Interpretation Note 31-702 *Web posted notice confirming registration*
- BC Instrument 32-501 *Advising and related trading under an exemption*
- BC Instrument 32-502 *Exemption from suitability requirements*
- BC Instrument 32-504 *Registrant Disclosure of Conflicts of Interest*
- BC Instrument 32-505 *Exemption for Mutual Fund Dealers to sell securities of certain employee venture capital corporations and venture capital corporations*
- BC Instrument 33-502 *Registration Requirements for members of the Investment Dealers Association Canada*
- BC Instrument 33-504 *Exemption from section 80(2) of the Securities Rules*
- BC Instrument 33-508 *Exemption from sections 16 and 73 of the Securities Rules – Registrant ownership*
- BC Interpretation Note 33-701 *Trading by Limited Dealers under Registration and Prospectus exemptions*
- BC Interpretation Note 33-702 *Powers of attorney and trading authorities- Registrants' Duties*
- BC Interpretation Note 33-703 *Dealers and their Salespersons*
- BC Instrument 35-501 *Remote Access Trades on the Canadian Venture Exchange*
- BC Instrument 45-502 *Cooperative Associations*
- BC Policy 45-502CP *Cooperative Associations*
- BC Instrument 45-510 *Trades in Self-Directed Registered Educational Savings Plans*
- BC Instrument 45-513 *Resale Relief for Eligible Real Estate Securities*
- BC Instrument 45-527 *Exemptions for certain supra-national agencies*
- BC Interpretation Note 45-701 *Meaning of "fully managed" accounts*
- BC Notice 45-702 *Exemptive relief for certain real estate securities*
- BC Interpretation Note 45-703 *Offering documents requiring written underwriting procedures and registration as an underwriter*
- BC Instrument 81-502 *Confirmation of purchase and sale for units of certain mutual funds*
- BC Instrument 81-504 *Transactions between mutual funds and responsible persons relating to certain debt securities, mortgages, and equity securities*

The Executive Director will **rescind**:

- BC Form 31-901F *Application for Registration as dealer, adviser, or underwriter*
- BC Form 33-907F *Conflict of interest rules statement*
- BC Form 33-908F *Statement and undertaking*
- BC Form 34-901F *Summons for an Examination under section 38(c)*
- BC Form 35-901F *Additional information from out of province registrants*

The Executive Director will **revoke**:

- BC Instrument 33-512 *Exemption for Foreign Advisers from the NRD Account Requirements*

Transition

We will **repeal** and **replace** for the appropriate transition periods:

- BC Instrument 33-513 *Exemption from financial statement, capital and bonding requirements for MFDA members*
- BC Instrument 33-514 *Exemption from capital, bonding and financial reporting requirements for certain portfolio managers and investment counsel*
- BC Instrument 33-515 *Exemption from financial statement, capital and bonding Requirements for IDA members*

Because the transition periods for the bonding and capital requirements in NI 31-103 are six and 12 months from the implementation date, respectively, those requirements in the instruments above will remain in effect for six and 12 months, respectively. We will remove all provisions relating to financial reporting from the above instruments.

We will **retain** for 12 months from the implementation date:

- BC Form 33-902F *Joint Regulatory Financial Questionnaire and Report*
- BC Form 33-906F *Statement of financial condition (audited)*
- BC Form 33-903F *Report of Risk Adjusted Capital*
- BC Form 33-904F *Subordination Agreement*
- BC Form 33-905F *Report of working capital*

See also CSA Notice 31-311 *Transition into the new Registration Regime under NI 31-103* for information about the transition periods in NI 31-103.

Act amendments

We intend to have amendments to the Securities Act related to NI 31-103 proclaimed. The amendments require investment fund managers to register and repeal conflict of interest provisions that will be replaced by provisions in NI 31-103.

Effective date

The effective date for the amendments to the *Securities Rules* and most local instruments, forms or policies that we have amended or revoked, is the implementation date.

In some cases, we need to keep certain provisions of the *Securities Rules* and BC Policy 31-601 *Registration Requirements* for a period after the national rule comes into force until the equivalent provision in the national rule becomes effective for all registrants. These provisions cover capital and bonding requirements, relationship disclosure obligations and referral arrangements. Please see CSA Staff Notice 31-311 – *Proposed National Instrument 31-103 Registration Requirements and Exemptions Transition into the New Registration Regime* for further details.

This chart lists those provisions with effective dates other than the implementation date.

Document	Section(s)	Effective Date
<i>Securities Rules</i>	s. 21 and 22	Repeal 6 months after the implementation date.
	ss. 19, 20, 24, 25, 49, 50, 52(1), 54	Repeal 12 months after the implementation date.
BC Policy 31-601 <i>Registration Requirements</i>	ss. 2.1(h), 2.3(h) and 2.5(h), s. 4.3	Repeal 6 months after the implementation date.
	ss. 2.1(i), 2.3 (i), 9.4, 13.3, 15.4, 16.3	Repeal 12 months after the implementation date.

July 17, 2009

Brent W. Aitken
Acting Chair

Ref: National Instrument 31-103 *Registration Requirements and Exemptions*
Companion Policy 31-103CP *Registration Requirements and Exemptions*
Appendix A - Amending Instrument to the *Securities Rules, B.C. Reg. 194/97*
and clean version of Parts 5 and 6 of the Rules
Appendix B - BC Interpretation Note XX
Appendix C - Amending Instrument to BCI 22-502 *Registration by the*
Investment Industry Regulatory Organization of Canada and clean version
of BCI 22-502
Appendix D - Amending Instrument to BCI 45-501 *Mortgages*, clean version
of BCI 45-501 *Mortgages* and order repealing and replacing BCP 45-501CP
Mortgages
Appendices E to O - Orders making consequential amendments arising
from National Instrument 31-103
Appendices P and Q - Form of blanket order providing registration exemption
for capital raising and guidance to that order

This Notice may refer to other documents. These documents can be found at the BC Securities Commission public website at www.bcsc.bc.ca in the section Securities Law & Policy: Policies & Instruments.

Appendix A

Securities Rules

Amending Instrument

The British Columbia Securities Commission orders that, effective September 28, 2009, the Securities Rules, B.C. Reg. 194/97, is amended as follows:

- 1** *The Securities Rules, B.C. Reg. 194/97, is amended in Part 5 by repealing Division 2.*

- 2** *Section 14 (2) is repealed and the following substituted:*
 - (2) A registered
 - (a) dealing representative, or
 - (b) advising representative,of a dealer or adviser must deal fairly, honestly and in good faith with the clients of the dealer or adviser.

- 3** *Sections 15, 16, 17 and 18 are repealed.*

- 4** *Section 19 is amended by adding the following subsection:*
 - (0.1) This section applies to a person registered as an investment dealer, securities dealer, limited dealer or underwriter before September 28, 2009.

- 5** *Section 20 is amended by adding the following subsection:*
 - (0.1) This section applies to a person registered as a portfolio manager or investment counsel before September 28, 2009.

- 6** *Section 21 is amended by adding the following subsection:*
 - (0.1) This section applies to a person registered as a dealer, underwriter, portfolio manager or investment counsel before September 28, 2009.

- 7** *Section 24 is renumbered as section 24 (2) and the following subsection is added:*
 - (1) This section applies to a person registered as an exchange contracts dealer before September 28, 2009.

8 Section 25 is renumbered as section 25 (2) and the following subsection is added:

- (1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

9 Part 5 is amended by repealing Division 5.

10 Sections 43 to 48 are repealed.

11 Section 49 is renumbered as section 49 (2) and the following subsection is added:

- (1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

12 Section 50 is amended

(i) by adding the following subsection:

- (0.1) This section applies to a person registered as a dealer or adviser before September 28, 2009., **and**

(ii) in paragraph (b) by striking out “section 17 of these rules or”.

13 Sections 51 is repealed.

14 Section 52 is amended

(i) by adding the following subsection:

- (0.1) This section applies to a person registered as an adviser before September 28, 2009, **and**

(ii) by repealing subsection (2).

15 Section 53 is amended by adding the following subsection:

- (0.1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

16 Section 54 is renumbered as section 54 (2) and the following subsection is added:

- (1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

17 Sections 55 to 59 are repealed.

18 Part 5 is amended by repealing Divisions 7, 8, 9, 10 and 11.

19 Part 6 is repealed.

Clean Version of Amendments to Parts 5 and 6 of Securities Rules

Part 5 — Registration

Division 1 — General

Interpretation

5 In this Part risk adjusted capital means the amount of risk adjusted capital determined under the Joint Regulatory Financial Questionnaire and Report.

Division 2 — Categories of Dealers and Advisers and Related Provisions

Division 3 — Registration — General

Fair dealing with clients

14 (1) A registrant must deal fairly, honestly and in good faith with the clients of the registrant.

(2) A registered

(a) dealing representative, or

(b) advising representative,

of a dealer or adviser must deal fairly, honestly and in good faith with the clients of the dealer or adviser.

Division 4 — Capital and Bonding

Dealer's and underwriter's risk adjusted capital and working capital

19 (0.1) This section applies to a person registered as an investment dealer, securities dealer, limited dealer or underwriter before September 28, 2009.

(1) An investment dealer must maintain positive risk adjusted capital.

(2) Subject to subsection (4), a securities dealer, exchange contracts dealer or underwriter must maintain positive risk adjusted capital but may calculate risk adjusted capital on the basis of a minimum capital requirement of \$100 000 instead of the minimum of \$250 000 required by the Joint Regulatory Financial Questionnaire and Report.

(3) Subject to subsection (5), a limited dealer, except for a security issuer and exchange contracts dealer, must maintain working capital, calculated in accordance with the

required form, equal to, or greater than, \$75 000 plus the maximum amount that is deductible under any bond required under section 21.

(4) An exchange contracts dealer that does not hold client funds or securities and is recognized by the executive director as an introducing broker must maintain positive risk adjusted capital but may calculate risk adjusted capital on the basis of a minimum capital requirement of \$75 000 instead of the minimum of \$100 000 set out in subsection (2).

(5) A mutual fund dealer that does not hold client funds or securities and is recognized by the executive director must maintain working capital, calculated in accordance with the required form, equal to, or greater than, \$25 000 plus the maximum amount that is deductible under any bond required under section 21.

Adviser's minimum working capital

20 (0.1) This section applies to a person registered as a portfolio manager or investment counsel before September 28, 2009.

(1) Subject to subsection (2), a portfolio manager or investment counsel must maintain working capital, calculated in accordance with the required form, equal to, or greater than, \$25 000 plus the maximum amount that is deductible under any bond required under section 21.

(2) An investment counsel that does not hold client funds or securities and is recognized by the executive director must maintain working capital, calculated in accordance with the required form, equal to, or greater than, \$5 000 plus the maximum amount that is deductible under any bond required under section 21.

Bonding requirement

21 (0.1) This section applies to a person registered as a dealer, underwriter, portfolio manager or investment counsel before September 28, 2009.

(2) A dealer, other than a security issuer, underwriter, portfolio manager or investment counsel must maintain

(a) bonding in a form and amount that the executive director considers necessary, and

(b) a certified copy of a resolution of the person's partners or directors stating that they consider the amount of bonding adequate to cover insurable business risks.

(3) A partner, director or officer or other employee of a dealer, underwriter, portfolio manager or investment counsel must maintain bonding in a form and amount that the executive director considers necessary.

Notice of change in or claim under bond

22 A registrant must file without delay written notice of any change in, or claim made under, a bond required by the executive director.

Compensation or contingency trust fund

23 (1) A dealer, other than a security issuer or scholarship plan dealer, must participate in and contribute to a compensation fund or contingency trust fund approved by the executive director and established by

- (a) a self regulatory body or an exchange recognized under section 24 (1) or (2) of the Act, or
- (b) a trust company.

(2) A dealer must contribute an amount of money to a fund referred to in subsection (1) equal to the amount that the self regulatory body, exchange or, in the case of a fund established by a trust company, the executive director requires.

(3) The executive director may exempt a dealer that does not hold funds or securities of its clients from the requirements of subsection (1).

Requirements for not holding funds or securities

24 (1) This section applies to a person registered as an exchange contracts dealer before September 28, 2009.

(2) If an exchange contracts dealer is permitted under section 19 (5) to calculate risk adjusted capital on the basis of a lower minimum capital requirement, a mutual fund dealer is permitted under section 19 (6) to maintain a lower level of working capital, an investment counsel is permitted under section 20 (3) to maintain a lower level of working capital or a dealer is exempted under section 23 (3) from the requirement to participate in and contribute to a compensation fund or contingency trust fund, the exchange contracts dealer, mutual fund dealer, investment counsel or dealer must not

- (a) hold funds or securities on behalf of clients;
- (b) receive from clients funds or securities for the payment or settlement of trades in securities or exchange contracts on behalf of the client;
- (c) receive from clients cheques made out to the dealer for the payment of or settlement of trades in securities or exchange contracts on behalf of the client;
- (d) receive from other persons funds payable to the client on account of the sale of or settlement of trades in securities or exchange contracts on behalf of the client, or

- (e) receive from other persons cheques made out to the dealer on account of the sale of securities or exchange contracts or settlement of trades in securities or exchange contracts on behalf of the client.

Subordination agreement

25 (1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

(2) If a registrant borrows in order to maintain positive risk adjusted capital or to meet the minimum working capital requirements set out in sections 19 and 20, the registrant and the person from whom the registrant borrowed must enter into a subordination agreement in the required form.

Division 5 — Record Keeping and Reporting

Division 6 — Client Accounts and Statements of Account and Portfolio

Explanation of relevant terms and conditions

49 (1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

(2) If a dealer trades or proposes to trade an exchange contract on behalf of a client or a dealer or adviser gives advice about an exchange contract to a client, the dealer or adviser must, on the client's request,

- (a) explain the terms and conditions of the exchange contract, and
- (b) state where the client may get a copy, or view the terms and conditions, of the exchange contract.

Information about registrant available on client's request

50 (0.1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

(1) On request, a registrant must provide a client or prospective client with

- (a) the registrant's category and expiry date of registration;
- (b) any conditions of registration that the executive director has imposed under section 36 of the Act, or that a self regulatory body or exchange has imposed, on the registrant;

- (c) any current administrative proceeding by a securities or exchange contracts regulatory authority, or by a self regulatory body or exchange, against the registrant in any jurisdiction;
- (d) any previous administrative proceedings by a securities or exchange contracts regulatory authority, or by a self regulatory body or exchange, against the registrant in any jurisdiction if an order, ruling or other adverse finding was made against the registrant;
 - (i) if the registrant is an individual, for an unlimited period of time, or
 - (ii) if the registrant is not an individual, during the 5 years immediately preceding the client's request,
- (e) the commission and fees the registrant charges and the practices the registrant follows in setting fees;
- (f) if the registrant is an individual, the registrant's education, including which of the courses and examinations required by the executive director or similar courses and examinations required in another jurisdiction the registrant has successfully completed;
- (g) subject to subsection (2), if the registrant is a dealer,
 - (i) a copy of the dealer's most recently prepared statement of financial condition in the required form, or, in the alternative, if the dealer is a security issuer, a copy of the dealer's most recently prepared annual financial statements that it has filed under section 145 (1), and
 - (ii) a list of the dealer's partners, directors and officers, prepared and certified as of a date not more than 30 days before the request, and
- (h) any registration or licensing under the Financial Institutions Act or comparable legislation of another jurisdiction.

(2) If a dealer or a class of dealers is subject to conditions of registration or to regulations imposed by a self regulatory body or exchange that requires the dealer to disclose information similar to the information required under subsection (1), the executive director may waive or vary the requirement to comply with subsection (1).

(3) A registered dealer must inform its clients on every statement of account, or by other means that the commission or executive director has approved, that the information referred to in subsection (1) is available to clients on request.

Change in ownership or sale of account

52 (0.1) This section applies to a person registered as an adviser before September 28, 2009.

(1) If there has been a material change in the ownership or control of a portfolio manager or investment counsel, the portfolio manager or investment counsel must provide immediately to each of its clients in British Columbia, in addition to any notice required by Division 10,

- (a) a written explanation of the change, and
- (b) advice of the client's right to close or transfer the client's account.

Disclosure of referral fees and commission splitting

53 (0.1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

(1) Subject to subsection (3), if a registrant

- (a) receives a fee or other compensation from another person for the referral of a client, or
- (b) pays a fee or other compensation to another person for the referral of a client, the registrant must disclose the compensation to the client.

(2) Subject to subsections (3), (4) and (5), if a registrant receives from, or pays to, another person a commission or other compensation related to the purchase or sale of a security or exchange contract on behalf of a client, not otherwise required to be disclosed under subsection (1), the registrant must disclose the compensation to the client on whose behalf the purchase or sale is made.

(3) Subject to subsection (4), the disclosure required under subsections (1) and (2) must

- (a) be made
 - (i) in the circumstances described in subsection (1) (a), before the fee is accepted,
 - (ii) in the circumstances described in subsection (1) (b), before the fee is paid, or
 - (iii) in the circumstances described in subsection (2), at the time the purchase or sale is made or as soon as practicable after that time,
- (b) be in writing, and

(c) contain

- (i) the amount of the fee or, if not determinable, the method of calculating the fee,
- (ii) to whom and by whom the fee is to be paid, and
- (iii) the services for which the fee is payable.

(4) If the payment or receipt of a commission or other compensation referred to in subsection (2) is part of a continuing arrangement between a registrant and another party, the registrant is not required to disclose the compensation each time that the registrant makes a purchase or sale of a security or exchange contract on behalf of a client, provided that the registrant has disclosed the arrangement, and any subsequent material changes in the arrangement, to that client prior to the first purchase or sale under that arrangement.

(5) A registrant is not required to disclose to a client a commission or other compensation under subsection (2) if the commission or other compensation is paid from or to

- (a) the registrant's partners, directors, officers or salespersons,
- (b) another registered dealer, or
- (c) a person registered in the capacity of a dealer in another jurisdiction.

No contingent fees without client's consent

54 (1) This section applies to a person registered as a dealer or adviser before September 28, 2009.

(2) A registrant may only charge contingent commissions or fees based on profits or performance to a client with the client's prior informed written consent.

Division 7 — Proficiency and Qualification Requirements

Division 8 — Registration and Amendments to Registration

Division 9 — Financial Statements and Financial Reports

Division 10 — Registrant Ownership and Diversification Requirements

Division 11 — Registrants' Conflicts of Interest

Part 6 — Exemption from Registration Requirements

Appendix B

BC Interpretation Note

Discrepancy in terms, definitions and registration categories between the *Securities Act* and National Instrument 31-103

Portfolio manager

Problem

Section 1(1) of the *Securities Act* and section 1.1 of NI 31-103 provide different definitions for the term *portfolio manager*.

The Act defines a *portfolio manager* as “an adviser who manages the investment portfolio of clients through discretionary authority granted by one or more clients”. The term only appears in section 1(1) of the Act. NI 31-103 defines a *portfolio manager* as “a person or company registered in the category of portfolio manager”. In addition, Appendix D of NI 31-103 indicates that, in British Columbia, *portfolio manager* is the new registration category name for both an investment counsel and a portfolio manager.

Interpretation guide

Any reference to the term *portfolio manager* in securities legislation (other than in section 1(1) of the Act) has the meaning set out in NI 31-103.

Future amendments

When possible, we intend to seek amendments to the Act to have the definition of *portfolio manager* repealed.

Salesperson / dealing representative

Problem

Appendix C of NI 31-103 indicates that, in British Columbia, *dealing representative* is the new registration category name for a *salesperson*. However, the Act still defines and refers to a *salesperson*.

Section 1(1) of the Act defines a *salesperson* as “an individual employed by a dealer to make trades on the dealer’s behalf in securities, exchange contracts or both”. This term also appears in sections 35(2)(a) and 49(4) of the Act. NI 31-103 does not provide a definition for a *dealing representative*.

Interpretation guide

The Act provisions that apply to *salespersons* (i.e., s. 35(2)(a) and 49(4)) apply to *dealing representatives*.

Future amendments

When possible, we intend to seek amendments to the Act to repeal the definition of *salesperson*, and repeal and replace the other references to *salesperson*.

Advising employee, partner, director, officer / advising representative

Problem

Appendix C of NI 31-103 indicates that, in British Columbia, *advising representative* is the new registration category name for an *advising employee, partner, director or officer*. However, the Act still refers to an *advising employee, partner, director or officer* in sections 35(2)(a) and 49(4).

Interpretation guide

The Act provisions that apply to an *advising employee, partner, director or officer* apply to an *advising representative*.

Future amendments

When possible, we intend to seek amendments to the Act to repeal and replace the references to an *advising employee, partner, director or officer*.

Underwriter

Problem

There are a number of references in the Act (i.e., sections 35(2)(a), 45(26) and 74(2)(23)) to the *underwriter* registration category. However, this registration category no longer exists.

Previously, section 34 of the Act required a person acting as an underwriter to register as an *underwriter*. Currently, section 34 of the Act requires a person acting as an underwriter to register in the prescribed category, and section 7.1(2) of NI 31-103 states that a person or company registered in the category of *investment dealer, exempt market dealer or restricted dealer* may act as an underwriter.

Interpretation guide

Since the *underwriter* registration category no longer exists, the references to this category are not applicable.

Future amendments

When possible, we intend to seek amendments to the Act to repeal the references to the *underwriter* registration category.

Section 35 of the Act

Problem

Sections 35(1) and (3) of the Act refer to renewing a registration (i.e., the executive director must grant a renewal of registration or must not refuse to renew a registration). However, with permanent registration under NI 31-103, there is no mechanism for an applicant to apply for a renewal of registration.

Interpretation guide

Sections 35(1) and (3) are not applicable for the purposes of renewing a registration.

Future amendments

We intend to ask the legislature to repeal and replace section 35 when possible.

Responsible person

Problem

Section 120(1) of the *Securities Act* and section 13.5(1) of NI 31-103 provide different definitions for the term *responsible person*.

We have not provided the definitions in this Interpretation Note as they are lengthy. However, the term *responsible person* only appears in sections 120 and 130.1 of the Act.

Interpretation guide

Unless otherwise stated, any reference to the term *responsible person* in securities legislation (other than in sections 120 and 130.1 of the Act, NI 81-102, NI 81-107, and NI 81-504) has the meaning set out in NI 31-103.

Future amendments

Sections 33 and 38 of Bill 20 repeal sections 120 and 130.1 of the Act. When possible, we intend to have these sections proclaimed.

, 2009

Brent W. Aitken
Acting Chair

Ref: NI 31-103

This Interpretation Note may refer to other documents. These documents can be found at the B.C. Securities Commission public website at www.bcsc.bc.ca in the section Securities Law & Policy: Policies & Instruments.

Appendix C

BC Instrument 22-502

Registration by the Investment Industry Regulatory Organization of Canada

Amending Instrument

The British Columbia Securities Commission orders that, effective September 28, 2009, BC Instrument 22-502 Registration by the Investment Industry Regulatory Organization of Canada, B.C. Reg. 107/2008, is amended as follows,

1 *BC Instrument 22-502 Registration by the Investment Industry Regulatory Organization of Canada, B.C. Reg. 107/2008, is amended by repealing section 3 and substituting the following:*

Applications to be made to IIROC

- 3** For registration in a category listed below, or reinstatement of or amendment to registration in a category listed below, the applicant must submit the application to the Investment Industry Regulatory Organization of Canada:
- (a) an investment dealer;
 - (b) chief compliance officer of an investment dealer;
 - (c) dealing representative of an investment dealer;
 - (d) an ultimate designated person of an investment dealer.

2 *Section 4 (1) is repealed and the following substituted:*

Powers and duties under sections 35 and 36 of the Act

- 4** (1) On application by an applicant that is a member of the Investment Industry Regulatory Organization of Canada, and on payment of the prescribed fee, the Investment Industry Regulatory Organization of Canada may,
- (a) subject to subsection (2), register an investment dealer, a chief compliance officer, ultimate designated person or dealing representative of an investment dealer if the Investment Industry Regulatory Organization of Canada considers the applicant to be suitable for registration in the capacity applied for;
 - (b) subject to subsection (3), refuse to grant a registration referred to in paragraph (a) if the Investment Industry Regulatory Organization of Canada considers the applicant to be unsuitable for registration,
 - (c) reinstate or amend a registration referred to in paragraph (a), and
 - (d) subject to subsection (3), restrict a registration under paragraph (a) or reinstatement or amendment of registration under paragraph (c), by imposing conditions on the registration, including but not limited to conditions restricting;

- (i) the duration of registration, and
- (ii) the registration to trades in specified securities or exchange contracts or to a specified class of securities or class of exchange contracts.

3 Section 5 is repealed.

4 Section 7 is amended

(a) by repealing paragraph (b),

(b) in paragraph (d) by striking out “trading partner, director or officer” and substituting “dealing representative”,

(c) in paragraph (e) by striking out “salesperson” and substituting “chief compliance officer or an ultimate designate person”,

(d) by repealing paragraph (f).

Clean Version of BC Instrument 22-502

BC Instrument 22-502

Registration by the Investment Industry Regulatory Organization of Canada

Interpretation

1. In this instrument:

"Act" means the *Securities Act*;

"permitted individual" has the same meaning as in National Instrument 33-109 *Registration Information*;

"prescribed fee" means the appropriate fee set out in section 22 of the *Securities Regulation*.

Delegation of powers and duties of the Executive Director

2. Pursuant to section 184(2)(e) to (i) of the Act, the Investment Industry Regulatory Organization of Canada may exercise the powers conferred, and perform the duties imposed, by sections 4 to 6.

Application to be made to IIROC

3. For registration in a category listed below, or reinstatement of or amendment to registration in a category listed below, the applicant must apply to the Investment Industry Regulatory Organization of Canada as

- (a) an investment dealer;
- (b) a chief compliance officer of an investment dealer;
- (c) a dealing representative of an investment dealer, or
- (d) an ultimate designated person of an investment dealer.

Powers and duties under sections 35 and 36 of the Act

4. (1) On application by an applicant that is a member of the Investment Industry Regulatory Organization of Canada, and on payment of the prescribed fee, the Investment Industry Regulatory Organization of Canada may,

- (a) subject to subsection (2), register an investment dealer, a chief compliance officer, an ultimate designated person or a dealing representative of an investment dealer if the Investment Industry Regulatory Organization of Canada considers the applicant to be suitable for registration in the capacity applied for,
- (b) subject to subsection (3) refuse to grant a registration referred to in paragraph (a) if the Investment Industry Regulatory Organization of Canada considers the applicant to be unsuitable for registration,
- (c) reinstate or amend a registration referred to in paragraph (a), and

(d) subject to subsection (3), restrict a registration under paragraph (a) or reinstatement or amendment of registration under paragraph (c), by imposing conditions on the registration, including but not limited to conditions restricting

(i) the duration of registration, and

(ii) the registration to trades in specified securities or exchange contracts or to a specified class of securities or class of exchange contracts.

(2) Before exercising a power under subsection (1)(a), the Investment Industry Regulatory Organization of Canada must satisfy itself that the applicant has followed the proficiency and qualification requirements set out in the bylaws, rules or other regulatory instruments or policies established by the Investment Industry Regulatory Organization of Canada and that those bylaws, rules or other regulatory instruments or policies have been

(a) filed with the commission before they take effect, and

(b) subject to subsection (3), not objected to by the commission.

(3) If the Investment Industry Regulatory Organization of Canada files a bylaw, rule or other regulatory instrument or policy in accordance with subsection (2) (a) and the commission does not give a written notice of objection within 30 days of filing, the bylaw, rule or other regulatory instrument or policy is deemed to have not been objected to by the commission.

(4) The Investment Industry Regulatory Organization of Canada must not exercise a power under subsection (1)(b) or (d) without giving the applicant an opportunity to be heard.

Powers under section 38 of the Act

5. The Investment Industry Regulatory Organization of Canada, with respect to its members, may exercise the executive director's powers under section 38 of the Act.

Registration information filings

6. A person within any of the following categories must submit the information required by National Instrument 33-109 *Registration Information* to the Investment Industry Regulatory Organization of Canada:

(a) an investment dealer submitting information about a permitted individual;

(b) an investment dealer;

(c) a dealing representative of an investment dealer; or

(d) a chief compliance officer or an ultimate designate person of an investment dealer.

Records

7. (1) The Investment Industry Regulatory Organization of Canada must keep for at least 7 years

- (a) every application it receives under this instrument;
- (b) records of every decision it makes under this instrument about registration including any reasons the Investment Industry Regulatory Organization of Canada provides to an applicant, and
- (c) every notice a dealer files under section 6.

(2) The Investment Industry Regulatory Organization of Canada must permit the public to inspect at the Investment Industry Regulatory Organization of Canada's place of business any document required to be kept under subsection (1), except applications it receives under section 3 and any reasons for refusal of registration given to an applicant under section 4(1)(b).

Appendix D

BC Instrument 45-501 *Mortgages*

Amending Instrument

The British Columbia Securities Commission orders that, effective September 28, 2009, Rule 45-501 (BC): Mortgages, B.C. Reg. 189/2000, is amended as follows,

- 1** *Rule 45-501 (BC): Mortgages, B.C. Reg. 189/2000, is amended in section 1 by repealing the definition of “syndicated mortgage” and substituting the following:*

“**syndicated mortgage**” means a mortgage in which two or more persons participate, directly or indirectly, as lenders in the debt obligation that is secured by the mortgage.

- 2** *Section 3 is repealed and the following substituted:*

Restriction on exemption under section 8.12 of National Instrument 31-103 *Registration Requirements and Exemptions*

- 3** Unless the purchaser of the securities is an institutional investor, section 8.12 of National Instrument 31-103 *Registration Requirements and Exemptions* does not apply to a person making a trade of a security if
- (a) the security is a debt obligation that is secured by a mortgage, or other encumbrance, on property that is not real property, or
 - (b) the security is a syndicated mortgage.

- 3** *Section 4 is repealed.*

- 4** *Section 5 is amended by striking out “Sections 34 and 61 of the Securities Act do not apply” and substituting “Section 34 of the Securities Act does not apply”.*

Clean Version of BC Instrument 45-501 Mortgages

BC Instrument 45-501 *Mortgages*

Definitions

1 In this rule:

“institutional investor” means

- (a) a government of Canada or any province of Canada or a crown corporation or agency of a Canadian federal or provincial government;
- (b) a municipal corporation, public board or commission in Canada;
- (c) a savings institution;
- (d) a cooperative credit society as defined in the *Cooperative Credit Associations Act* (Canada) or a savings and credit union, federation or confederation as defined in the *Savings and Credit Unions Act* (Quebec);
- (e) the Business Development Bank of Canada;
- (f) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension supervisory authority;
- (g) an insurance company;
- (h) a trust company or insurer authorized under the laws of Canada or the laws of a province other than British Columbia to carry on business in Canada or that province;
- (i) a mortgage broker acting as principal;
- (j) a person registered under the *Securities Act* or the securities legislation of another province as an investment dealer or equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by it;
- (k) a person registered under the *Securities Act* or the securities legislation of another province as a portfolio manager or equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by it;
- (l) a mutual fund or non-redeemable investment fund, if the investment portfolio of the fund is managed by a person that is registered under the *Securities Act* or the securities legislation of another province as a portfolio manager or equivalent, or
- (m) such other person as may be designated by order of the commission;
“mortgage broker” means a person who is registered under the *Mortgage Brokers Act*;

“qualified syndicated mortgage” means a syndicated mortgage if

- (a) the syndicated mortgage is not contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations;
- (b) the syndicated mortgage is sold through a mortgage broker;
- (c) the syndicated mortgage secures a debt obligation on property used solely for residential purposes and containing no more than four residential dwelling units;
- (d) the syndicated mortgage does not secure a debt obligation incurred for the construction or development of property;
- (e) at the time of issue, the amount of the debt secured by the syndicated mortgage, together with all other debt secured by mortgages on the property that have priority over, or the same priority as, the syndicated mortgage, does not exceed 90 percent of the fair market value of the property, excluding any value that may be attributed to proposed or pending development on the property;
- (f) the syndicated mortgage is limited to one identified debt obligation;
- (g) the rate of interest payable under the syndicated mortgage is equal to the rate of interest payable under the identified debt obligation;
- (h) any amount charged for the administration of the syndicated mortgage is disclosed to the purchaser, and
- (i) the term of the syndicated mortgage is not different from the term of the identified debt obligation;

“syndicated mortgage” means a mortgage in which two or more persons participate, directly or indirectly, as lenders in the debt obligation that is secured by the mortgage.

Interpretation

- 2** Unless otherwise defined in this rule, a term used in this rule that is defined or interpreted in the *Securities Act*, the Securities Rules or National Instrument 14-101 Definitions has the meaning set out in the *Securities Act*, Securities Rules or National Instrument, respectively.

Restriction on exemption under section 8.12 of National Instrument 31-103 Registration Requirements and Exemptions

- 3** Unless the purchaser of the securities is an institutional investor, section 8.12 of National Instrument 31-103 *Registration Requirements and Exemptions* does not apply to a person making a trade of a security if
- (a) the security is a debt obligation that is secured by a mortgage, or other encumbrance, on property that is not real property, or
 - (b) the security is a syndicated mortgage.

Restriction on exemption under section 75 (a) of the Act

4 (Repealed)

Exemption from registration requirements

5 Section 34 of the *Securities Act* does not apply to a trade in a qualified syndicated mortgage if, before the agreement of purchase and sale is entered into, the purchaser is provided with the form of investor disclosure required by the *Mortgage Brokers Act*.

Effective Date

6 This rule comes into force on September 28, 2009.

British Columbia Securities Commission

Companion Policy 45-501CP (BC)

Mortgages

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Policy 45-501CP entitled *Mortgages*, dated April 3, 2002 is revoked and the attached BC Policy 45-501CP *Mortgages* is made.

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

Companion Policy 45-501CP
Mortgages

PART 1 BACKGROUND

1.1 Background

A mortgage is a security. Section 8.12 of National Instrument 31-103 *Registration requirements and exemptions* (NI 31-103) exempts trades in mortgages and other encumbrances of property from the registration requirements of the *Act*. Neither the exemption nor the *Mortgage Brokers Act* was intended to cover mortgage syndications, where a single mortgage is sold to a number of investors. Syndicated mortgages, particularly on commercial property and development property, are complex and risky securities similar to other real estate based securities that are subject to the general requirements of the *Securities Act*.

1.2 Purpose

The purpose of the Commission Rule 45-501(BC) is to

- (1) remove the mortgage exemption in NI 31-103 for syndicated mortgages or for mortgages on property that is not real property, except where the purchaser is an institutional investor, and
- (2) provide a new exemption from the registration requirements of the *Act* for relatively simple syndicated mortgages, called “qualified syndicated mortgages”.

A qualified syndicated mortgage is defined to be a syndicated mortgage on property that is used solely for residential purposes, that contains no more than four residential dwelling units, that is not under construction and that meets other conditions set out in the Commission Rule. Qualified syndicated mortgages would continue to be governed by the *Mortgage Brokers Act*.

PART 2 STATUTORY EXEMPTIONS

2.1 General - The Commission Rule is not intended to restrict the use of other exemptions that are available to issuers in general. These are described in NI 31-103 and BC Instrument 35-xxx. Where an offering memorandum is required for the use of an exemption, BC Form 45-901F is the required form of offering memorandum when mortgages are sold under these exemptions.

Amended September 28, 2009

Appendix E

British Columbia Securities Commission

BC Policy 31-601 *Registration Requirements*

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Policy 31-601 entitled *Registration Requirements* dated January 22, 2008 is revoked and the attached BC Policy 31-601 *Registration Requirements* is made.

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BCP 31-601
Registration Requirements

PART 1 INTERPRETATION

1.1 Purpose of this policy

Securities legislation is designed to ensure that investors receive competent advice and ethical treatment from persons trading in, underwriting or advising on securities and exchange contracts (referred to collectively as securities). The registration system is the legal framework for regulating persons who trade in, underwrite or advise on securities. This policy provides guidance about the registration system requirements in Part 5 of the Act and Rules. It also provides information about how the Executive Director is likely to exercise discretion.

1.2 Refer to the Act and Rules

National Instrument 31-103 Registration Requirements and Exemptions (NI 31-103) sets out most of the requirements for registration under Part 5 of the Act. The balance of the requirements is found in Part 5 of the Rules and in other national instruments, forms and policies in the 30- series. For convenience, we refer to section numbers of the Act, Rules and NI 31-103 in this policy.

You can view the Act, Rules and NI 31-103 at www.bpsc.bc.ca.

1.3 Guidance on certain rules during NI 31-103 transition periods

This policy is a combination of guidance that will remain in effect permanently and guidance that will fall away after the transition periods applicable to certain sections expire.

Persons that were registered on the effective date of NI 31-103 (September 28, 2009) are exempt from certain requirements in that instrument during a transition period (see CSA Staff Notice 31-311 – Proposed National Instrument 31-103 Registration Requirements and Exemptions Transition into the New Registration Regime and BC Notice – Notice of National Instrument 31-103 for information about the transition periods).

During the transition period, those registrants must comply with to the equivalent sections in Part 5 of the Rules and in this policy. In particular:

- the bonding requirements (sections 21 and 22) and requirements related to referral arrangements (section 53) in the Rules will continue to apply for six months after September 28, 2009; and

- the capital requirements (sections 19, 20, 24 and 25) and the relationship disclosure requirements (sections 49, 50, 52, 53 and 54) in the Rules will continue to apply for 12 months after September 28, 2009.

The guidance in Part 2 of this policy, relating to capital and bonding requirements, applies only during the transition periods. We will remove this part of the guidance once those periods expire.

Those persons registered after September 28, 2009 are subject only to the requirements in NI 31-103.

1.4 Defined terms

Terms defined in the Act, Rules, and NI 14-101, and used in this policy, have the same meaning as in the Act, Rules or NI 14-101.

PART 2 BONDING AND CAPITAL REQUIREMENTS DURING TRANSITION PERIODS

This Part provides guidance on the bonding and capital requirements in the Rules that will remain in effect during the transition periods set out in NI 31-103 (see CSA Staff Notice 31-311 – Proposed National Instrument 31-103 Registration Requirements and Exemptions Transition into the New Registration Regime for information about the transition periods). During that time, these requirements will continue to apply to those persons that were registered in the relevant categories on the effective date of NI 31-103, September 28, 2009.

We have retained the historical section references relating to capital and bonding requirements in this policy because Appendices E and F of NI 31-103 cross-reference those section numbers.

2.1 DEALERS

Bonding requirements – effective until 6 months after September 28, 2009

(h) A person registered in the category of securities dealer, exchange contracts dealer, mutual fund dealer, real estate securities dealer or scholarship plan dealer before the effective date of NI 31-103 must have a financial institution bond for a minimum of \$200,000 coverage. An applicant for registration as an investment dealer must have a financial institution bond for coverage in the amount that the Investment Industry Regulatory Organization of Canada (IIROC) requires. Subject to the paragraph that follows, the bond must cover the applicant, its partners, directors, officers, salespersons (including dependent and independent contractors and other employees) for a minimum of:

- fidelity

- on-premises loss of property
- in-transit loss of property
- forgery or alteration
- loss resulting from forged, altered, lost or stolen securities, and
- counterfeit currency

[Rules s. 21(1)(a)].

A person registered in the category of mutual fund dealer before the effective date of NI 31-103 that does not hold client funds or securities and that is permitted by the Executive Director to maintain the lower level of working capital set out in section 10.3 of this policy must, as a minimum, maintain coverage relating to the first three bullets above [Rules ss. 19(5), 21(1)(a)].

A person registered in the category of exchange contracts dealer before the effective date of 31-103 that does not hold client funds or securities and that is permitted by the Executive Director to maintain the lower level of risk adjusted capital set out in section 9.4 of this policy must, as a minimum, maintain coverage relating to the first three bullets above [Rules ss. 19(4), 21(1)(a)].

In each case, the partners or directors of the applicant must state, by certified resolution, that they consider the amount of bonding adequate to cover insurable business risks [Rules s. 21(1)(b)].

2.5 Salesperson and Advising Employee

(h) A person registered as a salesperson of a security issuer before the effective date of NI 31-103 must have a surety bond of a minimum of \$1,000 covering the applicant [Rules s. 21(2)].

Capital requirements – effective until 6 months after September 28, 2009

(i) For the purpose of determining compliance by a person registered before the effective date of NI 31-103 in the categories of mutual fund dealer, scholarship plan dealer or real estate securities dealer with minimum working capital requirements, the Executive Director will consider amounts owing to non-arm's length parties (within the meaning of that term in the Income Tax Act, R.S.C. 1985 (5th Supp.), c. 1) to be current liabilities of the dealer (regardless of repayment terms) unless an unconditional subordination agreement is executed in the required form and filed with the Executive Director [Rules s. 25, BC Forms 33-904F and 33-905F]. The Executive Director may require the person executing the unconditional subordination agreement to file a "Uniform Application for Registration/Approval (B.C.)" [BC Form 31-902F] in that person's capacity as an investor. If the person is a corporation or partnership, the Executive Director may require the principal or principals of the corporation or partnership to file a "Uniform Application for Registration/Approval (B.C.)" [BC Form 31-902F].

9.4 Exchange Contracts Dealer - Positive Risk Adjusted Capital

A person registered as an exchange contracts dealer before the effective date of NI 31-103 must maintain positive risk adjusted capital, but may calculate risk adjusted capital based on a minimum capital requirement of \$100,000 instead of the minimum of \$250,000 required by the Joint Regulatory Financial Questionnaire and Report [Rules s. 19(2), BC Form 33-902F].

If a person registered as an exchange contracts dealer before the effective date of NI 31-103 does not hold client funds or securities and is recognized by the Executive Director as an “introducing broker”, it may calculate risk adjusted capital based on a minimum capital requirement of \$75,000. [Rules s. 19(4)].

13.3 Scholarship Plan Dealer - Working Capital

A person registered in the category of scholarship plan dealer before the effective date of NI 31-103 must maintain working capital, calculated in accordance with the Report of Working Capital, of at least \$75,000 plus the maximum amount deductible under the applicant’s financial institution bond [Rules s. 19(3)].

2.3 ADVISERS

Bonding requirements – effective until 6 months after September 28, 2009

(h) A person registered in the category of portfolio manager or investment counsel before the effective date of NI 31-103 must have a financial institution bond for a minimum of \$200,000 coverage. Subject to the paragraph that follows, the bond must cover the applicant, its partners, directors, officers, advising employees and other employees for a minimum of:

- fidelity
- on-premises loss of property
- in-transit loss of property
- forgery or alteration
- loss resulting from forged, altered, lost or stolen securities, and
- counterfeit currency

[Rules s. 21(1)(a)].

A person registered in the category of investment counsel before the effective date of NI 31-103 that does not hold client funds or securities and that is permitted by the Executive Director to maintain the lower level of working capital set out in section 16.3 of this policy must, as a minimum, maintain coverage relating to the first three bullets above [Rules ss. 20(2), 21(1)(a)].

In each case, the partners or directors of the adviser must, by certified resolution, state that they consider the amount of bonding adequate to cover insurable business risks [Rules s. 21(1)(b)].

Capital Requirements – effective until 12 months after September 28, 2009

(i) For the purpose of determining compliance with minimum working capital requirements, the Executive Director will consider amounts owing to non-arm's length parties (within the meaning of that term in the Income Tax Act, R.S.C. 1985 (5th Supp.), c.1) to be current liabilities of the adviser (regardless of repayment terms) unless an unconditional subordination agreement is executed, in the required form, and filed with the Executive Director [Rules s. 25, BC Forms 33-904F and 33-905F]. The Executive Director may require the person executing the unconditional subordination agreement to file a "Uniform Application for Registration/Approval (B.C.)" [BC Form 31-902F] in that person's capacity as an investor. If the person is a corporation or partnership, the Executive Director may require the principal or principals of the corporation or partnership to file a "Uniform Application for Registration/Approval (B.C.)" [BC Form 31-902F].

15.4 Portfolio Manager - Working Capital

A person registered in the category of portfolio manager before the effective date of NI 31-103 must maintain working capital, calculated in accordance with the Report of Working Capital, of at least \$25,000 plus the maximum amount deductible under the applicant's financial institution bond [Rules s. 20(1), BC Form 33-905F].

16.3 Investment Counsel - Working Capital

Subject to the paragraph that follows, a person registered in the category of investment counsel before the effective date of NI 31-103 must maintain working capital, calculated in accordance with the Report of Working Capital, of at least \$25,000 plus the maximum amount deductible under the applicant's financial institution bond [Rules s. 20(1), BC Form 33-905F].

A person registered in the category of investment counsel before the effective date of NI 31-103 that does not hold client funds or securities and is recognized by the Executive Director must maintain working capital, calculated in accordance with the Report of Working Capital, of at least \$5,000 plus the maximum amount deductible under the applicant's financial institution bond [Rules s. 20(2), BC Form 33-905F].

PART 3 CONDITIONS OF REGISTRATION

3.1 Duty to deal fairly, honestly and in good faith - general

(a) A registrant must deal fairly, honestly and in good faith with clients. Individual registrants must deal fairly, honestly and in good faith with the registered firm's clients [Rules s. 14].

(b) As part of this duty, registrants must make certain disclosures to their clients [see, for example, the disclosure requirements in NI 31-103]. Beyond the particular disclosures prescribed in securities legislation, this principles-based requirement calls for registrants to consider what other information might be of interest or concern to a reasonable client. Registrants should put themselves in the shoes of their clients to understand what information a reasonable client needs in order to be treated fairly, honestly and in good faith.

All communications, including disclosures, should be made so that they are clear and understandable to their clients. For example, if you are selling a product to your client that is structured so that most costs are imposed on the client at the time of the investment or in which costs will be imposed over time, registrants must make this clear to clients. This fair treatment allows the client to assess whether or not, in light of the costs structure, to invest.

(c) It is also important that registrants consider this duty when they are referring clients to other registrants or non-registrants. They should make it clear to the clients which party the clients are dealing with for each service the clients receive and which party is responsible for each of those services.

(d) When there is more than one equally suitable product available to a client, but one product will provide greater remuneration to the registrant (particularly if there is a direct cost to the client for the product that is more remunerative), the registrant should disclose that information to the client. This is fair, honest and good faith treatment that allows the client to make an informed investment decision.

(e) The duty to act fairly, honestly and in good faith also comes into play when registrants hold themselves out as “financial planners” or by similar titles. For this reason, the Executive Director will not normally register a dealing representative if the individual intends to hold herself or himself out as a “financial planner” or by similar title, or as having proficiency in financial planning, unless the individual satisfies the Executive Director that the individual

- is licensed by the Financial Planners Standards Council of Canada to use the designation "Certified Financial Planner" or "CFP", or
- has similar qualifications and, where appropriate, is subject to similar continuing education requirements.

Individual registrants who hold themselves out as financial planners without appropriate qualifications after they are registered are not dealing fairly, honestly or in good faith with their clients. Clients attach importance to representations of expertise and registrants should be meticulous about honestly representing their qualifications to investors.

3.2 Communications with the public

(a) It is important to realize that the definitions of “trade” and “adviser” in the Securities Act are broad [Act, section 1(1)]. “Trade” includes advertising or other solicitations made in furtherance of trading in securities. “Adviser” is any person engaging in, or holding himself, herself or itself out as engaging in, the business of advising another with respect to investment in or the purchase or sale of securities. Registration is required for these activities [Act s. 34].

Dealers, advisers and their representatives must clearly make all communications with the public under the dealer’s or adviser’s registered name. Communications should leave no uncertainty in the mind of the reader about which dealer or adviser is proposing to provide a prospective client with trading or advising services.

(b) Dealers and advisers should make all communications in the name of the dealer or adviser even if there is an agreement between the dealer or adviser and a registered individual that suggests that the latter is something other than an employee of the dealer or adviser. This applies even if the individual is, with the consent of the dealer or adviser and the permission of the Executive Director, conducting activities ancillary to the individual’s registrable activities through a personal company that the individual has established for that purpose.

(c) To prevent misunderstanding on the part of members of the public, a dealer’s or adviser’s signs should be displayed prominently at each location in British Columbia where the dealer or adviser regularly conducts business. Signs, telephone greetings, letterhead, business cards, Internet websites, advertising and other communications with the public should include information a reasonable prospective client would consider important to making an informed decision about entering into a relationship with the registrant or a particular transaction with or through a registrant. For example, a reasonable prospective client would likely consider these features important:

- the registered dealer name or adviser name, appearing prominently;
- if two or more business names are being used in a communication, the registered dealer or adviser name appearing in at least equal size and prominence (including location on a page) as other business names in the communication; and
- if two or more business names are being used in a communication, clear disclosure of the differing products or services offered by each business, where such information is not evident from the names of the businesses.

(d) Business names other than those of the registrant should be used only in the following circumstances:

- if a registrant is also licensed to sell insurance products - in which case the business name or trademark registered with the Insurance Council of British Columbia may be used
- if the registrant's relationship to the division name or trademark is clearly disclosed in the communication – in which case a name representing an unincorporated division or registered trademark of the registered dealer or adviser may be used
- if a registrant is meets the requirements of subsection 3.1(e) of this policy - in which case the financial planning business name registered with the Registrar of Companies may be used
- if a registrant is dually employed by a financial institution and a registered dealer, or where a networking arrangement exists between a financial institution and a registered dealer – in which case the name of the financial institution may be used.

(e) Individual registrants should avoid references in public communication inferring independence from the registered dealer or adviser. Individual registrants are only able to conduct registrable activity through and on behalf of registered firms. If an individual uses two or more business names in a public communication, phrases such as “associated with” or “licensed through” may mislead the public into believing that the individual is independent from the registered firm.

(f) Certain titles, if used by individuals or companies in communication without appropriate proficiency and registration, may mislead the public [Act, s. 34]. For certainty, a registrant should contact the Director, Capital Markets Regulation prior to using any title other than that appearing with its registration.

3.3 Advising

(a) Advising is offering an opinion about the investment merits of, or recommending the purchase or sale of, securities or exchange contracts. It includes making investment decisions for another person. A person that engages in, or holds himself or herself out as engaging in, the business of advising is an adviser and must be registered or exempt from registration.

(b) The provision of factual information about an issuer is not advising, as long as it is not accompanied by a recommendation regarding, or an opinion about the merits of, the issuer's securities.

3.4 Underwriter registration

There is no separate registration category for underwriters in NI 31-103 (NI 31-101, s. 7.2). A person who engages in underwriting activity must register as an investment dealer, exempt market dealer, or restricted dealer whose authority includes underwriting.

3.5 Registered dealer acting as principal

A registered dealer that intends to trade as principal in a security with a person who is not a registered dealer, and that communicates with that person in order to effect the trade, must disclose that it is acting as principal (Act, s. 51). This requirement complements the requirements in NI 31-103 relating to conflicts of interest (s.13.4) and trade confirmations [s.14.12(1)(d)]. These require registrants to take reasonable steps to identify existing material conflicts of interest between the firm and a client and to disclose the nature and extent of such conflicts to clients in a timely manner, as well as to disclose in trade confirmations whether the dealer acted as principal or agent on the trade.

Amended September 28, 2009

Appendix F

British Columbia Securities Commission

BC Instrument 32-503 *Registration Exemption for Salesperson's Corporations*

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 32-503 entitled *Registration Exemption for Salesperson's Corporation*, dated February 26, 2002 is revoked and the attached BC Instrument 32-503 *Registration Exemption for Approved Persons of the Mutual Fund Dealers Association of Canada* is made.

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BC Instrument 32-503
Registration Exemption for Approved Persons of the
Mutual Funds Dealers Association of Canada

Order Under Section 48 of the *Securities Act*

Definitions

In this Instrument,

“corporation” means a corporation incorporated under the laws of Canada or a province or territory of Canada, all of whose directors, officers and shareholders are approved persons of the same dealer or family members of those approved persons;

“dealer” means a registered mutual fund dealer that is a member of the Mutual Fund Dealers Association of Canada;

“approved person” has the same meaning as defined in By-Law No. 1 of the Mutual Funds Dealers Association of Canada;

“dealer registration requirement” means the requirement in securities legislation that prohibits a person or company from trading in a security unless that person or company is registered in the appropriate category of registration under securities legislation; and

“securities business” means trading or advising in securities.

Exemption

A corporation is exempt from the dealer registration requirement, in connection with receiving commissions and fees from a dealer, provided that the corporation and the dealer have a written contract under which the dealer is liable for the acts and omissions of the corporation that relate to securities business.

Appendix G

British Columbia Securities Commission

BC Instrument 33-506

Exemption from cold calling restrictions for registered dealers

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 33-506 entitled *Exemption from cold calling restrictions for Registered Dealers*, dated October 26, 2001 is revoked and the attached BC Instrument 33-506 *Exemption from Cold Calling Restrictions for Registered Dealers* is made.

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BC Instrument 33-506
Exemption from Cold Calling Restrictions for Registered Dealers

Order under section 49(5) of the *Securities Act*

A person registered as a dealer or a dealing representative of a dealer is exempt from section 49(2) of the *Securities Act*.

Appendix H

British Columbia Securities Commission

BC Instrument 45-512 *Real Estate Securities*

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 45-512 entitled *Real Estate Securities*, dated June 5, 2005 is revoked and the attached BC Instrument 45-512 *Real Estate Securities* is made.

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BC Instrument 45-512
Real Estate Securities

Order Under Sections 48 and 76 of the *Securities Act*

Definitions

1. In this Instrument

“audited annual financial statements” means comparative financial statements for a rental pool prepared in accordance with sections 4.1 and 4.2 of National Instrument 51-102 *Continuous Disclosure Obligations*, as if the rental pool were a reporting issuer that is a venture issuer, together with an auditor’s report on the comparative financial statements prepared in accordance with National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

“developer” has the same meaning as given in the *Real Estate Development Marketing Act*;

“disclosure document” means any disclosure statement, prospectus, offering memorandum, summary disclosure statement or financial statements relating to an optional rental pool security or a resort security;

“eligible holder” means a person, other than a developer, that acquired title to an eligible real estate security under an agreement of purchase and sale entered into before November 1, 1996;

“eligible seller” means a seller, other than a developer or an agent acting on a developer’s behalf and includes eligible holder;

“eligible real estate security” means an investment contract comprised of a direct interest in real property with a rental pool agreement or rental management agreement and includes optional rental pool security and resort security;

“financial information” means,

- (a) for a rental pool, the
 - (i) audited annual financial statements for the most recent financial year, which include financial statements for the prior comparative year, and
 - (ii) interim financial statements for any interim periods after the most recent financial year end, and
- (b) for a rental management agreement, quarterly statements of revenues and expenses for the property under the rental management agreement for the two-year period preceding the entering into of the agreement of purchase and sale for that property, if the property was subject to a rental management agreement during that two-year period;

if the developer or manager has delivered, or is required to have delivered under this order, those statements to a holder of an Optional Rental Pool Security or a Resort Security;

“interim financial statements” means interim financial statements for the rental pool prepared in accordance with sections 4.3 and 4.4 of National Instrument 51-102 *Continuous Disclosure Obligations* as if the rental pool were a reporting issuer;

“manager” means any manager or operator under a rental pool agreement or rental management agreement;

“marketing” means any sales communication, excluding providing any disclosure document;

“optional rental pool security” means an investment contract

- (a) that is comprised of a direct interest in real property and an option to enter into a rental pool agreement for that property,
- (b) that does not include, or purport to include, any rental or cash flow guarantee, or other financial commitment on the part of any person connected with the offering;
- (c) under which the rental pool agreement is entered into at the sole discretion of the owner and is terminable by the owner at any time at the owner’s sole discretion, with reasonable notice or on other reasonable conditions, and
- (d) under which the owner has the right to occupy the property at any time, with reasonable notice;

“rental management agreement” means an agreement, other than a rental pool agreement, under which a person manages the generation of revenue from real property for another person;

“rental pool” for a particular property means an arrangement under which revenues derived from, and/or expenses relating to, that property and other properties are pooled and shared among the owners of the properties in accordance with their proportionate interests in the pool;

“rental pool agreement” means the agreement or agreements creating or giving rise to a rental pool;

“resort security” means either a Type A resort security or a Type B resort security;

“sales communication” means communication, including advertising, by an issuer, developer, vendor, promoter or manager, or an agent acting on behalf of any of the foregoing persons, to a prospective purchaser of an eligible real estate security with the intention or effect of inducing the purchase by a prospective purchaser of the eligible real estate security;

“summary disclosure statement” means,

- (a) for a rental pool, a summary of the rental pool arrangement that includes
 - (i) items 1, 2(1), 5, 6, 7, 8(1), (2), (3) and (4), 9(b) and 15 of BC Form 45-906F with respect to the offering, modified as necessary to reflect the operation of the rental pool and the form of disclosure, and
 - (ii) items 11(2), (3) and (4) of BC Form 45-906F with respect to the manager under the rental pool agreement, modified so that the period of disclosure runs from the date of the certificate attached to the summary;

and is certified by the developer or manager in the form of certificate required under item 18 of BC Form 45-906F, and

- (b) for a rental management agreement,
 - (i) the rental management agreement, and
 - (ii) a summary of the rental manager’s past experience that includes items 11(2), (3) and (4) of BC Form 45-906F with respect to the manager under the rental management agreement, modified so that the period of disclosure runs from the date of the certificate attached to the summary, and is certified by the developer or manager in the form of certificate required under item 18 of BC Form 45-906F;

“Type A Resort Property” means real property

- (a) that is located in a ski resort area;
- (b) that is subject to a restrictive covenant or other restriction on the owner’s right to occupy the property, in favor of the Province, a municipality or other government authority (other than a zoning restriction), that is registered against the title of the property;
- (c) for which the restrictive covenant or other restriction does not restrict the number of days during a year, season or other period that the owner may occupy the property, and
- (d) for which the restrictive covenant or other restriction requires that when the property is not occupied by the owner, the property must be available for rent to the general public;

“Type A Resort Security” means an investment contract

- (a) that is comprised of a direct interest in a Type A Resort Property with either a rental pool agreement or rental management agreement for that property;
- (b) that does not include, or purport to include, any rental or cash flow guarantee, or other financial commitment on the part of any person connected with the offering, and

- (c) under which the owner has the right to occupy the property at any time, with reasonable notice;

“Type B Resort Property” means real property

- (a) that is located in a ski resort area;
- (b) that is subject to a restrictive covenant or other restriction on the owner’s right to occupy the property, in favor of the Province, a municipality or other government authority (other than a zoning restriction), that is registered against the title of the property;
- (c) for which the owner’s right to occupy is limited by the restrictive covenant or other restriction to a stipulated maximum number of days per annum or season or other period (the “Occupancy Period”), and
- (d) for which the Occupancy Period stipulated by the restrictive covenant or other restriction is, in any case, not less than 30 days per annum; and

“Type B Resort Security” means an investment contract

- (a) that is comprised of a direct interest in a Type B Resort Property with either a rental pool agreement or rental management agreement for that property;
- (b) that does not include, or purport to include, any rental or cash flow guarantee, or other financial commitment on the part of any person connected with the offering, and
- (c) under which the owner has the right to occupy the property for the entire Occupancy Period stipulated by the restrictive covenant or other government-imposed restriction, with reasonable notice or on other reasonable conditions.

Interpretation

2. Unless otherwise defined in this Instrument, terms used in this Instrument that are defined or interpreted in the *Securities Act* or Securities Rules should be read in accordance with the *Securities Act* or Securities Rules.

Registration and Prospectus Exemption for Trades of Eligible Real Estate Securities

3 (1). An intended trade by a developer, or an agent acting on its behalf, of an Optional Rental Pool Security or a Resort Security is exempt from the requirements of sections 34 (a) and 61 of the *Securities Act* provided that

- (a) the developer has filed with the Superintendent of Real Estate, under Part 2 of the Real Estate Marketing and Development Act, and delivered to the purchaser before an agreement of purchase and sale is entered into, a disclosure statement or prospectus in the form required by BC Form 45-906F, excluding items 7, 8(5) and 17;

- (b) financial forecasts or projections are not used in any communications, except in the disclosure document;
- (c) where any financial forecasts or projections are included in the disclosure document, these are prepared in accordance with section 4250 of the CICA Handbook and are audited in accordance with the Assurance and Related Services Guidelines of the CICA Handbook entitled “AuG-6 Examination of a Financial Forecast or Projection Included in a Prospectus or Other Public Offering Document”;
- (d) where there is a rental pool, the rental pool agreement imposes an irrevocable obligation on the developer or the manager to send to a holder of the securities audited annual financial statements for the rental pool on or before the 140th day after the end of each financial year of the rental pool;
- (e) where there is a rental pool, the rental pool agreement imposes an irrevocable obligation on the developer or the manager to send to a holder of the securities interim financial statements on or before the 60th day after the date to which they are made up;
- (f) where there is a rental management agreement, the agreement imposes an irrevocable obligation on the developer or the manager to send to a holder of the securities quarterly statements of revenues and expenses for the property subject to the rental management agreement on or before the 60th day after the date to which they are made up;
- (g) in the case of a Type B Resort Security, the rental pool agreement or rental management agreement imposes an irrevocable obligation on
 - (i) the developer to deliver to any subsequent prospective purchaser, upon reasonable notice of an intended sale by the holder of the security, before an agreement of purchase and sale is entered into, if a subsequent trade by a holder of a Type B Resort Security occurs within 12 months of, or prior to, the issuance of permission to occupy the property, the disclosure statement or prospectus filed in accordance with subsection 1(a), and
 - (ii) the developer or the manager to deliver to any subsequent prospective purchaser, upon reasonable notice of an intended sale by the holder of the security, before an agreement of purchase and sale is entered into, if a subsequent trade by a holder of a Type B Resort Security occurs after 12 months from the date of the issuance of permission to occupy the property, a summary disclosure statement,
- (h) the rental pool agreement or rental management agreement imposes an irrevocable obligation on the developer or the manager to deliver to a subsequent prospective purchaser, upon reasonable notice of an intended sale by the holder of the security, financial information before an agreement of purchase and sale is entered into;

- (i) there is no marketing of the expected economic benefits of the rental pool agreement or rental management agreement to a prospective purchaser, and
 - (j) the rental pool agreement or rental management agreement imposes an irrevocable obligation on a holder of the security to notify
 - (i) the developer or the manager about an intended trade prior to selling the Optional Rental Pool Security or Resort Security, and
 - (ii) subsequent prospective purchasers of their right to obtain from the developer or the manager financial information and, in the case of a Type B Resort Security, the applicable disclosure document.
- (2). An intended trade by an eligible holder, or an agent acting on the eligible holder's behalf, in an eligible real estate security not including an optional rental pool security or a resort security is exempt from the requirements of sections 34(a) and 61 of the *Securities Act* if the eligible holder, or any agent acting on the eligible holder's behalf, does not advertise the expected economic benefits of any rental pool agreement or rental management agreement to a prospective purchaser.

Resale restrictions for subsequent trades in eligible real estate securities

4. A subsequent trade in an eligible real estate security, is exempt from the requirements of s 34(a) and 61 of the *Securities Act* if
- (a) the seller is an eligible seller, and
 - (b) the seller, or an agent acting on the seller's behalf, does not advertise the expected economic benefits of the rental pool agreement or rental management agreement to a subsequent prospective purchaser.

Appendix I

British Columbia Securities Commission

BC Instrument 45-514 *The Employee Investment Act*

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 45-514 entitled *The Employee Investment Act*, dated November 30, 2001 is revoked and the attached BC Instrument 45-514 *The Employee Investment Act* is made.

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BC Instrument 45-514
The Employee Investment Act

Order under Sections 48 and 76 of the Securities Act

Application

1. This BC Instrument provides relief for an employee venture capital corporation to trade shares to permitted purchasers and for those permitted purchasers to trade to other permitted purchasers, all subject to certain conditions.

Definitions

2. (a) In this Instrument

"Act" means the Securities Act, R.S.B.C 1996, c.418;

"EI Act" means the Employee Investment Act, R.S.B.C. 1996, c. 112;

"Employee" means, when used in relation to an eligible business, an employee of the eligible business or of an affiliate of the eligible business;

"EVCC" means an employee venture capital corporation registered under the EI Act, and constituted to

- (i) restrict the EVCC to investing in shares of a particular eligible business and in investments permitted by section 22(1)(b), (d), (e) and (f) of the EI Act, and
- (ii) prohibit the EVCC from issuing shares to any person other than a permitted purchaser;

"NI 45-102" means National Instrument 45-102 Resale of Securities;

"permitted purchaser" means, when used in relation to an EVCC, an Employee of the EVCC's eligible business.

(b) Unless otherwise defined, terms defined in the EI Act have the same meaning in this Instrument.

Exemption

3. Sections 34 and 61 of the Act do not apply to an EVCC provided that

- (a) the EVCC has distributed its shares only
 - (i) to permitted purchasers, and
 - (ii) to the first subscriber or subscribers under section 10(1) of the Business Corporations Act SBC 2002 c. 57;
- (b) the trade is made under the employee venture capital plan of the EVCC;
- (c) the share certificate contains a legend stating that transfers of the share must comply with NI 45-102 and this Instrument, and
- (d) before the trade, the EVCC notifies the permitted purchaser in writing about the resale restrictions this Instrument and NI 45-102 impose.

4. Any trade in shares issued by an EVCC under section 3 of this Instrument is subject to section 2.6 of NI 45-102.

5. Sections 34 and 61 of the Act do not apply to

- (a) a trade by a permitted purchaser to another permitted purchaser of shares issued by an EVCC; or
- (b) a trade by an Employee to another Employee of shares issued by an eligible business under an ESOP.

Appendix J

British Columbia Securities Commission

Bulk Revocation Order

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that the following BC Instruments, Interpretation Notes and Policy are revoked, effective September 28, 2009:

- BC Instrument 31-503 *Exchange Contract Dealers Trading in Commodity Pool Securities*, dated May 30, 2001
- BC Interpretation Note 31-701 *Advising under the Securities Act*, dated December 21, 2000
- BC Interpretation Note 31-702 *Web posted notice confirming registration*, dated June 1, 2001
- BC Instrument 32-501 *Advising and related trading under an exemption*, dated April 25, 2001
- BC Instrument 32-502 *Exemption from suitability requirements*, dated September 6, 2001
- BC Instrument 32-504 *Registrant Disclosure of Conflicts of Interest*, dated June 2, 2003
- BC Instrument 32-505 *Exemption for Mutual Fund Dealers to sell securities of certain employee venture capital corporations and venture capital corporations*, dated September 30, 2003
- BC Instrument 33-502 *Registration Requirements for members of the Investment Dealers Association Canada*, dated February 3, 2000
- BC Instrument 33-504 *Exemption from section 80(2) of the Securities Rules*, dated April 26, 2001
- BC Instrument 33-508 *Exemption from sections 16 and 73 of the Securities Rules – Registrant ownership*, dated April 16, 2003
- BC Interpretation Note 33-701 *Trading by Limited Dealers under Registration Prospectus exemptions*, dated September 14, 2005
- BC Interpretation Note 33-702 *Powers of attorney and trading authorities- Registrants' Duties*, dated April 25, 2001
- BC Interpretation Note 33-703 *Dealers and their Salespersons*, dated April 25, 2001
- BC Instrument 35-501 *Remote Access Trades on the Canadian Venture Exchange*, dated November 26, 1999
- BC Instrument 45-502 *Cooperative Associations*, dated January 31, 2001

- BC Policy 45-502CP *Cooperative Associations*, dated April 3, 2002
- BC Instrument 45-510 *Trades in Self-Directed Registered Educational Savings Plans*, dated March 28, 2001
- BC Instrument 45-513 *Resale Relief for Eligible Real Estate Securities*, dated April 25, 2001
- BC Instrument 45-527 *Exemptions for certain supra-national agencies* dated April 28, 2006
- BC Interpretation Note 45-701 *Meaning of “fully managed” accounts*, dated December 20, 2000
- BC Notice 45-702 *Exemptive relief for certain real estate securities*, dated April 26, 2001
- BC Interpretation Note 45-703 *Offering documents requiring written underwriting procedures and registration as an underwriter*, dated September 14, 2005
- BC Instrument 81-502 *Confirmation of purchase and sale for units of certain mutual funds*, dated March 17, 2000
- BC Instrument 81-504 *Transactions between mutual funds and responsible persons relating to certain debt securities, mortgages, and equity securities*, dated February 28, 2001

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

Appendix K

Rescission

The Executive Director rescinds the specification of the following forms under section 182 of the *Securities Act*, effective September 28, 2009:

- BC Form 31-901F *Application for Registration as dealer, adviser, or underwriter*
- BC Form 33-907F *Conflict of interest rules statement*
- BC Form 33-908F *Statement and undertaking*
- BC Form 34-901F *Summons for an Examination under section 38(c)*
- BC Form 35-901F *Additional information from out of province registrants*

, 2009

Brenda M. Leong
Executive Director

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 182

Other (specify):-

Appendix L

BC Instrument 33-512

Exemption for Foreign Advisers from the NRD Account Requirements

The Executive Director, considering that to do so would not be prejudicial to the public interest, orders that BC Instrument 33-512 entitled *Exemption for Foreign Advisers from the NRD Account Requirements*, dated November 23, 2003 is revoked, effective September 28, 2009.

, 2009

Brenda M. Leong
Executive Director

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 182

Other (specify):-

Appendix M

British Columbia Securities Commission

BC Instrument 33-513 *Exemption from financial statement, capital and bonding requirements for MFDA Members*

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 33-513 entitled *Exemption from financial statement, capital and bonding requirements for MFDA Members*, dated November 25, 2003 is revoked and the attached BC Instrument 33-513 *Exemption from capital and bonding requirements for MFDA Members* is made.

, 2009

Brent W. Aitken
Acting Chair

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BC Instrument 33-513
Exemption from capital and bonding requirements for MFDA members

Order under section 48(1) of the *Securities Act*

Interpretation

1. Terms defined in the *Securities Act*, the *Securities Rules* or National Instrument 14-101 *Definitions* have the same meaning in this Instrument.

Relief from capital, and bonding requirements

2. A registrant that is a member of the Mutual Fund Dealers Association of Canada (MFDA) is exempt from sections 19(3), 19(5) and 21 of the *Securities Rules* if it complies with the bylaws, rules, and other regulatory instruments and policies of the MFDA relating to capital, financial filings, and bonding.

Appendix N

British Columbia Securities Commission

BC Instrument 33-514

Exemption from capital, bonding and financial reporting requirements for certain portfolio managers and investment counsel

The Executive Director, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 33-514 entitled *Exemption from capital, bonding and financial reporting requirements for certain portfolio managers and investment counsel*, dated March 30, 2004 is revoked and the attached BC Instrument 33-514 *Exemption from capital and bonding requirements for certain portfolio managers* is made.

, 2009

Brenda M. Leong
Executive Director

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BC Instrument 33-514
Exemption from capital and bonding requirements for certain portfolio managers

Order under section 48(1) of the *Securities Act*

Relief

A portfolio manager is exempt from sections 20 and 21 of the *Securities Rules* if

- (a) its head office is in the United States of America, it is registered by the Securities and Exchange Commission as an investment adviser, and it complies with the capital and bonding requirements under the *Investment Advisers Act of 1940*, or
- (b) its head office is in another province of Canada, it is registered by the securities regulatory authority of that province as a portfolio manager, and it complies with the capital and bonding under the securities legislation of that province.

Appendix O

British Columbia Securities Commission

BC Instrument 33-515 *Exemption from financial statement, capital and bonding requirement for IDA members*

The Executive Director, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 33-515 entitled *Exemption from financial statement, capital and bonding requirement for IDA members*, dated June 25, 2005 is revoked and the attached BC Instrument 33-515 *Exemption from capital and bonding requirements for Investment Industry Regulatory Organization of Canada members* is made.

, 2009

Brenda M. Leong
Executive Director

(This part for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 171

Other (specify):-

BC Instrument 33-515
Exemption from capital and bonding requirements for
Investment Industry Regulatory Organization of Canada members

Order under Section 48(1) of the *Securities Act*

A registrant that is a member of the Investment Industry Regulatory Organization of Canada (IIROC) is exempt from sections 19(1), 19(2), 21 and 22 of the *Securities Rules* if it complies with the bylaws, rules, or other regulatory instruments and policies of IIROC relating to capital and bonding.

Appendix P

British Columbia Securities Commission

BC Instrument 33-XXX

Blanket Order providing registration exemption for capital raising

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective September 28, 2009, BC Instrument 33-5xx entitled “Registration exemption for trades in connection with certain prospectus-exempt distributions” is made.

, 2009

Brent W. Aitken
Acting Chair

(This part is for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Act and sections:- *Securities Act*, section 48(1)

BC Instrument 33-5xx
***Registration exemption for trades in connection with
certain prospectus-exempt distributions***

Order under section 48(1) of the Securities Act

Definitions

1. Terms defined in the *Securities Act*, R.S.B.C. 1996, c. 418, as amended (the **Act**) or in National Instrument 14-101 *Definitions* have the same meaning in this order.

Background

2. National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**) classifies a registrant who trades in securities distributed under an exemption from the prospectus requirement as an exempt market dealer.
3. **NI 31-103** prescribes conditions of registration and other requirements and restrictions applicable to an exempt market dealer.
4. National Instrument 45-106 *Prospectus and Registration Exemptions* exempts from the prospectus requirement certain distributions made relying on section 2.3 (to *accredited investors*), section 2.5 (to *family, friends and business associates*), section 2.9 (under an *offering memorandum*) or section 2.10 (*minimum investment amount*) (each of foregoing distributions being a *prospectus-exempt distribution*).
5. The Commission considers that limited relief from the requirement to register as an exempt market dealer for a trade in a security in connection with a *prospectus-exempt distribution* would not be prejudicial to the public interest.

Order

6. The Commission orders, under section 48(1) of the Act, that the dealer registration requirement does not apply to a trade in a security by a person or company in connection with a prospectus-exempt distribution, provided that:
 - (a) the person is not registered under provincial or territorial securities legislation;
 - (b) the person is not registered under the securities legislation of a foreign jurisdiction;
 - (c) prior to the trade, the person does not advise, recommend or otherwise represent to the purchaser that the security being traded is suitable for the purchaser, with regard to the purchaser's

- (i) investment needs and objectives,
 - (ii) financial circumstances, or
 - (iii) risk tolerance;
- (d) at or before the time at which the purchaser enters into an agreement to purchase the security, the person obtains from the purchaser a signed Risk Acknowledgement Form in the form prescribed in Appendix A;
- (e) the person does not hold or have access to the purchaser's assets;
- (f) the person has electronically filed with the Commission a current information report in the form prescribed in Appendix B, or has filed an update of a previously filed information report, on or before the 10th day after the prospectus-exempt distribution.

Appendix A to BCI 33-5xx

**Risk Acknowledgement under BCI 33-5xx *Registration exemption for trades
in connection with certain prospectus-exempt distributions***

I acknowledge that

- the person selling me these securities is not registered with a securities regulatory authority and is prohibited from telling me that this investment is suitable for me;
- the person selling me these securities does not act for me;
- this is a risky investment and I could lose all my money; and,
- I am investing entirely at my own risk.

Date

Signature of Purchaser

Print name of Purchaser

Sign two copies of this document. Keep one copy for your records.

National Instrument 45-106 *Prospectus and Registration Exemptions* may require you to sign an additional risk acknowledgement form.

If you want advice about the merits of this investment and whether these securities are a suitable investment for you, contact a registered adviser or dealer.

Appendix B to BCI 33-5xx

Information report under BC Instrument 33-5xx
Registration exemption for trades in connection with
certain prospectus-exempt distributions

[Date]

To: ___ Alberta Securities Commission
 ___ British Columbia Securities Commission
 ___ Government of the Northwest Territories, Securities Office
 ___ Government of Nunavut, Securities Office
 ___ Government of the Yukon Territory, Community Services, Securities Office
 ___ Manitoba Securities Commission

INSTRUCTION: Choose the jurisdiction(s) in which you are in the business of trading in securities. For a discussion about what constitutes being in the business of trading in securities, see Companion Policy 31-103 *Registration Requirements and Exemptions*.

[Name of firm or, if a sole proprietor, individual owner's name and any related trade names]

INSTRUCTION: State the full name of the firm or individual

[Street address]

INSTRUCTION: State the street office for the head office of the firm or proprietorship. Do not include a P.O. box or agent for service.

[Website address for firm]

INSTRUCTION: State the website address for the firm. If there is no website address, state "not applicable".

[Telephone number for firm or, if sole proprietor, individual]

[Name of individual responsible for ensuring conditions to use this registration exemption are met]

INSTRUCTION: State the name of the individual who may be contacted with respect to any questions regarding the contents of this report. This individual should be a senior executive for the firm.

[Telephone number for responsible individual named above]

[E-mail address for responsible individual named above]

Does the firm also carry on business at other office locations? __ Yes __ No

[Names of salespersons employed by the firm to sell securities]

[Date]

Collection and use of personal information

The personal information submitted in this report is collected on behalf of and used by the securities regulatory authorities or, where applicable, the regulators under the authority granted in securities legislation for the purposes of its administration and enforcement of the securities legislation.

If anyone referred to in this report has any questions about the collection and use of their personal information, they can contact the regulator in the jurisdiction(s) where the report is filed, at the address(es) listed below.

Alberta

Alberta Securities Commission
4th Floor, 300 - 5th Avenue SW
Calgary, AB T2P 3C4
Attention: Information Officer
Telephone: (403) 355-4151

British Columbia

British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, BC V7Y 1L2
Attention: Freedom of Information Officer
Telephone: (604) 899-6500 or (800) 373-6393

Manitoba

The Manitoba Securities Commission
500 - 400 St. Mary Avenue
Winnipeg, MB R3C 4K5
Attention: Director of Registrations
Telephone: (204) 945-2548
Fax: (204) 945-0330

Northwest Territories

Government of the Northwest Territories
P.O. Box 1320
Yellowknife, NWT X1A 2L9
Attention: Deputy Superintendent of Securities
Telephone: (867) 920-8984

Nunavut

Legal Registries Division
Department of Justice
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Appendix Q

BC Policy 33-5xx

Registration exemption for trades in connection with certain prospectus-exempt distributions

On March 28, 2010, the Commission ordered that BC Instrument 33-xxx *Registration exemption for trades in connection with certain prospectus-exempt distributions* come into force and effect. This BC Policy explains how the Commission interprets and applies that instrument.

The Commission has ordered that a person is exempt from the dealer registration requirement when trading in securities in connection with a distribution made in reliance on one or more of the following prospectus exemptions contained in National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106):

- accredited investor (section 2.3);
- family, friends, and business associates (section 2.5);
- offering memorandum (section 2.9), and
- minimum investment amount (section 2.10).

The purpose of this Policy is to guide market participants in understanding when they may rely on the blanket registration exemption, including information on the conditions upon which the exemption is granted and the Commission's expectations of market participants who rely on the exemption.

A market participant that is in the business of trading in securities is required to register as a dealer. To decide whether you are in the business of trading in securities, see the discussion in Companion Policy 31-103CP *Registration Requirements and Exemptions* on this point.

Exemption not available to registered persons

The exemption is not available to a person registered in any jurisdiction, including foreign jurisdictions. We feel this restriction is necessary to ensure a registrant has the same obligations to all its clients who purchase, or seek advice on, any type of security.

No suitability advice

A market participant relying on this exemption must not provide advice to the purchaser, and is restricted to providing factual information about the security and the purchase agreement. For example, a market participant may tell the purchaser about the features of the security, the risks of the investment, how the subscription agreement works, and other items of a general, factual nature.

That same market participant must not give suitability advice to the purchaser. This means the market participant cannot tell the purchaser that the securities are a good investment or that the purchaser should, for whatever reason, enter into the purchase

agreement. The market participant must refrain from saying or doing anything that might lead the purchaser to think that they should buy the security because it somehow meets their investment needs or desires. The market participant must refrain from answering any of the purchaser's questions that are related to the purchaser's

- investment needs and objectives;
- financial circumstances, or
- risk tolerance.

To prevent any misunderstanding, a market participant relying on this exemption should communicate to the purchaser that only a registered dealer or adviser that is permitted to trade in or advise on these securities can tell the purchaser whether the security is suitable for the purchaser. If a purchaser persists in asking questions that relate to suitability, the market participant should reiterate the point.

Market participants relying on this exemption should refrain from using marketing materials that suggest general suitability or suitability for a particular kind or demographic of purchaser. Marketing materials that are at odds with or contradict the information in the risk acknowledgement the purchaser reads and signs create genuine opportunities for confusion. We will take the effect of marketing materials into account when considering whether this condition for using the exemption has been met.

Risk acknowledgement

The risk acknowledgement signed by the purchaser and obtained by the market participant must be in the form specified in the exemption order.

The disclosure in this risk acknowledgment describes risks that are particular to the purchase transaction and the absence of suitability advice, in addition to describing the general risks inherent in prospectus-exempt securities. The disclosure in this risk acknowledgement differs from, and is additional to, the disclosure in the risk acknowledgement required by NI 45-106. When the market participant trading the security to the purchaser is an agent of the issuer, the agent must ensure that the purchaser signs both the NI 45-106 risk acknowledgement, if applicable, and this risk acknowledgement. We note that this risk acknowledgement must be obtained for all trades under this exemption (accredited investor, friends, family, and business associates, and minimum investment amount), even if there are no risk acknowledgement requirements under the related NI 45-106 prospectus exemption.

It is the market participant's responsibility to understand the contents of the risk acknowledgement and to explain the risk acknowledgement in a clear, plain way to the purchaser. The purchaser should clearly understand, by the end of discussions with the market participant, that this purchase transaction offers fewer protections than are available when purchasing other kinds of securities.

No hold or have access to purchaser's assets

A market participant who holds or has access to a purchaser's assets cannot rely on this exemption. Indicia of holding or having access to a purchaser's assets include, but are not limited to:

- holding a purchaser's securities certificates or cash for any period of time;
- having authority (e.g. power of attorney) to withdraw funds or securities from a purchaser's account;
- accepting funds from a purchaser directly (e.g. a cheque made payable to the market participant) or accepting funds on the purchaser's behalf from a custodian;
- acting in the capacity of a trustee for a purchaser;
- having, in any capacity, legal ownership of, or access to, the purchaser's funds or securities.

For the purposes of this condition, we interpret the phrase "hold or have access" as not including the handling in transit of a purchaser's cheque made payable to a third party. Thus, for example, a market participant can normally handle a purchaser's cheque made payable to the issuer of the securities being traded pursuant to this exemption. This would not be the case, however, if the issuer and the market participant have the same officers in which case we would interpret the market participant as holding or having access to the purchaser's assets.

Reporting

A market participant that relies on this exemption must file an information report with the Commission within 10 days of relying on this exemption. Where a market participant has previously filed an information report pursuant to this exemption and is subsequently relying on this exemption to trade in securities, the market participant is required to update any changes to that previously filed report, within 10 days of relying on this exemption.

We will use the information collected for research and compliance purposes.

Recordkeeping

To demonstrate compliance, market participants will need to keep records demonstrating that they met the conditions of this exemption when they sold a prospectus-exempt security. Evidence of the purchaser's risk acknowledgement should be kept for a reasonable period of time. In NI 45-106, the equivalent prospectus exemption risk acknowledgement condition requires that the risk acknowledgement be kept for 8 years.

The market participant should also retain evidence of communications between the market participant and the purchaser. This will serve the market participant well from a compliance standpoint and if a dispute ever arises between the market participant and the purchaser.