

## NOTICE - REGISTRATION OF NON-RESIDENTS

The increase in interprovincial and international business activity has profoundly affected the investment industry over the last few years. In response, the Commission's approach to the registration of non-resident firms and individuals has evolved over time. Because of the interest in the industry on this topic and the many inquiries Commission staff receive, the Commission is issuing this notice to summarize its current position on this issue.

The Securities Act (the "Act") (subsection 14(1)) permits the Commission to refuse registration if the applicant (or at least one officer or director, in the case of a company, or at least one partner in the case of a partnership) does not meet the "usual residence qualification". In turn, the "usual resident qualification" is defined in subsection 14(2) of the Act as follows:

"14(2) For the purposes of this section, a person possesses the usual resident qualification if

(a) at the date of the application, he is resident in the province and has resided in Canada for at least one year immediately prior thereto; or

(b) at the date of the application, he is registered in a capacity corresponding to that of a broker, investment dealer, underwriter, broker-dealer, sub-broker-dealer, securities issuer, investment counsel, securities adviser or salesman, or is authorized to act in such a capacity without separate registration by virtue of a provision similar to subsection 6(12), under the securities laws of the jurisdiction in Canada in which he last resided, and has been so registered or authorized for at least one year immediately prior thereto."

Until recently, the Commission's general approach was that it would not register non-resident firms or individuals except in limited circumstances, such as:

- salesman of an investment dealer registered in Manitoba who have been transferred from a branch in Manitoba to a branch in another province (generally these individuals have been allowed to maintain registration in Manitoba to permit them to continue to deal with existing clients, at least where the dealer has continued to maintain an office in this province)
- investment counsel who do not hold client assets or manage accounts on a discretionary basis
- non-resident salesmen of a dealer registered in Manitoba which maintains an office in this province for the purpose of trading in securities with clients through toll free telephone numbers

Recently there has been an increasing recognition by securities regulators across Canada that the residency restrictions that have historically been in place across Canada fulfill less and less of a role. As a result over the last few years, a number of jurisdictions have eased the requirements which in the past have meant that firms or individuals had to maintain a physical presence in a jurisdiction to obtain or maintain registration.

The Commission has begun to register investment dealers and broker-dealers that do not have a physical presence in Manitoba, unless there are public interest reasons for not granting the registration, where

- the applicant is a member of an appropriate self-regulatory organization (such as the Investment Dealers Association of Canada)
- the applicant attorns to the laws of Manitoba and undertakes to make all records available to the Commission where required

The Commission will also now register mutual fund distribution companies (but not mutual fund dealers, unless a member of an acceptable self-regulatory organization) on the direct sale of "no load" mutual funds to the public.

Subsection 7(5) of the Act gives the Commission the discretion to require that registrants who propose to trade securities in the secondary market be members of the Winnipeg Stock Exchange. In the past the Commission has generally required registrants proposing to deal in this market to become members of the Winnipeg Stock Exchange and this will continue to be the Commission's general approach.

The Commission is in the process of having staff incorporate its approach to residency into a policy statement which will be circulated shortly.

Dated: November 6, 1997