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The Secretary
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By email

**Re: Multilateral CSA Notice of Publication and Request for Comment**

**Proposed Amendments to National Instrument 45-106 Prospectus and Registration Exemptions Relating to the Offering Memorandum Exemption and in Alberta, New Brunswick and Saskatchewan, Reports of Exempt Distribution**

Dear Madams and Sirs,

I am writing to you today as an experienced financial planner, registered exempt market dealing representative of Raintree Financial Solutions, and as an individual investor who has a variety of investments in exempt market products.

I commend you for your focus on exemptions that facilitate access to necessary capital for Small and Medium Enterprises (SME) along with the important focus on investor protection. In addition, I applaud your commitment to balance the need for harmonization across jurisdictions with the unique characteristics of each jurisdiction and their capital markets and investors. Thank you for the opportunity to share my

comments with you, based on my experience and knowledge of the exempt market. I would like to provide you with feedback on a number of proposed amendments.

**The proposed maximum investment of $30,000 per year for individuals may not achieve the results you desire and may cause other problems that have not been considered.**

I think the biggest challenge with a limit like this is that it does not recognize the value of legislation already in place, namely 31-103 and the suitability requirements for registrants. I support the already existing legislation and its purpose to protect investors. In working under this legislation since 2010, I see the value of all that is required to ensure that an investor's investment decision is suitable. This is achieved by using the following principles we have been given within that legislation (and I borrow quotes from CSA notices to illustrate my points):

- **KYC, KYP and suitability obligations are among the most fundamental obligations owed by registrants to their clients, and are cornerstones of our investor protection regime.** The CSA has repeatedly recognised that these requirements are basic obligations of a registrant, and a course of conduct by a registrant involving a failure to comply with them is an extremely serious matter.
- **Registrants are expected to comply not only with the letter of the securities law requirements themselves, but also with the spirit of the requirements.** We expect market participants to conduct themselves in a manner that is consistent with the principles of securities regulation. This requires market participants to respect not just the letter of the law, but also the spirit of the law.
- **KYC, KYP and suitability obligations are extensions of each registrant's general duty to deal fairly, honestly and in good faith with its clients.** In Quebec, this duty is framed as the registrant's duty to deal fairly, honestly, loyally and in good faith with its clients.
- **A meaningful suitability assessment is required.** Assessing suitability is more than a mechanical fact-finding or "tick the box" exercise. It requires meaningful dialogue with the client to obtain a solid understanding of the client's investment needs and objectives, and to explain how a proposed investment strategy is suitable for the client in light of the client's investment needs and objectives.
- **Failure to adequately know your client may lead to a distribution of securities by an issuer or dealer in breach of a prospectus exemption which is a serious breach of securities law.** An illegal distribution may also provide an investor with a continuing right of action for rescission or damages against the issuer or dealer for non-delivery of a prospectus.
- **Adequate documentation of the suitability process (including KYC) is critical to ensuring that a registrant is meeting its securities law obligations.**

In the complex processes we use to fulfill this valuable and critical requirement, there is a significant investment of human capital, financial capital and time.

Even before an exempt market product can be presented to my client as a potentially suitable investment, the due diligence and vetting required is extensive. Some key points highlight this scrutiny and the formal procedures that are in place:

- Due diligence is so important to detect and avoid potential problems, give adequate training on products and to avoid unsuitable recommendations.
- Due diligence takes place from the top of the dealership, down to the individual dealing representative.
- Initially, among the leadership of the dealership an investment approval committee conducts an initial review:
    - may quickly dispose of products that may be too risky too costly or with too little potential interest
    - conduct initial scrutiny of the issuer of the security, reputation, record of compliance, etc
    - minimum level of interest is required, and it must fit with other considerations
    - this initial review either declines to proceed with further review or moves to a detailed review
- Once in a more detailed review process, the investment committee considers the following, especially as it pertains to an offering relying on the offering memorandum exemption:
    - What investment need is met?
    - Could there be less complex or less risky alternatives?
    - Review competitive analysis\forecasts and assumptions. Are they reasonable?
    - What factors influence investment outcome? Examine a range of market conditions and outcome anticipated.
    - Is there a transparent structure? Are there features that make it difficult to analyze or verify? Who can provide the expertise to analyze assumptions and risks?
    - What are the redemption features? level of confidence in these?
    - Risks? how disclosed? adequate?

  - What are costs and fees? in line with competing products?
  - Identify additional secondary risks and concerns
  - Is the split of returns reasonable and fair? particularly from investor's standpoint?
  - What are potential conflicts of interests? can they be managed?
  - Identify regulatory concerns
  - What is the reputation and background of the issuer and connected parties? past offerings?
  - Detailed review of financial statements
  - For whom is the product intended? who should not invest in the product?
  - Review complexity and if it is more complex, will this impact suitability considerations and sales training?
  - How much training will be required and how will it be delivered?
  - Offering Memorandum must be gone through in great detail.
  - All of this must be documented thoroughly and follow established procedures of the dealer.
- Ongoing monitoring and re-assessment is usually required.

In my role as a Registered Dealing Representative of Raintree Financial Solutions, Exempt Market Dealer, there are many steps to determine suitability with my clients who want to invest in exempt market products. It requires understanding in key areas affecting clients acquiring suitable investments such as:

- Financial analysis
- Taxation
- Investments
- Retirement and savings programs
- Economic and Regulatory environment
- Ethics and Standards
- Debt and leverage
- Other related financial areas

Not only is due diligence done at the dealer level, product due diligence completed by me is essential to become educated on and knowledgeable about investment options, their structure, features, risks, initial and ongoing costs and fees, and suitability.

Before a client can be educated on suitable investment options, I must collect and analyze information related to a client's financial and non-financial circumstances, needs and goals. In addition, I must collect and analyze client investment objectives, as well as willingness and ability to accept risk. This requires a meaningful dialogue with the client to obtain a solid understanding of the client's investment needs and objectives, and to explain how a proposed investment is suitable for the client in light of the client's investment needs and objectives.

To support the compliance review process, and to maintain compliance with the regulations, I must document the information collection, analysis, client education and disclosure, and decision process and discussions between the client and me, the dealing representative. Once complete, the transactions will be reviewed in detail for compliance with all suitability requirements.

These steps protect the investor and puts the investor's interests first. At the same time, it complies with all applicable laws and regulations.

I trust this clarifies why I think the current suitability requirements are sufficient to protect the investor, and why there is no need to put a maximum limit on what an eligible investor may invest.

There are additional reasons why this maximum may be inappropriate:

- The many different investors who fit into the definition of eligible investor, are not a homogeneous group. The needs, objectives and suitability of investments for an investor who has an income of $80,000 per year, has minimum experience with exempt market products, and who wants to add a small component of exempt market products to their savings portfolio are different from an investor who consistently earns a personal income over $150,000 per year, has broad and deep financial and investment experience, uses the benefits of sophisticated tax and financial planning, and has resources of all kinds available. Suitability assessment is designed to respond to the different needs of different people within that definition. A maximum limit does not provide the customized benefit of suitability requirements.

- The maximum limit does not take into account the process of entering and exiting exempt market investments, and growing the capital invested and reinvesting that growing capital. An investor who invests an arbitrary amount such as $30,000 in one year, expects that to grow beyond that initial investment value. Why should they be prevented from re-investing the initial capital plus the return on their investment?

- The maximum limit does not take into account the fact that many investors invest intermittently, not regularly, due to a variety of reasons, like intermittently maturing investments, changes in lifestyle, market conditions, etc. One year investment contributions may higher, another year investors may invest less. Investors need flexibility that a maximum limit does not provide.

- The ability to track accurately if investors have achieved their annual limit seems onerous, difficult and even impossible . Look at the infrastructure required to oversee other maximum limits in the lives of investors such as an RRSP contribution limit - and still it is possible for taxpayers to over-contribute to their registered plans, and it happens regularly, despite the amount of regulation, oversight and accountability in place.

- The maximum limit takes away the freedom of choice from investors in the name of investor protection. Investors deserve the protections of suitability requirements, information and risk disclosures and equally deserve the right to determine their own investment choices.

- The maximum limit puts stress on the service and business models of those who distribute exempt market securities. My commitment to suitable investment transactions demands that I spend time, money and resources to build a long-term, thriving practice that serves my clients. Some activities necessary to accomplish that goal include:

    - Ensuring I comply with all applicable laws and regulations requires time and study.

    - I engage in ongoing professional development to keep knowledge, skills and awareness of changes current.

    - I conduct appropriate research to support analysis and evaluation of options .
    - I need to stay connected with many groups who influence the effectiveness and success of my business. I must invest time and effort with clients, associated professionals, members of the EMD firm, issuers, industry associations.

    - I take the time necessary to engage with my clients, learn about them and their needs, present options and strategies that resonate with clients.

    - I monitor and review client circumstances and investment performance, where appropriate.

    - With a maximum limit imposed, it is likely that I would have to seriously re-evaluate the viability of my service model. There is likely not enough potential opportunity within the market with this limit, and I would have to focus my business development away from the exempt market and toward my other financial services of financial planning and products available through my provincial insurance licensing. My years of experience, skills and commitment to suitable investment decisions would not be rewarded under these proposed limits.

As an investor as well as in representing exempt market products through the years, I have seen the good, the bad and the ugly. I can say that I have seen tremendous improvement and advancements in the quality of investments, the compliance and oversight, and the standards within the industry. These types of investments figure as a valuable component in my savings portfolio, and I wish to maintain my freedom to select the ones that are suitable for me, without regard to an annual limit.

Being a dealing representative of Raintree Financial Solutions Exempt Market Dealer, I support the EMD model. Raintree is proud to be an independent, arms-length provider of a variety of exempt market products.

Many of your concerns about investor protection appear to have a strong connection to conflicts of interest when issuers have an affiliated EMD as well as the conflicts and problems that can go undetected when non-registrants are distributing exempt market securities. I respectfully submit that a more focused approach to your investor protection concerns might be better concentrated on those areas, and allow the benefits of suitability requirements for EMDs to take root and continue to develop. The CSA and the provincial securities commissions have put a lot of time, capital, thought and work into designing, implementing, reviewing, auditing and enforcing those suitability requirements, and I respectfully suggest that be allowed to grow and flourish for investor protection through the EMD model.

**I do not support a limit on the kinds of securities that are eligible for OM exemption.** I value the freedom to potentially use complex securities, where suitable.

**I commend you and support your move to require non-reporting issuers to provide ongoing disclosure.** This recognizes a vital need for investors to remain informed about the performance of their investment. This is especially important if an investor is making other financial and investment decisions that are impacted by the availability of information about their investments. Requiring disclosure from issuers will provide a basic standard and a more consistent expectation through the industry, as well.

The challenge is to identify the level of disclosure required and the time period of disclosure to make this a meaningful requirement to benefit investors. With such a variety of investment opportunities, "one size fits all" may not be applicable. Whatever is determined, I would suggest that meaningful information required would include:

- detailed financial statements need to be informative and reliable
- material changes need to be communicated in a timely fashion
- ongoing disclosure is certainly needed as long as an investor has capital invested with the issuer, and there is a financial relationship ongoing.

My final comment relates to your requests for feedback on possible future changes to Family, Friends and Business Associates Exemption.

**In particular, I disagree with the issue of prohibiting the use of registrants or finders in connection with a distribution under the FFBA exemption. And, in relation to that same issue, I disagree with the issue of prohibiting payment of compensation in connection with a distribution under the FFBA exemption.**

I recognize and appreciate the reasoning behind these proposed changes in Ontario and possible adoption by Alberta. Given that investors are to be within the personal networks of the directors, executive officers, founders or control persons of the issuer it may seem that the distribution does not require registrants or finders, nor there be a need to provide compensation in relation to this kind of distribution. I respectfully disagree, and instead, I offer my perspective as an experienced dealing representative and a registrant.

Within the personal networks of the directors, executive officers, founders or control persons of the issuer, there may be quite a number and variety of potential investors. Before those potential investors make a decision to invest or not, there is a lot of work to be done. I submit that the work involved can be shared with a registrant or finder to successfully accomplish the goal of raising capital from within the personal networks of the directors, executive officers, founders or control persons of the issuer.

If you consider that an issuer may want to rely on the FFBA for a distribution, that issuer will want to ensure that the distribution is fully compliant with the regulatory requirements while desiring to provide a positive investment experience for everyone involved. Because there is the potential for an issuer to have no meaningful experience in exempt market product distribution and/or investor education, qualified support from a registrant or finder may be very appropriate. Besides this, time constraints may demand additional people are required to help with the project to meet deadlines. As a result, it may be appropriate to compensate the registrant or finder for providing assistance with the distribution.

Consider a business that wants to distribute a security under the FFBA. To raise capital from friends, family and business associates is not a simple project. Depending on the needs of the issuer, there are many areas where a registrant or finder could be of service and expect to be compensated for that service. There may be a need for support in finalizing the terms, comparing opportunities, assessing the cost/benefit of relying on different exemptions, identifying qualifying investors, contacting potential investors and providing the necessary information and follow up required by potential investors, to name only a few important considerations. These are the most important relationships in any person's life, and how an investment opportunity is treated could strengthen or sabotage that relationship and the business involved. I urge you to

maintain the ability of an issuer to draw on the support of registrants or finders, as well as maintain the ability to compensate a registrant or finder.

Fostering the potential for success for investors and businesses in Alberta and across Canada will demand a healthy balance between regulatory structure with the freedom to respond and adapt to opportunity and unpredictability. Identifying where we can add value is key to our shared success. I think Helen Keller put it well: " Alone we can do so little; together we can do so much."

Thank you for the opportunity to provide my comments on some of the proposed changes. I appreciate your willingness to look at these issues from many perspectives before you finalize the amendments. I welcome the opportunity to answer any of your questions you may have about my comments. Feel free to contact me through email or phone, yvonne@purposeinspiredsolutions.ca, office 403-945-2460.

Sincerely Yours,

*Yvonne Martin-Morrison*

Yvonne Martin-Morrison

*Yvonne Martin-Morrison is a Dealing Representative of Raintree Financial Solutions, a Registered Exempt Market Dealership - for more information please visit their website: raintreeEMD.com

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