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British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor, Box 55
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Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, Square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Re: Proposed National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and Proposed Companion Policy



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About Questrade, Inc.

Questrade, Inc. (“Questrade”) is Canada’s largest independent order-execution-only (“OEO”) dealer offering trade execution services in various securities including equities, options, forex and CFDs. Questrade is registered with IIROC as an investment dealer and a Money Services Business with FINTRAC. Questrade, a wholly owned subsidiary of Questrade Financial Group Inc., has approximately \$8 Billion in assets under administration.

Established in 1999, the company has led the industry in delivering outstanding service, exclusive products and services, and competitive pricing. Questrade’s commitment to innovation has appealed to independent investors. In 2014, Questrade's CEO was named as EY Entrepreneur of the Year (Ontario) in the services category. Since 2011, Questrade has been ranked one of Canada's Best Managed Companies. Questrade and Questrade Financial Group are headquartered in Toronto.

We are thankful for the opportunity to comment on the above noted guidance. We have chosen to focus our comments specifically on the proposed rule changes regarding referral arrangements.

Referral arrangements - Section 13.8: the prohibition of the payment of referral fees to non-registered firms and non-registered individuals

The CSA identified the three most impactful changes to Section 13.8 of National Instrument 31-103:

- the prohibition of the payment of referral fees to non-registered firms and non-registered individuals (subsection 13.8 (1)),
- the limitation on the referral fees payments amounts to 25% of the fees or commissions collected (paragraph 13.8.1(b)), and
- the limitation on the length of time a referral fee can be paid to 36 months from the date of referral (paragraph 13.8.1(a)).

The CSA has stated its three concerns (conflicts of interest) that form the basis for these proposed changes:

- (1) The current system creates incentive for registered individuals to give up their registration, because they can generate similar levels of income without having to pay the cost of being registered and the oversight that comes with it;



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- (2) Non-registrants are receiving the vast majority of their revenue through registrable activity. On principle, an individual who is receiving the bulk of their revenues through registrable activity should be registered;
- (3) Market power concerns: ability of referring agents to extract fees from registrants.

We will first address concerns (1) and (2).

Questrade currently supports two referral based programs: the “refer-a-friend promotion” and the “Affiliate Program”. The refer-a-friend promotion terms are such that existing Questrade clients are able to refer their friends and family members to open a new account and receive a corresponding payment. Upon account opening, referred clients will provide a promotion code and are in turn provided with a link to the appropriate terms and conditions, which also contains the required referral disclosure under National Instrument 31-103. This “informal” referral program does not provide enough of a monetary incentive that it invites registrants to abandon their registrations.

The Affiliate program is more formal than the “refer a friend” program. In the Affiliate program, individuals or businesses can refer friends and followers to open a Questrade account. Questrade compensates the affiliate and offers free trades to the new customer. Compensation is either per account or per referred client, or via “per commission” generated by the referred client. In the terms and conditions of its affiliate program, Questrade requires its affiliates to agree that they will not engage in registerable activities as a Questrade affiliate, thereby ensuring that registrants do not become Questrade affiliates, though it is not a given that all affiliates are all non-registrants.

In the execution of these two referral programs, concern (1) that the proposed system will create an incentive for registered individuals to give up their registration is not present, since our programs are intended only for non-registrants. Nevertheless, these referrals would be eliminated by this change (and the CSA acknowledged as much in its comments on the effects on the business models of PM, EMDs and SPDs). The reason for these referrals, in our experience, is that the referrers are not in a position to provide services that registrants can provide, but they may want their referred parties to benefit from the services offered by Questrade. We note that this is exactly the unintended consequence identified by the CSA that could make a client worse.

Other unintended consequences we foresee are that the costs of PM, EMD and SPD, and firms like Questrade increasing by having to resort to traditional advertising to attract new clients to replace non-registrant referrals. These higher costs, in turn, will then be passed on to clients and offset the gains to clients by the elimination of the payment of referral fees.



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Further, the proposed ban on referral payments to non-registrants may result in limiting investor choice. Investors may no longer be educated about alternative investments and financial providers that may be more suitable for them than “traditional” investment choices. We believe that the purpose of these client reforms is to ensure that a product is suitable for the client and puts their best interest first. We do not believe that limiting investor choice in regards to products and where they choose to invest will accomplish this objective.

Questrade Alternative Proposal Number 1

Questrade proposes that instead of prohibiting non-registrants from receiving referral fees, the prohibition should be imposed on registrants from receiving referral fees once they lose or abandon their registration. If a referrer was never a registrant, they would be unaffected by this prohibition. This would sufficiently address concern (1) because it creates a disincentive for registrants to abandon their registration, thereby avoiding the possible result of having less registrants, higher costs, and less investor protection.

Further, this proposal, would also act to minimize the expected impact on the business models of PMs, EMDs and SPDs identified by the CSA in its comments.

Questrade Proposal Number 2

With respect to the proposed change that referral payments cannot be paid for longer than a period of 36 months, we invite the CSA to consider a onetime referral payment rather than extending such payments in perpetuity or even for the proposed 36 month period. The alternative proposal could still require the new limitation of 25% on referral fees of fees or commissions collected.

We believe that the implementation of a “one and done” referral fee would address the CSA’s concerns (2) and (3). Specifically, the “one and done” referral fee would address concern (2) because under this proposal, non-registrants would not be receiving the bulk of revenue generated by registerable activities. Further, this would address the market power concerns, since the ability of referring agents to extract referral fees is severely restrained.



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We invite the CSA to consider our recommendations here in order to continue to foster investor choice and competitive markets whilst addressing the potential conflict arising from these relationships.

We hope this feedback is helpful and actionable. Please call me if you have any questions about our submission.

A handwritten signature in blue ink, appearing to read "Lawrence J. Horowitz", is written over the typed name.

Sincerely,
Lawrence J. Horowitz
Senior Counsel
Questrade, Inc.