

TO:

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 (New Brunswick)
Nova Scotia Securities Commission
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Care of:

The Secretary
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Me Anne-Marie Beaudoin
Corporate Secretary
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Dear Sirs/Mesdames:

Re: BCSC Comment Letter- Additional (Privacy) on Proposed Amendments to NI 45-106 by introducing a new harmonized report of exempt distribution (Proposed Form 45-106F1)

We are following up on our earlier comment letter, this time with respect to the impact on purchasers further to your proposal to gather extensive beneficial owner information in relation to every distribution of an exempt product. We are a Portfolio Manager whose head office is in B.C. We are also an Exempt Market Dealer and an Investment Fund Manager in several provinces. Our NRD number is #14790. We market different classes of securities of a number of proprietary non-reporting investment funds to our clients and the clients of a registrant in which we have an equity interest. The overwhelming majority of the purchasers of these securities are fully managed accounts.

The following comments should be considered with the foregoing in mind. Our specific comments relating to the handling of such information gathered through the form itself follow below.

Balancing Purchaser Impact and the Protection of Market Integrity:

“Canadians are telling us they are concerned about many privacy issues, for example, data breaches, identity theft, digital privacy and warrantless access to personal data,” says Privacy Commissioner of Canada Daniel Therrien.

“Canadians deeply value privacy, but fear they are losing the control they have over their personal information. It’s imperative we find ways to enhance that sense of control so that people feel their privacy rights are being respected.”

- Office of the Privacy Commissioner of Canada

Throughout 2014 and 2015, Nicola Wealth Management Ltd has been in dialogue with the BCSC with respect to the handling of purchaser information by the Commission. We understand that the BC Securities Act has determined that the particulars of purchasers of exempt market transactions be reported publicly and appreciate that investors, analysts and journalists require beneficial ownership information to conduct analysis and to investigate potential breaches of market integrity. We believe that this determination was based on pressure brought by the press who objected to the lack of information about potential public junior market abuse including insider trading, lack of proper disclosure, market abuses and manipulation.

However, we wish to point out that the objective on the part of the press was isolated to a particular kind of market that is significantly different than the niche market in which registrants such as our firm participate. We therefore recommend that identifying purchaser information not be available simply through a Google search when there is no legitimate cause for concern raised by our exempt-market activities.

Here in BC, purchasers have complained to us about the BCSC 45-106F6 appearing in Google searches of their personal names and home phone numbers. This raises concerns that they become targets for solicitation based on prior investment activity, theft of identity, and breaches of personal security for investors who are members of sensitive professions such as judiciary and law enforcement. In addition, the forms disclosed income-based exemption eligibility. With the advancement of CASL, the Federal Do Not Call list, PIPEDA, and the Office of the Privacy Commissioner such information (personal income, investment holdings and activity, and contact information) are all data the investing public expects to be respected and protected by their financial advisor. By extension, they have this same expectation of their regulators. The release of such information has a real and significant impact on investor confidence.

We’d ask you to consider the following questions:

- Is all information collected on the revised Form 45-106F1 legitimately required of firms registered with the Commissions, when regulators can demand such client information from the exempt-market participants for purposes of investigation?
- Is it the intention of the regulator to expose even purchasers who are accessing the exempt market through registrants who have KYC and gatekeeper obligations?
- Is the level of detail gathered and made public necessary to accomplish the goals of the regulators?

- Is it the intention of the regulator to expose this information without moderation?
- Can regulators take steps to moderate the public disclosure of such detailed information about purchasers while still allowing analysts, investors and investigative journalists access to the information they need?

We note that the ASC handles data from the current Form 45-106F1 in a manner that prevents search engines from accessing the reports. They report issuer activity on their web page, and they instead rely upon a 'specific request' for purchaser information process through a web-portal. These requests may be made by any interested party and are not subject to Freedom of Information protocols.

This web-portal protects legitimate investors from exposure and exploitation. We strongly recommend that consideration be given to the reporting process's impact on purchasers. We appreciate information is required so that regulators may protect market integrity. We understand that investor/media access to information about issuers needs to remain available but want to ensure information about purchasers, especially those who access the exempt market through industry-accountable registrants, are not subject to inappropriate, unnecessary and indiscriminate exposure.

Thank you for this opportunity to comment on these serious concerns with respect to this proposed process change.

Sincerely,

D. MACDONALD per R. CHEN

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