

CSA Staff Notice 31-318

Omnibus/blanket order exempting mortgage investment entities from the requirement to register as investment fund managers and advisers

Since the coming into force of National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103), the Canadian Securities Administrators (the CSA or we) have received a number of inquiries about the impact of NI 31-103 on the obligations of mortgage syndicators, mortgage investment corporations and other entities operating with similar business models (collectively “mortgage investment entities”). Representatives of mortgage investment entities in some jurisdictions have represented that many of the requirements of NI 31-103 are not applicable to their businesses and would not provide additional investor protection, particularly in view of local legislation that may already apply.

Each of the CSA members has agreed to review the requirement for mortgage investment entities to register as investment fund managers and advisers. As a result, CSA members have issued parallel orders (the “order”) that provide relief from investment fund manager registration requirements and adviser registration requirements until December 31, 2010. The order does not provide relief from the dealer registration requirement. We encourage mortgage investment entities to speak with their legal counsel with respect to any dealer registration requirements that may apply.

In the order, a mortgage investment entity means a person or company whose purpose is to invest substantially all of its assets in debts owing to it that are secured by mortgages, hypothecs or in any other manner on real property, and whose other assets are limited to:

- deposits with a bank or other financial institution;
- cash;
- debt securities referenced in section 8.21 [*Specified debt*] of NI 31-103; or
- instruments used to hedge specific risks relating to the debts owing to it that are secured by mortgages, hypothecs or in any other manner on real property.

The exemption from the adviser registration requirement and the investment fund manager registration requirement is available to a person or company that:

- does not act as an adviser other than in respect to securities issued by or owned by a mortgage investment entity;
- does not act as an investment fund manager other than in relation to the business, operations or affairs of a mortgage investment entity; or
- does not carry out activities that would require registration under securities legislation for a person or company that is not a mortgage investment entity.

Note that in Ontario, an additional condition on the exemption is that it is only available to those licensed under the *Mortgage Brokerages, Lenders and Administrators Act, 2006*.

This order is effective on August 20, 2010 and will cease to have effect on December 31, 2010.

We are publishing the order with this Notice. The order is also available on websites of CSA members, including:

www.lautorite.qc.ca

www.albertasecurities.com

www.bcsc.bc.ca

www.msc.gov.mb.ca

www.gov.ns.ca/nssc

www.nbsc-cvmnb.ca

www.osc.gov.on.ca

www.sfsc.gov.sk.ca

Questions

If you have questions regarding this Notice or the orders please direct them to any of the following:

Michael Brady
Senior Legal Counsel, Capital Markets Regulation
British Columbia Securities Commission
Tel: 604-899-6561
1-800-373-6393
mbrady@bcsc.bc.ca

Navdeep Gill
Legal Counsel, Market Regulation
Alberta Securities Commission
Tel: 403-355-9043
navdeep.gill@asc.ca

Dean Murrison
Deputy Director, Legal/Registration
Saskatchewan Financial Services Commission
Tel: 306-787-5879
dean.murrison@gov.sk.ca

Chris Besko
Legal Counsel, Deputy Director
The Manitoba Securities Commission
Tel. (204) 945-2561
Toll Free (Manitoba only) 1-800-655-5244
chris.besko@gov.mb.ca

Chris Jepson
Senior Legal Counsel
Registrant Regulation
Ontario Securities Commission
Tel: 416-593-2379
cjepson@osc.gov.on.ca

Sophie Jean
Conseillère en réglementation
Surintendance de l'assistance à la clientèle et de la distribution
Autorité des marchés financiers
Tel: 514-395-0337, ext. 4786
Toll-free: 1 877 525-0337
sophie.jean@lautorite.qc.ca

Brian W. Murphy
Deputy Director, Capital Markets
Nova Scotia Securities Commission
Tel: 902-424-4592
murphybw@gov.ns.ca

Susan Powell
Senior Legal Counsel
New Brunswick Securities Commission
Tel: (506) 643-7697
Susan.powell@gnb.ca

Katharine Tummon
Superintendent of Securities
Prince Edward Island Securities Office
Tel: 902-368-4542
kptummon@gov.pe.ca

Craig Whalen
Manager of Licensing, Registration and Compliance
Financial Services Regulation Division
Securities Commission of Newfoundland and Labrador
Tel: 709-729-5661
cwhalen@gov.nl.ca

Louis Arki, Director, Legal Registries
Department of Justice, Government of Nunavut
Tel: (867) 975-6587
larki@gov.nu.ca

Donn MacDougall
Deputy Superintendent, Legal & Enforcement
Office of the Superintendent of Securities
Government of the Northwest Territories
PO Box 1320
Yellowknife, NT X1A 2L9
Tel: (867) 920-8984
donald_macdougall@gov.nt.ca

Frederik J. Pretorius
Manager Corporate Affairs (C-6)
Dept of Community Services
Government of Yukon
Tel: (867) 667-5225
Fred.Pretorius@gov.yk.ca

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