

## **SASKATCHEWAN STAFF NOTICE - 33-705**

### **DEALING WITH NON-RESIDENTS**

This notice is intended to guide registrants who are approached by investors who do not live in the jurisdiction in which the registrant lives. It applies to registrants living in Saskatchewan who are considering dealing with investors who live elsewhere. It also applies to registrants who do not live in Saskatchewan, but are considering dealing with investors who live in Saskatchewan.

The registration provisions of Canadian securities legislation in all jurisdictions require you to be registered with the securities regulatory authority in a jurisdiction before you trade in securities in that jurisdiction. "Trade" is generally defined in Canadian securities legislation as any transfer, sale or disposition of a security for a valuable consideration, including any activity directly or indirectly in furtherance of a transfer, sale or disposition. This means that if you sell securities to an investor, you are trading in the jurisdiction in which the investor lives, and you must be registered in that jurisdiction.

You must not accept an order for the purchase of a security from an investor who resides in another jurisdiction unless you are registered in that jurisdiction, even if you did not solicit the trade from the investor.

If your client moves to another jurisdiction, you must be registered in that other jurisdiction before you continue to deal with them. Therefore, if you are a Saskatchewan resident, your client moves to Alberta and you want to continue to deal with that client, you must be registered by the securities regulatory authority in Alberta. If you are registered in Alberta and your client moves to Saskatchewan, you must be registered by the commission in Saskatchewan if you want to maintain your relationship with your client.

Section 2.2 of National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) provides a client mobility exemption from the registration requirement that allows registered individuals to continue dealing with and advising clients who move to another jurisdiction without registering in that other jurisdiction. Section 8.30 of NI 31-103 provides a similar exemption for registered firms. Certain conditions apply. The Companion Policy to NI 31-103 provides guidance on the use of the mobility exemptions.

Because "trade" includes any activity directly or indirectly in furtherance of a trade, you must not solicit sales from a jurisdiction in which you are not registered. Soliciting includes initiating telephone calls or mailing prospectuses, marketing materials or sales applications to potential investors located outside of the jurisdiction in which you are registered.

However, staff is of the view that you can accept an unsolicited order to buy or sell securities from a non-resident investor if the investor is present in your jurisdiction when the investor places the order, and if all of the other elements of the trade occur in your jurisdiction. Staff is of the view that all of the elements are within your jurisdiction if the investor is present in your jurisdiction when:

- the investor places the order,
- you comply with the "know your client" and "suitability" requirements respecting the trade,
- you deliver the prospectus to the investor, and
- the investor arranges for payment of all of the purchase price of the securities<sup>1</sup>.

We take the view that if all of the criteria outlined above are met, the trade is wholly within your jurisdiction, and you are not required to be registered in the investor's home jurisdiction because you are not trading there.

After the initial sale to the non-resident investor, you can mail the confirmation notice and monthly statements to the investor's home. But you will not be able to give the investor ongoing service when the investor returns home, unless you register in that jurisdiction. This means that you will not be able to accept orders for additional purchases, switches or redemptions. We suggest that you tell the investor this before you accept their initial order to avoid later confusion or misunderstandings. This is especially important when the investor is purchasing mutual funds.

We know that many different fact situations arise. If you encounter a situation in which not all of the facts are the same as those outlined above, you must examine them to determine whether the trade is wholly within your jurisdiction. If any part of the trade occurs within another jurisdiction, you should be registered there.

April 16, 1998

Amended June 15, 2007

Amended January 7, 2011

Contact: Deputy Director, Registration  
(306) 787-5876

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<sup>1</sup>

This allows investors to set up a PAC plan or give a series of post-dated cheques. It is alright if the investor's cheque is drawn on a bank that is outside your jurisdiction.