

# News & Views

A BULLETIN FROM THE REGISTRATION DIVISION

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## Registration Division

Ross McLennan  
*Director*

Gail Molyneux  
*Secretary to Director*

Gayle Carlson  
*Supervisor, Registration*

Karin Armstrong  
*Senior Registration Clerk*

Toni Mavrogeorge  
*Registration Clerk*

Kent Waterfield  
*Registration Clerk*

Theresa Fleming  
*Assistant*

John Osborne  
*Chief Examiner*

Michael Sorbo  
*Examiner*

Wendy Sullivan  
*Examiner*

Robert Hudson  
*Special Advisor, Registration*

## An Introduction from the Executive Director

I am pleased to be sending you this first edition of the new periodic newsletter of the Registration Division of the British Columbia Securities Commission.

The Registration Division is responsible for reviewing and processing applications for registration of all dealers, underwriters, advisers and salespersons licensed under the Securities Act. It also oversees the registration activities that are carried out by the Vancouver Stock Exchange and the Investment Dealers Association (Pacific District). Finally, the Division monitors compliance by registrants with the capital and conduct requirements of the legislation.

The purpose of News and Views is to provide guidance to the industry on important compliance issues and to help ensure registrants are aware of changes in the legislation and in Commission policies. We hope you will find it useful and that you will give us your suggestions for future issues. As well we are soliciting opinions on a new name for this newsletter.

Paul C. Bourque, Executive Director

The British Columbia Securities Commission is the provincial crown agency responsible for the regulation of securities and exchange contract trading in British Columbia.



Some of the Registration Division staff, clockwise from lower left: Wendy Sullivan, Michael Sorbo, Stacie Ross, Ross McLennan, Kent Waterfield, Gayle Carlson, Robert Hudson, John Osborne and Karin Armstrong.



## VISIT OUR WEB SITE

Browse the BC Securities Commission's new Website at:

<http://www.bcsc.bc.ca>.

There you will find:

- information on SEDAR, the new national system for electronic filing of corporate disclosure documents,
- Commission news releases and decisions,
- investor alerts,
- brochures on securities regulation,
- insider reports,
- reports of exempt distributions,
- the list of defaulting reporting Issuers,
- links to other useful regulatory web sites, and
- an e-mail link for feedback and questions.

# INFORMATION UPDATE

## A New Securities Act

Effective April 21, 1997, the Securities Act was consolidated and renumbered. Many section numbers changed, but the content and effect of the legislation did not. The current legislation is the Securities Act, R.S.B.C. 1996,c418. Copies can be obtained from the Queen's Printer, or from World Wide Books and Maps or Superior Repro in Vancouver.

## Cold Calling

Section 49 of the Securities Act prohibits 'cold calling' at any residence. It says that a person must not attend at any residence, or telephone from B.C. to any residence anywhere, for the purpose of trading in securities or exchange contracts.

The legislation does, however, allow registrants to call the homes of clients on whose behalf the registrant "has been in the habit of trading in securities or exchange contracts".

The Act does not preclude 'cold calling' of potential clients at work, providing that the person does not work at their residence.

If in doubt about your client development program, speak to legal counsel.

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## The Fair Dealing Rule

On January 1, 1996, a new 'fair dealing' Rule took effect. It requires that all registrants deal fairly, honestly and in good faith with their clients. This is, of course, the standard of conduct that has always been expected of registrants. The new Rule codifies that expectation and enables the Commission to impose administrative fines, along with the other available sanctions, on those who fail to comply.

## Disclosure to Clients

Section 50 of the Rules specifies the information that every registrant must provide to clients and prospective clients on request. The section also requires that dealers inform their clients that the information is available. Our Notice #96/10 sets out one acceptable form of notification on client statements of account.

Under the Rule, clients may ask for information on, among other things, a registrant's category of registration, qualifications and disciplinary history.

One other piece of information that dealers must make available on request is the "Statement of Financial Condition", an abbreviated financial statement to be prepared in accordance with the Commission's Form 63. This statement must be audited and filed with the Commission annually, along with other filings that are due within 90 days of the dealer's year-end.

A FEW WORDS ON

# Knowing YOUR Clients

**T**here is no obligation more fundamental to the industry than the 'know your client' rule. It is discussed at length in mandatory training programs and incorporated into the rules of the self-regulatory organizations. It is also a legal obligation imposed on all registrants by section 48 of the Securities Rules.

You will note that the legislation does not specify the questions you must ask or the information you must obtain from each client to satisfy your obligation. Instead it provides the necessary flexibility to cover the wide range of activities of various registrants and challenges individual firms to consider what is adequate information to make and to demonstrate informed decisions or recommendations.

Whether you are dealing or advising on government bonds, mutual funds, limited partnerships or listed equities, you are obliged to make sufficient inquiries to know the essential facts about the client, the client's general investment needs and objectives and the suitability of any proposed purchase or sale.

In considering what is necessary to 'know your client', guidance is provided in the Conduct & Practices Handbook published by the Canadian Securities Institute. The Handbook contains a sample 'know your client' form with meaningful discussion about the types of information that may be appropriate. This section of the Handbook is a useful template from which to begin. Don't forget about the 'money-laundering' requirements set out in NIN#93/08.

Client information should be specific enough for you to objectively evaluate the client's investment knowledge, his or her net worth, expectations of return, risk tolerance and need for liquidity. It should include information about the other components of the client's investment portfolio.

The information should be precise enough to be meaningful. Vague references will not help you advise your client and will not be convincing for regulators or litigators who may be reviewing your compliance with section 48. For example, registrants who record growth as a client objective without further refining the choice or obtaining a good understanding of client risk tolerance may inadvertently make a poor recommendation or be unable to support themselves in a legal proceeding.

The information must also be client-specific. Registrants who record 50% growth, 50% speculation for all of their clients can expect to attract a detailed review by regulators.

Finally, 'know your client' information must be updated to reflect major changes in the clients' circumstances. We urge you to set up a system to ensure current information is solicited on a regular basis. Computer or manual controls which prevent order entry if a 'KYC' form on file is greater than 12 months old, for example, may be a consideration.

Some people prefer to keep their financial circumstances confidential. We are often asked if a client can refuse to provide information required in the 'know your client' process. **The simple answer is that the law does not allow a client to waive your 'know your client' obligations.** If you want to act for the client, you must be sufficiently informed to represent them properly.

Many clients are more comfortable providing personal information when they understand that it is your statutory duty to obtain it. You may find that some clients want assurances that their information will not be disclosed to anyone except those who are legally entitled to obtain it.

**Protect yourself and your client. Take your 'know your client' responsibilities seriously .**

## Upcoming articles:

- advertising and letterhead
- due diligence
- conflicts of interest
- holding client funds or securities
- financial planning services
- use of Internet and Web sites



The Registration Division oversees the registration and conduct of all dealers and advisers in the Province of B.C.

Questions or comments?

Contact us at:

1100 - 865 Hornby Street,

Vancouver, B.C. V6Z 2H4

Telephone: (604) 660 - 4800

or: 1 - 800 - 373 - 6393 (BC)

Facsimile: (604) 660-2688.

e-mail:

[inquiries@email.bcse.bc.ca](mailto:inquiries@email.bcse.bc.ca)

Website: <http://www.bcsc.bc.ca>

# When is a Branch a Branch?

**O**n January 1, 1996, amendments to the Securities Act and Rules changed the requirements concerning branch offices.

Most of you will be aware that a branch office now includes **any** location, including a residence, where the dealer conducts business, alone or through one or more salespeople. For some dealers, this definition may cause you to have something approaching one branch per salesperson.

Every dealer is required to provide the Commission with a list of **all** branches when registration is renewed. Dealers must also notify the Commission within 5 days of the opening or closing of any branch.

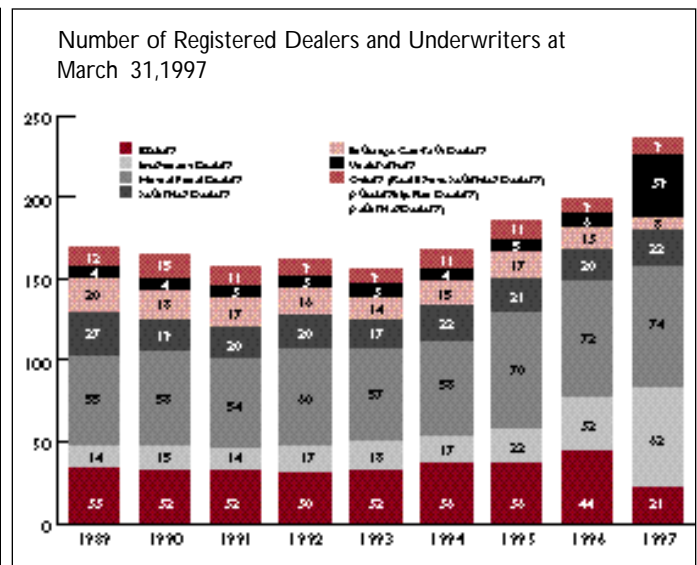
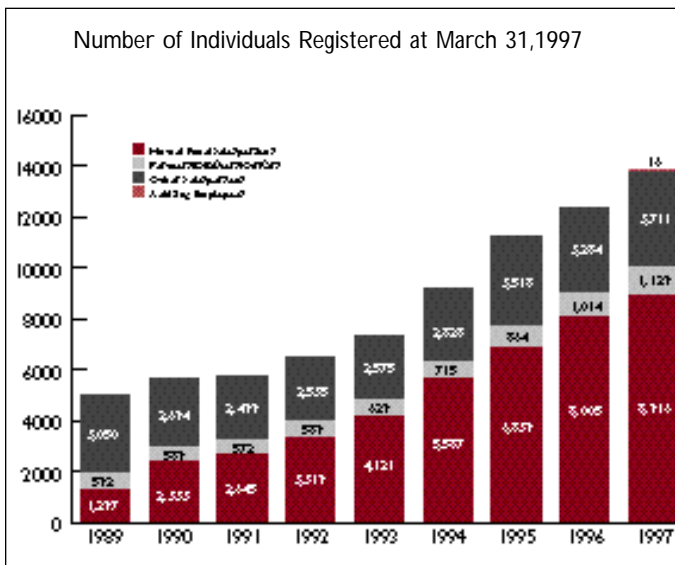
You may also recognize “locations where more than 3 registered individuals carry on business” as a significant threshold. Whenever four or more registered individuals operate out of a branch office, the dealer must employ a qualified branch manager in the branch to ensure that the branch complies with the Act and regula-

tions. Branches with 3 or fewer registered individuals may be supervised by a branch manager located at another branch or head office in the province.

It is the responsibility of the dealer to ensure that there is effective supervision of all branches and a regular system of reporting by branch managers to the dealer’s **provincial** Compliance Officer.

Examinations conducted by the Registration Division over the past year have identified some significant deficiencies in branch supervision. Inadequate reporting systems and supervision could threaten the continued registration of a dealer. These internal procedures should be reviewed regularly.

In assessing your firm’s supervisory systems, you should carefully consider the nature and extent of information your compliance officer will need to fully understand the activity at the branch level and be assured that branch managers are properly fulfilling their responsibilities.



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Chair: Douglas M. Hyndman

Executive Director: Paul C. Bourque.