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## The Registrant is back!

After a five-year hiatus, we have revived the newsletter for the BCSC's directly regulated registrant community. The newsletter will provide you with timely updates, articles and resources to enhance your compliance efforts.

The timing is appropriate since we are on the brink of implementing the most significant changes ever made to registrant regulation in Canada through National Instrument 31-103 *Registration Requirements*. In this and future issues of The Registrant, we will discuss the changes under NI 31-103 that will affect our directly regulated dealers and advisers. We will also discuss topical compliance issues.

The previous version of the Registrant was a print publication. This new version of the Registrant will be in PDF format and we will distribute it by email to compliance officers and other interested parties. If you wish to receive The Registrant, please send an email to [examiners@bcsc.bc.ca](mailto:examiners@bcsc.bc.ca) and we will add your email address to our distribution list. Alternatively, you can visit the [Compliance Toolkit](#) page at the BCSC website to access current and back issues of The Registrant.

Since the newsletter is a resource for registrants, we welcome feedback and suggestions for future articles. We also welcome suggestions on how we can improve this newsletter. You can send your suggestions to [examiners@bcsc.bc.ca](mailto:examiners@bcsc.bc.ca).

## Compliance during an economic downturn

We do not need to tell you that we are in the midst of an unprecedented market downturn and that the markets have been turbulent and volatile. Your firms are exercising fiscal restraint, but a reduction in revenue and tightening of budgets should not mean a reduction in the quality of your compliance systems.

We expect you to maintain and adjust your compliance programs to meet your regulatory responsibilities and to manage your risks. For example, the risk of fraud by employees may increase if they themselves are in financial distress. The risk of desperate clients asking for unsuitable products, or of employees being tempted to sell unsuitable products, may also increase. We will continue to examine your firms to ensure investors are protected and registrant conduct does not compromise market integrity. However, we recognize that the current economic conditions may require some flexibility on our part.

"We ask our staff to regularly communicate with the industry that we are open about different approaches to meeting regulatory objectives," says Sandra Jakab, the BCSC's Director of Capital Markets Regulation.

## News and announcements

- [National Instrument 31-103 Registration Requirements](#), is coming – have you read it yet?
- In June 2009, the Examinations Branch will issue its annual report for exams conducted in the 2008-2009 cycle. This report will be posted on the BCSC's website.
- The Capital Markets Regulation Division held a registrant outreach forum on May 21, 2009. Read more about our outreach program on page 2.
- Is your filing deadline approaching for your annual audited financial statements or financial institution bond? See page 3 for who to send these filings to.

## New registration requirements are coming!

### NI 31-103 Registration Requirements

The CSA anticipates that if NI 31-103 is approved this summer by each jurisdiction, then it will be implemented at the end of September 2009.

This massive regulatory project attracted hundreds of comment letters. NI 31-103 harmonizes, streamlines and modernizes the registration regime for Canada.

### What are some key highlights?

- New registration concept - previously the trigger for dealer registration was based on a “trade” trigger – if you trade a security, you must register as a dealer. NI 31-103 introduces the concept of a “business trigger” for dealer registration – if you are in the business of trading in securities you must register.
- Streamlined categories of firm registration. There will now only be eight types of firm registration:
  1. Investment dealer
  2. Mutual fund dealer
  3. Scholarship plan dealer
  4. Exempt market dealer
  5. Restricted dealer
  6. Portfolio manager
  7. Restricted portfolio manager
  8. Investment fund manager

All other categories will be eliminated.

- Individual registration is also streamlined. There will be only five types of individual registration:
  1. Dealing Representative
  2. Advising Representative
  3. Associate Advising Representative
  4. Ultimate Designated Person
  5. Chief Compliance Officer
- Ultimate designated person and chief compliance officer roles are defined and require registration, as does investment fund manager activity and, in some cases, exempt market dealer activity.
- Several new principles-based rules are added binding all registrants, including those that are IIROC or MFDA dealers.
- Client relationship and complaint handling requirements are added.

With the pending adoption of such a significant instrument, what should your firm be doing now to prepare? Here are some tips:

**Tip 1:** Read the February 2008 published version of NI 31-103 and the related Companion Policy 31-103CP and forms. Take a good first look and get a feel for changes coming. Increase your current knowledge. Don't forget to read the final version carefully, several times, when it is published in mid-July.

**Tip 2:** Determine what changes or impact it will have on your firm. Are you a fund manager that may be impacted by the new investment fund manager registration requirement, for example?

**Tip 3:** Discuss the changes at your management or compliance meetings or, if you are a small firm, with other compliance officers in your business. Will it affect only some of your business units or practices, or will the impact be more broadly felt?

**Tip 4:** Attend learning sessions offered by industry or law firms. Watch our web site for information about BCSC sponsored education sessions, too.

**Tip 5:** How will you re-jig your compliance system to accommodate the new requirements? What must change operationally, and how will you update your policies and procedures manual?

Visit the [BCSC website](http://www.bsc.bc.ca) to review NI 31-103 and to check for updates.

### Compliance Meet and Greets

The Registration and Compliance Branch has started a Meet and Greet program for new registrants and current registrants who have not recently had a compliance examination.

These meetings are informal and the purpose is for us to get to know you and for you to get to know us. They are not compliance examinations. We want to help you identify any problems you are experiencing in meeting your regulatory requirements. We understand that things can and do go wrong. When this happens, we want to encourage you to seek our assistance as early as possible.

If you have questions about our new program, please contact [Mark French](mailto:Mark.French@bcsc.bc.ca), Manager, Registration and Compliance at (604) 899-6856.

## Capital monitoring

While the majority of registrants maintain adequate working capital, an increasing number of firms are failing to maintain the capital required or to adequately monitor monthly capital calculations.

Section 41 of the Rules requires registrants to monitor their working capital monthly to ensure that they meet the working capital requirements set out in sections 19 and 20 of the Rules. We find that many firms:

- do not calculate or monitor working capital on a monthly basis
- do not document monthly working capital calculations
- financial records are not prepared according to generally accepted accounting principles (e.g. using a cash basis for accounting)
- do not meet minimum working capital requirements
- become capital deficient and fail to notify the BCSC immediately, as is required by section 41 of the Rules, or file BC Form 33-905F *Report of Working Capital*
- repay subordinated loans without obtaining the BCSC's written permission in advance, as required in BC Form 33-904F *Subordination Agreement*

### If you become capital deficient

Registrants that do not meet minimum working capital requirements must inform the BCSC immediately, and indicate how and when the deficiency will be resolved.

We think it is reasonable for us to expect that the deficiency should be corrected within 48 hours and we tell registrants that this is what we expect of them.

Firms that fail to notify the BCSC of a working capital deficiency may have conditions of registration imposed on them. Examples of possible conditions include a requirement to submit monthly financial records.

### Financial reporting

Registrants must file audited financial statements with us on or before the 90<sup>th</sup> day after their year-ends. All late financial statements are subject to a late fee of \$100 per day. This fee is set out in section 22 of the *Securities Regulation*.

### Where to file

Many registrants are sending financials to the wrong departments at the BCSC. To ensure that the examiners receive the financial filings promptly, we ask that you send all financial statements and financial institutions bonds to:

By mail: **Lena Lew, Administrator**  
**Examinations Branch, Capital Markets Regulation**

By email: [llew@bcsc.bc.ca](mailto:llew@bcsc.bc.ca) or [examiners@bcsc.bc.ca](mailto:examiners@bcsc.bc.ca)

By fax: (604) 899-6506

See page 4 for additional examiners' contacts.

## Top ten deficiencies

These are the top ten deficiencies found by BCSC examiners during the 2008-2009 exam cycle:

1. Policies and procedures
2. Know-your-client and suitability
3. Conflict of interest and personal trading
4. Capital monitoring
5. Disaster recovery and business continuity
6. Disclosures
7. Fees
8. Records
9. Representative agreements and contracts
10. Client agreements and contracts

In June 2009, we will publish our full Annual Report on the BCSC's website.

## Ray Harding, Senior Securities Examiner

Joining us in January 2009, Ray is the newest member of the examinations team.

He brings with him a wealth of experience from his time as a compliance and financial examiner with the former Vancouver Stock Exchange and, most recently, with the Investment Industry Regulatory Organization of Canada. Ray also has seven years marketing experience with IBM Canada representing their brokerage accounting and trading systems to Vancouver brokerage firms.

Originally from Montreal, Ray has worked in the financial industry in both Ottawa and Toronto before moving to Vancouver in 1981. He obtained his CGA designation in 1992.





## Resources for Registrants

- [BCSC Compliance Toolkit](#) – a resource for compliance
- [BCSC Registration Database](#) – registration type and status of individuals and firms
- [BCSC Disciplined Persons List](#) – individuals that have been sanctioned by the BCSC
- [Ongoing Requirements for Registrants](#) – financial reporting obligations for dealers and advisers
- [BCSC Q & A's for Dealers and Advisers](#) – questions and answers for registrants
- [BC Securities Act, Regulations and Rules](#) – the securities legislation
- [Policies and Instruments](#) – policies and instruments in effect in BC
- [Registration Forms](#) – forms specific to dealers and advisers
- [BCSC Weekly Report](#) – weekly updates on new policies, news releases and orders
- [InvestRight](#) – investor education by the BCSC

### Other resources:

- [BC Statutes](#) and [Federal Statutes](#)
- [AIMA Canada](#) – The Alternative Investment Management Association
- [Canadian Securities Administrators](#)
- [Canadian Securities Institute](#)
- [CFA Institute](#)
  - [CFA Professional Conduct](#)
  - [CFA Standards of Practice Handbook](#) (PDF download)
  - [CFA Vancouver](#)
- [FINRA Financial Industry Regulatory Authority](#) - Compliance tools
- [Managed Funds Association](#) – reports on sound practices
- [OSC Compliance resources](#)
- [Society for Corporate Compliance and Ethics](#)
- [US Securities and Exchange Commission](#)
  - [Information for Newly-Registered Investment Advisers](#)

## The Registrant

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The BCSC is the independent, self-funded government agency responsible for regulating trading in securities and exchange contracts in the province of British Columbia. Its Capital Markets Regulation Division oversees the registration and conduct of all dealers and advisers in securities and exchange contracts.

**Newsletter Services:** Please contact [examiners@bcsc.bc.ca](mailto:examiners@bcsc.bc.ca) to add your email address to our distribution list, or to send comments to the editor.

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In the next issue of the Registrant (September 2009)

- BCSC Adviser Annual Report
- Implementing NI 31-103
- Transition to IFRS