

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When possible, we intend to seek amendments to the Act to have the definition of *portfolio manager* repealed.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

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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.