

CSA Staff Notice 31-321**Further Omnibus / Blanket Orders Exempting Registrants from Certain Provisions of
National Instrument 31-103 *Registration Requirements and Exemptions*****November 5, 2010**

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 requests for relief from certain provisions of NI 31-103. The CSA is in the process of considering certain amendments to NI 31-103 and these provisions will be reconsidered in the course of the amendments process.

In the interim, each of the CSA members has issued parallel orders (the “orders”) that provide relief:

- from the requirement under section 13.2(2)(b) of NI 31-103 to establish whether a client is an insider in respect of trades of securities listed in section 7.1(2)(b) or (c) of NI 31-103; and
- from the requirement under section 13.2(3)(b)(i) of NI 31-103 to establish the identity of any individual who owns or controls more than 10% of the voting rights attached to the voting securities of a corporation that is a client of a mutual fund dealer.

This Notice summarizes the orders. We are publishing the orders with this Notice. The orders are 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

1. Relief from the requirement under section 13.2(2)(b) of NI 31-103 to establish whether a client is an insider

Section 13.2(2)(b) of NI 31-103 provides that a registrant must take reasonable steps to establish whether a client is an insider of a reporting issuer or any other issuer whose securities are publicly traded. On February 26, 2010, each regulator issued an order that exempts a mutual fund dealer from section 13.2(2)(b). This order is revoked and replaced by parallel orders issued by the CSA which will take effect on November 5, 2010.

Considering that it is unlikely for a trade in securities listed in sections 7.1(2)(b) or 7.1(2)(c) of NI 31-103 to give rise to insider trading concerns, the new order provides that section 13.2(2)(b) does not apply to a registrant in respect of a client so long as the registrant only trades securities for that client that are listed in those sections.

The securities listed in sections 7.1(2)(b) and 7.1(2)(c) of NI 31-103 are the following:

- mutual funds;
- except in Québec, investment funds that are labour-sponsored investment fund corporations or labour-sponsored venture capital corporations under legislation of a jurisdiction of Canada; and
- securities of a scholarship plan, an educational plan or an educational trust.

We remind registrants that they remain subject to the requirement in section 13.2(2)(b) when they trade any other securities than those listed in sections 7.1(2)(b) and 7.1(2)(c) of NI 31-103.

2. Relief from the requirement under section 13.2(3)(b)(i) of NI 31-103 for mutual fund dealers

As part of the know your client requirements, section 13.2(3)(b)(i) of NI 31-103 requires a registrant to collect information about the identity of any individual who owns or controls more than 10% of the voting rights attached to the voting securities of a corporate client. The purpose of this requirement is to identify the client, and if there is cause for concern, to make reasonable inquiries as to the reputation of the client in order to protect market integrity.

Considering that mutual fund dealers trade primarily in publicly offered mutual funds which have restrictions on investments and that these dealers are required to identify any person who owns or controls 25% or more of the shares of a corporate client under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), compliance with section 13.2(3)(b)(i) of NI 31-103 presents significant costs that exceed any investor benefit.

Since investment fund managers are not subject to section 13.2 of NI 31-103, registration of a mutual fund dealer in this category does not preclude use of this relief.

Each regulator has therefore issued an order that exempts a mutual fund dealer from the application of the requirements of section 13.2(3)(b)(i) of NI 31-103, provided that:

- the mutual fund dealer is not registered in any other category of registration other than investment fund manager; and
- the mutual fund dealer complies with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) requiring them to identify any person who owns or controls 25% or more of the shares of a corporate client.

Questions

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

Lindy Bremner
Senior Legal Counsel, Capital Markets Regulation
British Columbia Securities Commission
Tel: 604-899-6678
1-800-373-6393
lbremner@bcsc.bc.ca

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

Curtis Brezinski
Compliance Auditor
Saskatchewan Financial Services Commission
Tel: 306-787-5876
curtis.brezinski@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

Dirk de Lint
Senior Legal Counsel
Compliance and Registrant Regulation
Ontario Securities Commission
Tel: 416-593-8090
ddelint@osc.gov.on.ca

Sophie Jean
Conseillère en réglementation
Surintendance de l'assistance à la clientèle, de l'indemnisation 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@nbsc-cvmnb.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
Office of the Superintendent of Securities
Government 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
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

IN THE MATTER OF THE SECURITIES ACT S.N.B. C. S-5.5 (the *Act*)

AND

IN THE MATTER OF

RELIEF FROM THE REQUIREMENT UNDER PARAGRAPH 13.2(2)(B) OF NI 31-103
TO ESTABLISH WHETHER A CLIENT IS AN INSIDER

AND

THE REVOCATION OF BLANKET ORDER 31-509
*IN THE MATTER OF IN THE MATTER OF EXEMPTION FROM PARAGRAPH 13.2(2)(B) OF
NATIONAL INSTRUMENT 31-103 FOR MUTUAL FUND DEALERS (BO 31-509)*

Blanket Order 31-512

Section 208

WHEREAS:

1. Unless otherwise defined in this decision or the context otherwise requires, terms used in this decision that are defined in National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) or National Instrument 14-101 *Definitions* have the same meaning.
2. Paragraph 13.2(2)(b) of NI 31-103 requires that registrants must take reasonable steps to establish whether their clients are insiders of reporting issuers or of any other issuers whose securities are publicly traded.
3. Since it is rare for a trade in securities listed in paragraphs 7.1(2)(b) or 7.1(2)(c) of NI 31-103 to give rise to insider trading concerns, the benefit of requiring compliance with paragraph 13.2(2)(b) of NI 31-103 is not justified by its costs when trading in securities listed in these paragraphs.

IT IS ORDERED pursuant to section 208 of the *Act* that:

- A. Paragraph 13.2(2)(b) of NI 31-103 does not apply to a registrant in respect of an client so long as the client only trades securities for that client that are listed in paragraphs 7.1(2)(b) and 7.1(2)(c) of NI 31-103.
- B. BO 31-509 made effective 26 February 2010 is revoked.
- C. This order comes into effect on 5 November 2010.

DATED at Saint John, New Brunswick this 3rd day of November 2010.

"Original signed by"

David G. Barry, Q.C., Panel Member

"Original signed by"

Anne W. La Forest, Panel Member

IN THE MATTER OF THE SECURITIES ACT S.N.B. C. S-5.5 (the *Act*)

AND

IN THE MATTER OF

RELIEF FROM SUBPARAGRAPH 13.2(2)(B)(I) FOR MUTUAL FUND DEALERS

Blanket Order 31-516

Section 208

WHEREAS:

1. Unless otherwise defined in this decision or the context otherwise requires, terms used in this decision that are defined in National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) or National Instrument 14-101 *Definitions* have the same meaning.
2. As part of the know your client requirements, subparagraph 13.2(3)(b)(i) of NI 31-103 requires a registrant to collect information about the identity of any individual who owns or controls more than 10% of the voting rights attached to the voting securities of a corporation that is a client of the registrant.
3. The costs incurred by mutual fund dealers in order to comply with subparagraph 13.2(3)(b)(i) of NI 31-103 exceed any investor benefit since mutual fund dealers:
 - (i) trade primarily in publicly offered mutual funds which have restrictions on investments; and
 - (ii) are required to collect information about any person who owns or controls 25% or more of the shares of a corporate client under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada).
4. As investment fund managers are not subject to subparagraph 13.2(3)(b)(i), it is appropriate for this relief to apply to mutual fund dealers that are also registered as investment fund managers.

IT IS ORDERED pursuant to section 208 of the *Act* that:

- A. Subparagraph 13.2(3)(b)(i) of NI 31-103 does not apply to a mutual fund dealer in respect of a client that is a corporation subject to the following conditions:

- (a) the mutual fund dealer is not registered in any other category of registration other than investment fund manager; and
- (b) the mutual fund dealer complies with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) requiring the identification of any person who owns or controls 25% or more of the shares of a corporate client.

B. This order comes into effect on 5 November 2010.

DATED at Saint John, New Brunswick this 3rd day of November 2010.

“Original signed by”

David G. Barry, Q.C., Panel Member

“Original signed by”

Anne W. La Forest, Panel Member