



MSC Notice 2004-40

The North American Securities Administrators Association requested the following notice be published for a comment period ending September 17, 2004

NOTICE OF RELEASE FOR PUBLIC COMMENT

RECOMMENDATION TO EXPAND THE CURRENT NASAA MODEL SECONDARY MARKET TRADING EXEMPTION FOR QUALIFYING CANADIAN SECURITIES TO ALSO SPECIFY THE TORONTO VENTURE EXCHANGE

To: Public and All Interested Persons
From: NASAA Trading & Exchanges Project Group
Date: August 17, 2004
Subject: Solicitation of Public Comment on NASAA Trading and Exchanges Project Group Recommendation to Expand the Existing Secondary Market Trading Exemption for Qualifying Canadian Securities (that currently specifies the Toronto Stock Exchange) to Also Specify the Toronto Venture Exchange.

The NASAA Trading & Exchanges Project Group is requesting public comment regarding its recommendation to expand the existing NASAA Model Secondary Market Trading Exemption for Qualifying Canadian Securities to include the Toronto Venture Exchange. The Report accompanying this memorandum emphasizes the important distinction that the scope of the Exemption relates solely to secondary market transactions. It does not operate to expand exemption status to primary offerings or to any offers or sales of newly issued securities by a qualifying issuer, as does an exchange-listing type of exemption.

The accompanying Report extensively discusses the regulatory and investor protection bases for expanding the Model Exemption. They include: (1) the continuous disclosure requirements in Canada for Canadian public reporting issuers, including TSX Venture Exchange issuers; (2) the market and issuer oversight functions conducted by the Toronto Venture Exchange over issuers whose securities are listed on that exchange; (3) the regulatory oversight by Market Regulation Services as the independent, arm's-length regulator that conducts the SRO functions for all trading exchanges involved in equity trading throughout Canada, including the TSX Venture Exchange; (4) that licensed/registered U.S. broker-dealers and agents subject to federal and state suitability "know your customer" rules will be effectuating the trades on behalf of U.S. persons; and (5) that the state securities administrator is accorded the authority to revoke, following a hearing, any designation of a qualifying exchange under the exemption if such becomes necessary for the protection of investors.

The Report also discusses additional regulatory/investor protection aspects present in the Canadian regulatory regime, as well as recent significant regulatory developments in Canada, providing additional bases for the Project Group's recommendation to expand the Model Secondary Trading Exemption to the TSX Venture Exchange.

There are three Attachments referenced in the Report. They are separately posted for review on the public portion of the NASAA website with other documents related to this recommendation.

The comment period will remain open for 30 days. The Board requests that persons who intend to submit their comments during the final 10 days of the comment period alert the Project Group Chairperson as well as the NASAA Legal Department of that fact prior to September 1, 2004. Comments on the proposal are invited, and to facilitate their consideration, please send copies of the comments to each Project Group member, the NASAA Corporation Finance Section Chairperson, and the NASAA Legal Department. An addressee roster is set forth below.

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