



**ASC NOTICE AND REQUEST FOR COMMENT  
PROPOSED REVOCATION OF ASC BLANKET  
ORDER 31-505 REGISTRATION EXEMPTION  
FOR TRADES IN CONNECTION WITH CERTAIN  
PROSPECTUS-EXEMPT DISTRIBUTIONS AND  
REPLACEMENT WITH PROPOSED ASC  
BLANKET ORDER 31-536 ALBERTA SMALL  
BUSINESS FINDER'S EXEMPTION**

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**March 25, 2021**

**Introduction**

The Alberta Securities Commission (ASC) is publishing for a 44-day comment period a proposal to revoke the current ASC Blanket Order 31-505 *Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions* (**Blanket Order 31-505, also referred to as the Northwestern Exemption**) and replace it with proposed ASC Blanket Order 31-536 *Alberta Small Business Finder's Exemption* (the **Proposed Blanket Order**). The Proposed Blanket Order is attached as Annex A to this Notice and a blackline comparing Blanket Order 31-505 to the Proposed Blanket Order is attached as Annex B to this Notice.

**Substance and Purpose**

The ASC understands that start-up and small businesses are an important part of Alberta's provincial economy, serving as key contributors to employment, quality of life and income within communities. In that regard, the ASC has reviewed Blanket Order 31-505 and the current exemptions from the prospectus requirements with a view to facilitating access to capital by these start-ups and other small businesses in Alberta while still providing appropriate investor protection.

As a result of this review, the ASC is publishing for comment the proposed revocation of Blanket Order 31-505 and its replacement with the Proposed Blanket Order. The Proposed Blanket Order will provide a more targeted exemption from the dealer registration requirement that is intended to enhance investor protection and better integrate with the existing and proposed prospectus exemptions that small business in Alberta can rely on.

**Background**

On July 17, 2009, the CSA published the final National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) and the related Companion Policy, which changed the dealer registration requirement from a "trade trigger" to a "business trigger". Prior to that, there had been, in most cases, a dealer registration exemption that corresponded to each prospectus exemption. With the move to the "business trigger" for dealer registration requirement, it was not clear there remained a need for many of the prior

dealer registration exemptions that previously existed in what was then National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**). Therefore, NI 45-106 was amended to remove the various registration exemptions and the few remaining registration exemptions were relocated to NI 31-103. With the implementation of the new exempt market dealer category of registration in NI 31-103, some jurisdictions were concerned with the resulting implications to capital formation. Therefore, the CSA notice accompanying the publication advised that certain jurisdictions, including Alberta, would issue orders exempting a person from the dealer registration requirement when the person trades in securities of issuers relying on certain prospectus exemptions.

In February 2010, British Columbia (**BC**), Alberta, Saskatchewan (**SK**), Manitoba (**MB**), Nunavut (**NU**), Northwest Territories (**NWT**) and Yukon (**YK**) retained a narrow carve-out from the registration requirements, known as the Northwestern Exemption (**NWE**), which permitted limited blanket relief from the requirement to register as a exempt market dealer in connection with a distribution of exempt securities when certain conditions were met. The ASC effected this through the issuance of Blanket Order 31-505.

On August 15, 2018, after assessing the use of the NWE, the securities regulatory authorities in each of BC, MB NU, NWT and the YK (collectively, the **NWE Jurisdictions**) published Multilateral CSA Notice 32-302 *Notice of Revocation for Certain Local Orders Providing Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions and Update on BC Instrument 32-517 Exemption from Dealer Registration Requirement for Trades in Securities of Mortgage Investment Entities* (**Notice 32-302**). Notice 32-302 announced that the substantially harmonized registration exemptions in each of the NWE Jurisdictions that form the Northwestern Exemption (the local orders) will cease to be effective in their local jurisdictions on April 30, 2019.

On August 15, 2018 the ASC published a notice requesting comment on the proposed revocation of the NWE contained in Blanket Order 31-505. The comment period was open until September 19, 2018.

On March 11, 2019 the ASC issued ASC Notice *Continuation of ASC Blanket Order 31-505 Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions* dated March 11, 2019 advising that it had considered all of the comments received and decided not to revoke Blanket Order 31-505 and that the ASC was considering possible alternatives to Blanket Order 31-505, including amendments to the current exemption.

The requirement for a person or company “in the business” of trading securities to be registered and be subject to the ongoing obligations association with registration is an important element of investor protection. However, with respect to early stage businesses, raising modest amounts of capital, we understand that there is very limited participation by registered dealers. The Proposed Blanket Order is intended to provide a more targeted dealer registration exemption to better address the challenges faced by small businesses, while still addressing concerns relating to investor protection. It focuses on Alberta small businesses that raise no more than \$5,000,000 relying on certain exemptions from the prospectus requirements. We recognize that although the size of these capital raisings are the not traditionally supported by registered dealers, they can be

assisted by finders who have contacts in the community who may invest in these types of opportunities.

### **Summary of the Proposed Blanket Order**

The Proposed Blanket Order would replace Blanket Order 31-505.

We have taken the provisions contained in Blanket Order 31-505 and have made a number of changes to address two main goals:

- 1) to more specifically target Alberta-based start-ups and other Alberta small businesses; and
- 2) to address concerns relating to investor protection by adding a number of conditions on the finder relying on the dealer registration exemption.

A summary of the material aspects of the Proposed Blanket Order are as follows:

#### **I. Which issuers can finders act for?**

- We have clarified that the issuer must have a head office in Alberta; and
- We have added in a requirement that the finder can only work with an issuer that has not raised in aggregate more than \$5,000,000 under exemptions from the prospectus requirements.

These changes more specifically target the exemption to Alberta small business issuers and reflect that registered dealers do not generally participate in private placements under \$5,000,000.

#### **II. When can a finder participate in financing?**

- We have added to the list of prospectus exemptions (**Specified Distributions**) identifying the financings that a finder can participate in:
  - proposed ASC Blanket Order 45-538 *Self-Certified Investor Prospectus Exemption*;
  - proposed ASC Blanket Order 45-539 *Small Business Financing*; and
  - section 2.4(2)(ii) or 2.4(2)(1)[private issuer to an accredited investor or a person or company that is not the public] National Instrument 45-106 *Prospectus Exemption*.
- We have removed:
  - Section 2.5 [family, friends, and business associates] National Instrument 45-106 *Prospectus Exemptions*.

These changes reflect the addition of new exemptions. In addition, we removed the family, friends and business associates' prospectus exemption as the name implies a finder should not be needed to contact people that the principals of an issuer already have a familial or close personal friendship or close business associate relationship.

### III. Who can be a finder?

- We have restricted finders to individuals (defined in the *Securities Act* (Alberta) as a natural person; and
- We have added a provision that a finder cannot be a bad actor.

At the time Blanket Order 31-505 came into force, it made sense that there were persons or companies that would utilize the exemption as they transitioned to registration as an exempt market dealer. As NI 31-103 has been in place for over 10 years, we believe limiting finders to natural persons is more in keeping with our understanding of finders being natural persons who have business contacts and friends who maybe willing to participate in private placements.

The bad actor provision is based on a similar provision found in Proposed National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*. We have included a similar provision in the Proposed Blanket Order in order to ensure investors are protected.

### IV. What can't a finder do?

- We have included a requirement that the finder cannot directly or indirectly advertise the distribution or solicit prospective purchasers other than persons or companies with whom they have a substantial pre-existing relationship.
- We have clarified the requirement that a finder cannot have previously provided financial services to the purchaser by listing the types of relationships below:
  - a registrant, other than in connection with a Specified Distribution;
  - a financial planner, providing advice about how to make financial plans having regard to a person's tax, personal or financial situation;
  - an insurance agent offering insurance products;
  - a mortgage broker providing mortgage services; or
  - a similar financial services relationship.

We have included the advertisement and soliciting restrictions because our understanding is that a finder is a person who has business contacts and friends who maybe willing to participate in private placements. Finders should not be going to the general public.

Examples of financial services previously provided by the finder were listed in the ASC Notice *Blanket Order 31-505 - Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions* published along with Blanket Order 31-505 on February 12, 2010. We decided for clarity to include them in the Proposed Blanket Order.

We also have made a number of changes to the risk acknowledgement form and the information report attached to Proposed Blanket Order.

A copy of the Proposed Blanket Order and a blackline between the Proposed Blanket Order and Blanket Order 31-505 can be found in Annexes A and B.

## Related Initiatives

On November 20, 2020, the ASC and the Saskatchewan Financial and Consumer Affairs Authority published for comment CSA Multilateral Notice and Request for Comment 45-327 *Proposed Prospectus Exemption for Self-Certified Investors*.

Concurrently with this notice, the ASC and the Financial and Consumer Affairs Authority of Saskatchewan have also published for comment CSA Multilateral Notice and Request for Comment Proposed Order 45-539 *Small Business Financing (Proposed Blanket Order 45-539)*. Proposed Blanket Order 45-539 provides an exemption from the prospectus requirements, allowing businesses in Alberta and Saskatchewan to raise up to \$5,000,000 from investors in those provinces, with tiered offering and investment limits depending on whether specified financial statements are provided to investors.

The Proposed Blanket Order has been drafted to contemplate not just existing prospectus exemptions but each of these proposed new prospectus exemptions.

## Transition Period

The Proposed Blanket Order will replace Blanket Order 31-505, however we have included a six month transition period before Blanket Order 31-505 is revoked. The 6 month period will allow finders, relying on the dealer registration exemption contained in Blanket Order 31-505, to complete private placements that are in progress during this transition period.

Any new private placements with unregistered finders that trigger the registration requirement can only take place under the exemption in the Proposed Blanket Order. Finders that wish to rely on the Proposed Blanket Order will need to make the new required filing under it. Previous filings made by finders under Blanket Order 31-505 will not transfer to the Proposed Blanket Order.

## Request for Comments

We welcome your comments on all aspects of the Proposed Blanket Order. In particular, we seek feedback on the following questions:

1. To what extent do you anticipate that this registration exemption would be relied on by Alberta businesses? Specifically, is the requirement that a finder can only work with an Alberta issuer that has not raised in aggregate more than \$5,000,000 under any prospectus exemption contained in the Proposed Blanket Order an appropriate limit?
2. We have a number of provisions to address investor protection including:
  - a. limiting finders to natural persons;
  - b. disqualifying a bad actor from being a finder;
  - c. not allowing finders to hold or have access to the purchaser's assets;
  - d. building into the risk acknowledgment form a requirement for the finder to provide

- the amount of compensation to be received from the issuer;
- e. prohibiting advertising; and
- f. not allowing finders to have previously provided financial services to the purchaser.

Are there any other investor protection measures that would be appropriate?

3. To what extent do you anticipate limiting finders to individuals will impact the number of finders in Alberta?
4. We understand limiting finders to individuals would prevent a finder from using a personal holding company. Is this a concern that needs to be addressed?
5. We have clarified the requirement that a finder cannot have previously provided financial services to the purchaser by listing the types of relationships as follows:
  - a. a registrant, other than in connection with a Specified Distribution;
  - b. a financial planner, providing advice about how to make financial plans having regard to a person's tax, personal or financial situation;
  - c. an insurance agent offering insurance products;
  - d. a mortgage broker providing mortgage services; or
  - e. a similar financial services relationship.

Are there any other relationships that should be added to this list? What about other relationships of trust, such as a clergy member?

6. Is a 6 month transition period before the revocation of Blanket Order 31-505 sufficient to complete private placements that are in progress?

### Submitting Comments

Please submit your comments in writing on or before May 7, 2021.

Comments may be submitted by any of the following:

- 1) **By sending an email** to [bonnie.kuhn@asc.ca](mailto:bonnie.kuhn@asc.ca) or
- 2) **By hard copy** to the attention of:

Bonnie Kuhn  
 Senior Legal, Market Regulation  
 Alberta Securities Commission  
 Suite 600, 250 – 5<sup>th</sup> Street SW  
 Calgary, AB T2P 0R4

Please note that comments received will be made publicly available and will be posted on the ASC website at [www.albertasecurities.com](http://www.albertasecurities.com). Accordingly, you should not include personal information directly in comments. It is important that you state on whose behalf you are making the submission.

**Questions**

Questions respecting the Proposed Blanket Order can be directed to:

Bonnie Kuhn  
Senior Legal, Market Regulation  
Alberta Securities Commission  
403-355-3890

INCLUDES COMMENT LETTERS RECEIVED

## ANNEX A

## ALBERTA SECURITIES COMMISSION

## PROPOSED BLANKET ORDER 31-536

*ALBERTA SMALL BUSINESS FINDER'S EXEMPTION*

Citation: Alberta Small Business Finder's Exemption, 2021 ABASC●

Date: 20210●

**Definitions**

1. Terms defined in the *Securities Act* (Alberta), National Instrument 14-101 *Definitions* and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* have the same meaning in this Order.
2. In this Order:
  - "**Alberta Small Business**" means an issuer with its head office in Alberta that has not raised in aggregate more than \$5 000 000 under exemptions from the prospectus requirement;
  - "**Blanket Order 31-505**" means Blanket Order 31-505 *Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions* ;
  - "**Specified Distribution**" means a distribution in Alberta to a purchaser resident in Alberta by an Alberta Small Business that is exempt from the prospectus requirement under any of the following:
    - (a) Section 2.3 [accredited investor] of National Instrument 45-106 *Prospectus Exemptions*;
    - (b) Section 2.9 [offering memorandum] of National Instrument 45-106 *Prospectus Exemptions*;
    - (c) Section 2.10 [minimum amount investment] of National Instrument 45-106 *Prospectus Exemptions*;
    - (d) Section 2.4(2)(i) or 2.4(2)(1) [private issuer to an accredited investor or a person or company that is not the public] of National Instrument 45-106 *Prospectus Exemptions*;
    - (e) Alberta Securities Commission Blanket Order 45-538 *Self-Certified Investor Prospectus Exemption*;
    - (f) Alberta Securities Commission Blanket Order 45-539 *Small Business Financing*.

## Background

3. The dealer registration requirement prohibits a person or company from acting as a dealer unless registered, absent an available exemption.
4. The Commission has considered Blanket Order 31-505 and has determined that it would not be prejudicial to public interest to replace Blanket Order 31-505 with a more tailored exemption to the dealer registration requirement.

## Order

5. The Commission orders, under section 213 of the Act, that the dealer registration requirement does not apply to an individual in connection with a Specified Distribution, provided that:
  - (a) the individual is not registered under provincial or territorial securities legislation;
  - (b) the individual is not registered under the securities legislation of a foreign jurisdiction;
  - (c) the individual is not or has not been the subject of an order, judgment, decree, sanction, or administrative penalty imposed by, or has entered into a settlement agreement with, a government agency, administrative agency, self-regulatory organization, civil court, or administrative court in the last 10 years related to a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct;
  - (d) the individual has not advised the purchaser about the merits of the security being traded or recommended or otherwise represented to the purchaser that the security being traded is a suitable investment for the purchaser.
  - (e) the individual has not, directly or indirectly, publicly advertised the Specified Distribution or solicited prospective purchasers other than persons or companies with whom they have a substantial pre-existing relationship;
  - (f) prior to the purchaser entering into an agreement to purchase a security under a Specified Distribution, the individual obtains from the purchaser a signed Risk Acknowledgement Form in the form prescribed in Appendix A;
  - (g) the individual has not had any of the following relationships with the purchaser:
    - a. a registrant, other than in connection with a Specified Distribution;
    - b. a financial planner, providing advice about how to make financial plans having regard to a person's tax, personal or financial situation;

- c. an insurance agent offering insurance products;
- d. a mortgage broker providing mortgage services; or
- e. a similar financial services relationship.

- (h) the individual does not hold or have access to the purchaser's assets; and
- (i) on or before the 10th day following the Specified Distribution, the individual has electronically filed with the Executive Director of the Commission a Finder's Information Report in the form prescribed in Appendix B, that contains current contact information for the individual.

6. The Commission, considering it would not be prejudicial to the public interest, orders under section 214 of the Act that Blanket Order 31-505 *Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions* is revoked on ● [6 months] to allow for the completion of any trades in connection with Prospectus- Exempt Distributions relying on Blanket Order 31-505 .

7. This Order takes effect on ●.

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, Vice-Chair

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, Vice-Chair

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**Appendix A**

**Risk Acknowledgement under  
ASC BLANKET ORDER 31-536 *Alberta Small Business Finder's Exemption***

**Name of Issuer:** \_\_\_\_\_

**Name of Finder:** \_\_\_\_\_

<b>I acknowledge each of the following:</b>	<b>Purchaser's Initials</b>
The Finder selling me these securities is not registered with a securities regulatory authority and is not qualified to provide investment advice or recommendations.	
I have a substantial pre-existing relationship with the Finder.	
The Finder is prohibited from telling me that this investment is suitable for me.	
The Finder does not act for me.	
The Finder is being compensated by the issuer for selling me these securities and consequently has a conflict of interest.	
I understand that the Finder will receive compensation, directly or indirectly, from the issuer for selling me the securities. The compensation is _____ <b>(Finder to insert amount)</b>	
This investment may not be suitable for me. Before investing, I will need to either seek out advice from a registered dealer or adviser regarding the suitability for me or make that decision myself having regard to factors such as my risk profile, my financial circumstances, my personal circumstances, my other investments, my investment needs and objectives and my investment time horizon.	
I will need to make my own assessment of the merits of this investment.	
This is a risky investment. I should not invest if I cannot afford to lose this investment.	

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Purchaser

\_\_\_\_\_  
Print name of Purchaser

Sign two copies of this document. Keep one copy for your records.

Note: National Instrument 45-106 *Prospectus Exemptions* may require the issuer to obtain an additional risk acknowledgement form from you.

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**Appendix B**

**Finder's Information Report under  
ASC BLANKET ORDER 31-536  
*Alberta Small Business Finder's Exemption***

*Instructions for filing:*

The finder's information report must be completed and filed electronically on the Alberta Securities Commission website at the following link: ●

[Date]

To: Executive Director, Alberta Securities Commission (ASC)

I am filing this report in compliance with the dealer registration exemption in ASC Blanket Order 31-536 *Alberta Small Business Finder's Exemption*.

I am filing this report for the first time: Yes or No

I am filing this report to update a previously filed report: Yes or No

My full legal name is:

First Name \_\_\_\_\_

Middle Name \_\_\_\_\_

Last Name: \_\_\_\_\_

I am also known as:

First Name: \_\_\_\_\_

Middle Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

My residential address is:

(Do not include a P.O. box or agent for service)

Address line 1: \_\_\_\_\_

Address Line 2: \_\_\_\_\_

City: \_\_\_\_\_

Province: \_\_\_\_\_

Postal Code: \_\_\_\_\_

My residential address is the same as my mailing address: Yes or No. If No, complete the following:

Address line 1: \_\_\_\_\_

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Address Line 2: \_\_\_\_\_  
City: \_\_\_\_\_  
Province: \_\_\_\_\_  
Postal Code: \_\_\_\_\_

My telephone number is: \_\_\_\_\_

**Collection and use of personal information**

The personal information submitted in this report is collected on behalf of and used by the Alberta Securities Commission under the authority granted in securities legislation for the purposes of its administration and enforcement of the securities legislation.

If you have any questions about the collection and use of your personal information, you can contact the Alberta Securities Commission, at the address listed below.

Alberta Securities Commission  
Suite 600, 250-5<sup>th</sup> St. SW  
Calgary, AB T2P 0R4  
Attention: FOIP Coordinator  
Telephone: (403) 297-6454  
Toll free in Canada: 1-877-355-0585

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ANNEX B  
ALBERTA SECURITIES COMMISSION  
BLACKLINE BETWEEN BLANKET ORDER 31-505 AND PROPOSED BLANKET ORDER  
31-536

Citation: \_\_\_\_\_

Date: 20100212

ALBERTA SECURITIES COMMISSION

BLANKET ORDER ~~31-505~~31-536

**February 12, 2010**

Citation: Alberta Small Business Finder's Exemption, 2021 ABASC • \_\_\_\_\_ Date: 20210•

**Definitions**

1. Terms defined in the *Securities Act, R.S.A. 2000, c. S-4 (the Act) or in (Alberta), National Instrument 14-101 Definitions and National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations* have the same meaning in this ~~Blanket~~ Order.

**Background**

~~2. National Instrument 31-103 Registration Requirements and Exemptions (NI 31-103) classifies a registrant who trades in securities distributed under an exemption from the prospectus requirement as an Exempt Market Dealer.~~

~~3. NI 31-103 prescribes conditions of registration and other requirements and restrictions applicable to an Exempt Market Dealer.~~

~~4. \_\_\_\_\_~~

2. In this Order:

"Alberta Small Business" means an issuer with its head office in Alberta that has not raised in aggregate more than \$5 000 000 under exemptions from the prospectus requirement;

"Blanket Order 31-505" means Blanket Order 31-505 Registration Exemption for Trades in Connection with Certain Prospectus-Exempt Distributions ;

"Specified Distribution" means a distribution in Alberta to a purchaser resident in Alberta by an Alberta Small Business that is exempt from the prospectus requirement under any of the following:

(a) Section 2.3 [accredited investor] of National Instrument 45-106 Prospectus ~~and Registration Exemptions~~ exempts from the prospectus requirement certain distributions made in reliance on section 2.3 (to accredited investors), section 2.5 (to family, friends and business associates), section;

(b) Section 2.9 (under an [offering memorandum] or section) of National Instrument 45-106 Prospectus Exemptions;

(c) Section 2.10 ~~([minimum amount investment amount] (each of the foregoing distributions being referred to as a **Prospectus-Exempt Distribution**)).~~

~~5.]~~ of National Instrument 45-106 *Prospectus Exemptions*;

(d) Section 2.4(2)(i) or 2.4(2)(1) [private issuer to an accredited investor or a person or company that is not the public] of National Instrument 45-106 *Prospectus Exemptions*;

(e) Alberta Securities Commission Blanket Order 45-538 *Self-Certified Investor Prospectus Exemption*;

(f) Alberta Securities Commission Blanket Order 45-539 *Small Business Financing*.

### **Background**

3. The dealer registration requirement prohibits a person or company from acting as a dealer unless registered, absent an available exemption.

4. The Commission ~~considers that limited blanket relief from the requirement to register as an Exempt Market Dealer for a trade in a security in connection with a Prospectus-Exempt Distribution~~ has considered Blanket Order 31-505 and has determined that it would not be prejudicial to the public interest to replace Blanket Order 31-505 with a more tailored exemption to the dealer registration requirement.

### **Order**

65. The Commission orders, under section 213 of the Act, that the dealer registration requirement does not apply to ~~a trade in a security by a person or company~~ an individual in connection with a ~~Prospectus-Exempt~~ Specified Distribution, provided that:

(a) the ~~person or company~~ individual is not ~~registered or required to be~~ registered under provincial or territorial securities legislation;

(b) the ~~person or company~~ individual is not ~~registered or required to be~~ registered under the securities legislation of a foreign jurisdiction;

(c) the individual is not or has not been the subject of an order, judgment, decree, sanction, or administrative penalty imposed by, or has entered into a settlement agreement with, a government agency, administrative agency, self-regulatory organization, civil court, or administrative court in the last 10 years related to a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar conduct;

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- (d) ~~(e) prior to the trade, the individual has not advised the purchaser about the person or company does not advise, recommend~~ merits of the security being traded or recommended or otherwise ~~represent~~ represented to the purchaser that the security being traded is a suitable investment for the purchaser, ~~with regard.~~
- (e) the individual has not, directly or indirectly, publicly advertised the Specified Distribution or solicited prospective purchasers other than persons or companies with whom they have a substantial pre-existing relationship;
- (f) prior to the purchaser's:
- ~~(i) — investment needs and objectives;~~
- ~~(ii) — financial circumstances; or~~
- ~~(iii) — risk tolerance;~~
- ~~(d) — at or before the time at which the purchaser enters~~ entering into an agreement to purchase the security under a Specified Distribution, the ~~person or company~~ individual obtains from the purchaser a signed Risk Acknowledgement Form in the form prescribed in Appendix A;
- (g) ~~(e) the person or company individual has not provided financial services to~~ had any of the following relationships with the purchaser:
- a. a registrant, other than in connection with a ~~Prospectus Exempt~~ Specified Distribution;
- b. a financial planner, providing advice about how to make financial plans having regard to a person's tax, personal or financial situation;
- c. an insurance agent offering insurance products;
- d. a mortgage broker providing mortgage services; or
- e. a similar financial services relationship.
- (h) ~~(f) the person or company individual does not hold or have access to the purchaser's assets; and~~
- (i) ~~(g) the person or company~~ on or before the 10th day following the Specified Distribution, the individual has electronically filed with the Executive Director of the Commission a ~~current information report~~ Finder's Information Report in the form prescribed in Appendix B, ~~or has filed an update of a previously filed information report, on or before the 10th day after the~~ that contains current contact information for the individual.

6. The Commission, considering it would not be prejudicial to the public interest, orders under section 214 of the Act that Blanket Order 31-505 *Registration Exemption for*

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Trades in Connection with Certain Prospectus-Exempt Distributions is revoked on • [6 months] to allow for the completion of any trades in connection with Prospectus- Exempt ~~Distribution~~ Distributions relying on Blanket Order 31-505.

7.        This ~~order~~ Order takes effect on ~~March 27, 2010~~       .

~~"original signed by"~~  
~~Glenda A. Campbell, QC, Vice-Chair~~  
~~Alberta Securities Commission~~

~~"original signed by"~~  
~~Stephen R. Murison, Vice-Chair~~  
~~Alberta Securities Commission~~

INCLUDES COMMENT LETTERS RECEIVED

Appendix A

**Risk Acknowledgement under  
ASC BLANKET ORDER 31-505 Registration Exemption for Trades in Connection with  
 Certain Prospectus-Exempt Distributions-31-536 Alberta Small Business Finder's  
 Exemption**

Name of Issuer: \_\_\_\_\_

Name of **Seller**Finder: \_\_\_\_\_

**I acknowledge that**

- ~~the person selling me these securities is not registered with a securities regulatory authority and is prohibited from telling me that this investment is suitable for me;~~
- ~~the person selling me these securities does not act for me;~~
- ~~this is a risky investment and I could lose all my money; and,~~
- ~~I am investing entirely at my own risk.~~

<u>I acknowledge each of the following:</u>	<u>Purchaser's Initials</u>
<u>The Finder selling me these securities is not registered with a securities regulatory authority and is not qualified to provide investment advice or recommendations.</u>	
<u>I have a substantial pre-existing relationship with the Finder.</u>	
<u>The Finder is prohibited from telling me that this investment is suitable for me.</u>	
<u>The Finder does not act for me.</u>	
<u>The Finder is being compensated by the issuer for selling me these securities and consequently has a conflict of interest.</u>	
<u>I understand that the Finder will receive compensation, directly or indirectly, from the issuer for selling me the securities. The compensation is _____ (Finder to insert amount)</u>	
<u>This investment may not be suitable for me. Before investing, I will need to either seek out advice from a registered dealer or adviser regarding the suitability for me or make that decision myself having regard to factors such as my risk profile, my financial circumstances, my personal circumstances, my other investments, my investment needs and objectives and my investment time horizon.</u>	
<u>I will need to make my own assessment of the merits of this investment.</u>	
<u>This is a risky investment. I should not invest if I cannot afford to lose this investment.</u>	

INCLUDES COMMENT LETTERS RECEIVED

INCLUDES COMMENT LETTERS RECEIVED

_____	_____
Date	Signature of Purchaser
_____	_____
	Print name of Purchaser
_____	
<del>Name of salesperson acting on behalf of seller</del>	
Sign two copies of this document. Keep one copy for your records.	

Note: National Instrument 45-106 ~~Prospectus~~ ~~and Registration~~ Exemptions may require ~~you~~ the issuer to ~~sign~~ obtain an additional risk acknowledgement form:

~~If from you want advice about the merits of this investment and whether these securities are a suitable investment for you, contact a registered adviser or dealer.~~

Appendix B

**Finder's Information ~~report~~ Report under  
ASC BLANKET ORDER 31-505 ~~Registration-536~~  
Alberta Small Business Finder's Exemption**

Instructions for ~~Trades in Connection with Certain Prospectus-Exempt Distributions~~ filing:

The finder's information report must be completed and filed electronically on the Alberta Securities Commission website at the following link: ●

[Date]

- To: — Executive Director, Alberta Securities Commission (ASC)  
~~— British Columbia Securities Commission~~  
~~— Government of the North West Territories, Securities Office~~  
~~— Government of Nunavut, Department of Justice~~  
~~— Government of the Yukon Territory, Community Services~~  
~~— Manitoba Securities Commission~~  
~~— Saskatchewan Financial Services Commission~~

~~INSTRUCTION: Choose the jurisdiction(s) in which you are in the business of trading in securities. For a discussion about what constitutes being in the business of trading in securities, see Companion Policy 31-103 Registration Requirements and Exemptions.~~

~~[Name of firm or, if a sole proprietor, individual owner's name and any related trade names]~~

~~INSTRUCTION: State the full name of the firm or individual~~

~~[Street address] INSTRUCTION: State the street office for the head office of the firm or proprietorship.~~

I am filing this report in compliance with the dealer registration exemption in ASC Blanket Order 31-536 Alberta Small Business Finder's Exemption.

I am filing this report for the first time: Yes or No

I am filing this report to update a previously filed report: Yes or No

My full legal name is:

First Name

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Middle Name  
Last Name:

I am also known as:  
First Name:  
Middle Name:  
Last Name:

My residential address is:  
(Do not include a P.O. box or agent for service.)

~~[Website address for firm]~~ **INSTRUCTION: State the website**  
Address line 1:  
Address Line 2:  
City:  
Province:  
Postal Code:

My residential address ~~for~~ is the ~~firm.~~ **If there is no website address, state "not applicable".**

~~[Telephone number for firm or, if sole proprietor, individual]~~

~~[Name of individual responsible for ensuring conditions to use this registration exemption are met]~~ **INSTRUCTION: State the name of the individual who may be contacted with respect to any questions regarding the contents of this report. This individual should be a senior executive for the firm.**

~~[Telephone number for responsible individual named above]~~

~~[E-mail address for responsible individual named above]~~

Does the firm also carry on business at other office locations? ~~\_\_\_ Yes \_\_\_ No~~

~~[Names of salespersons employed by the firm to sell securities]~~

[Date] same as my mailing address: Yes or No. If No, complete the following:

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Address line 1: \_\_\_\_\_  
 Address Line 2: \_\_\_\_\_  
 City: \_\_\_\_\_  
 Province: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_

My telephone number is: \_\_\_\_\_

### Collection and use of personal information

The personal information submitted in this report is collected on behalf of and used by the ~~securities regulatory authorities or, where applicable, the regulators~~ Alberta Securities Commission under the authority granted in securities legislation for the purposes of its administration and enforcement of the securities legislation.

If ~~anyone referred to in this report has~~ you have any questions about the collection and use of ~~their~~ your personal information, ~~they~~ you can contact the ~~regulator in the jurisdiction(s) where the report is filed~~ Alberta Securities Commission, at the address ~~(es)~~ listed below.

#### **Alberta**

Alberta Securities Commission

~~4<sup>th</sup> Floor~~

Suite 600, 300-5250-5<sup>th</sup> Avenue St. SW

Calgary, AB T2P ~~3C0R4~~

Attention: ~~Information Officer~~ FOIP Coordinator

Telephone: (403) ~~355-4151~~ 297-6454

#### **British Columbia**

~~British Columbia Securities Commission~~

~~P.O. Box 10142, Pacific Centre~~

~~701 West Georgia Street~~

~~Vancouver, BC V7Y 1L2~~

~~Attention: Freedom of Information Officer~~

~~Telephone: (604) 899-6500 or (800) 373-6393 (in BC)~~

#### **Manitoba**

~~The Manitoba Securities Commission~~

4

500—400 St. Mary Avenue  
 Winnipeg, MB R3C 4K5  
 Attention: Director of Registrations  
 Telephone: (204) 945-2548  
 Fax: (204) 945-0330

#### **Northwest Territories**

Government of the Northwest Territories  
 P.O. Box 1320  
 Yellowknife, NWT X1A 2L9  
 Attention: Deputy Superintendent of Securities  
 Telephone: (867) 920-8984

#### **Nunavut**

Legal Registries Division  
 Department of Justice  
 Government of Nunavut  
 P.O. Box 1000 Station 570  
 Iqaluit, NU X0A 0H0  
 Attention: Department Registrar of Securities  
 Telephone: (867) 975-6190

#### **Yukon**

Department of Community Services Yukon  
 P.O. Box 2703  
 Whitehorse, YU Y1A 2C6  
 Attention: Registrar of Securities  
 Telephone: (867) 667-5225

#### **Saskatchewan**

Saskatchewan Financial Services Commission  
 Suite 601, 1919 Saskatchewan Drive  
 Regina, SK S4P 4H2  
 Attention: Director  
 Telephone: (306) 787-5842  
[Toll free in Canada: 1-877-355-0585](tel:1-877-355-0585)

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**From:** [REDACTED]  
**To:** [Bonnie Kuhn](#)  
**Cc:** [Tom Graham](#); [Lynn Tsutsumi](#)  
**Subject:** Blanket Order 31-536  
**Date:** May 5, 2021 10:02:57 AM  
**Attachments:** [image001.gif](#)

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**EXTERNAL EMAIL**

Hi Bonnie,

I wanted to give you a couple of quick comments on the above Blanket Order.

I think the blanket order is a good initiative, and I am generally in agreement with the blanket order.

With respect to question 1, considering the limit is a "lifetime" exemption for issuers, I think it would be more helpful if the limit was increased somewhat, perhaps to \$10,000,000.

With respect to questions 3 and 4, if the exemption is limited to individuals, I would consider adding companies that are wholly owned by those individuals or the individual's spouse. I expect many finders have holding companies for limited liability reasons, and I think limiting finders to individuals (and not including their wholly owned companies) may hamper the intended purpose of the Blanket Order by excluding a number of finders that are, for all intents and purposes, very similar (at least from a securities laws perspective) to those individuals.

Cheers,

Derrick

**Derrick Auch**  
**Partner**

T  
F  
M  
E



[REDACTED]

**From:** [REDACTED]  
**To:** [Bonnie Kuhn](#)  
**Subject:** proposed blanket order 31-536 Small Business Finder's Exemption  
**Date:** May 6, 2021 09:28:46 AM

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EXTERNAL EMAIL

We have reviewed the proposed Blanket Order, and would find it useful and beneficial, save and except in 3 areas.

1. We submit that the limitation to the Finder being a Natural Person, excluding corporations, to be too restricting and limiting. Many such Finder's operate through a corporation. for a variety of just and logical reasons. The idea of a Finder operating behind a corporate veil should be allowed.

2. The restriction on advertising/marketing should be removed. We think the reasons are obvious, but they stem from the need for a capital raise to have access to all tools available, including tech such as platforms or SM in order to be successful. We can't see any downside to allowing Finders using them. Truly personal relationships only go so far.

3. The cap of \$5MM for an issuer to be eligible seems too low. Time to go big or go home in this Province!

Otherwise, very, very good work!

*It is 2021-Let's work with our Planet-not against her!*

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**J.R. Richardson**  
Co-Founder & Director of  
Partnerships



- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



May 6, 2021

Alberta Securities Commission  
Suite 600, 250 – 5<sup>th</sup> Street SW  
Calgary, AB. T2P 0R4

**Attention:** Bonnie Kuhn, Senior Legal, Market Regulation

To Whom it May Concern:

**RE: Proposed Revocation of ASC Blanket Order 31-505 *Registration Exemption for Trades in Connection with Certain Prospectus Exempt Distributions* and Replacement with Proposed ASC Blanket Order 31-536 (“BI 31-536”) *Alberta Small Business Finder’s Exemption***

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Before I begin, let me give you a little background of where my experience lies. I have raised over \$20 million through over 40 offerings in my business life. Some of my offerings were in small oil and gas companies using the offering memorandum exemption. I was basically the only one raising the money. So I definitely know what it takes to raise money for small business.

My background before I began raising money for oil and gas was that I had been in the life insurance business for 15 years and had also formed my own mutual fund dealership. I had built a clientele who was familiar with me and trusted my judgement.

Raising money to start Olympia Trust Company (Olympia Financial Group Inc’s wholly owned subsidiary) was my biggest challenge. I had to raise \$2 million from 50 people or less. The minimum investment was \$50,000. I was successful in doing so because I knew a lot of people and they respected my opinion. Investors that invested \$50,000 25 years ago have enjoyed annual dividends of \$50,000 to \$70,000 per year for over 15 years and also received a special dividend of \$250,000 in 2016. The current market value of their shares is over \$1,000,000!! Olympia Financial Group Inc. employs 200 people in Alberta and another 25 in other parts of the country. Olympia Trust Company is the company of choice for Canadians who wish to invest their registered funds in private securities. So I do have some ground level experience with respect to raising and managing capital.

#### **General Commentary**

I am very happy to see that the Alberta Securities Commission (“ASC”) has identified a major problem in our capital markets with respect to the ability of small businesses to raise capital.

I was involved in this marketplace when the Exempt Market Dealer (“EMD”) category was created via the adoption of National Instrument 31-103 (“NI 31-103”). The goal at that time was clearly to enhance

investor protection. I would say that the introduction of the EMD has generally improved outcomes to the investing public as prior to the introduction of NI 31-103 many issuers had shown that they lacked expertise and character.

Many of the requirements placed on EMDs through adoption of NI 31-103 (Know Your Client, Chief Compliance Officers/etc.) added huge costs to those raising money and created a situation where the industry would have virtually no small dealers. Consequently, EMDs could only economically raise money for deals that were \$5 million and over. As a result of adopting NI 31-103, small business was left in worse condition than it had been. Things like “business trigger” definitions confused small business owners and their legal counsel as to what they could and could not do. As a result of NI 31-103 capital raising for small business became more difficult.

#### Specific Comments

- 1) I believe BI 31-536 is going in the right direction, however, I would suggest that the maximum that could be raised should be set at \$2,000,000 and after a trial period of measuring outcomes look at raising that amount. I believe that having \$5,000,000 as the maximum is going to attract the wrong people. I would even consider \$1,000,000 being the upper limit for an initial amount.
- 2) I do not feel that finders’ fees should not be charged to friends, family and business associates. Having dealt with all of them over time, I can assure you that it can still take a lot of time and effort to convince any of this group to invest. Raising money takes time. Time is money. Yes, most promoters would not charge their friends or business associates a fee but I believe that should be a decision they make, not the ASC.
- 3) I like the idea that a finder can only be an individual. I especially like the provision that the finder cannot be a bad actor. I would urge the ASC to deny finders status to anyone who has ever been found guilty of any fraudulent behavior.
- 4) The provision that a finder cannot advertise. Why not?? The goal here should be to assist the business in raising capital. Whether the lead comes as a result of personal contact or advertising who cares? What matters most is the integrity of the business looking for capital. The investor also has to take responsibility for their investment. Wouldn’t you want to be one of the original investors in Olympia Trust? Would you care if you found out by way of advertisement?
- 5) Individuals registered under NI 31-103 should not be allowed to make use of BI 31-536 as there is substantial overlap between the investment products such individuals would sell as a NI 31-103 registrant and as a finder. Consequently, BI 31-536 could be used as a loophole to avoid the requirements of NI 31-103.

However, a mortgage broker, a mutual fund dealer, a life insurance agent, or a financial planner, regardless of whether they have previously provided financial advice or not, should be able to make use of BI 31-536. The investment products sold and the financial services provided by these individuals are substantially different than the investment products they would sell as a finder. These individuals also have in depth knowledge of their customers’ finances and would be in an excellent position to help raise money for a small business. Why stop them from helping?

Also, there are not many exempt market dealers in rural areas and small towns, but there are quite a few mortgage brokers, mutual fund dealers, life insurance agents and financial planners. By letting these individuals make use of BI 31-536, the ASC is giving rural areas and small towns the practical ability to raise capital at a local level.

- 6) BI 31-536 is not clear as to whether it wants to place a duty on finders to investors or not. In one place it states:

“the finder selling these securities is not registered with the securities regulatory authority and is not qualified to provide investment advice or recommendations. “

This statement implies that a finder does not have a duty to investors, but in other places it says that the finder has to have a “substantial pre-existing relationship” (whatever that means) and needs to make sure that the investment is “suitable” for the purchase. These two requirements both imply that the finder has some sort of duty to the investor.

BI 31-536 needs to be clear as to whether a finder has a duty to the investors or not, and if the finder does have a duty, what those duties are.

If the goal of BI 31-536 is to give small business the ability to raise money, then, my view is that finders under BI 31-536 should have no duty to investors, but this view is subject to a reduction in the maximum investment amount from \$5 million to \$2 million (or ideally \$1 million). It doesn't take a rocket-surgeon to realize that a finder's duty to the investor should go up as the amount of the investor's investment increases. It perhaps goes without saying, but I don't think that a finder needs to have “substantial pre-existing relationship” (again, whatever that means) or any obligation to ensure that the investment is suitable for the investor.

- 7) I think it is important that the finder disclose to the investor how much they received as a finder's fee. I also think that the investor should acknowledge that the investment may not be suitable for them, that the finder has no duty to them and that the investor may lose all of their money. However, I do not think that it is necessary for the investor to initial 3 boxes all saying the same thing (i.e. this investment may not be suitable for you). Once should be sufficient.

Regards,

“Rick Skauge”

President

Olympia Financial Group Inc.



May 7, 2021

**To:**  
Alberta Securities Commission  
Suite 600, 250 – 5<sup>th</sup> Street SW  
Calgary, AB. T2P 0R4

**Attention:** Bonnie Kuhn, Senior Legal, Market Regulation

Dear Sirs/Mesdames:

**RE: PCMA Response To Proposed Revocation of ASC Blanket Order 31-505 *Registration Exemption for Trades in Connection with Certain Prospectus Exempt Distributions and Replacement with Proposed ASC Blanket Order 31-536 Alberta Small Business Finder's Exemption***

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The Private Capital Markets Association of Canada (the **PCMA**) is pleased to provide our comments in connection with the Alberta Securities Commission's (**ASC**) proposed revocation of ASC Blanket Order 31-505 and replacement with Proposed ASC Blanket Order 31-356 (collectively, the **Finder Exemption Proposal**), as set out below.

#### **About the PCMA**

The PCMA is a not-for-profit association founded in 2002 as the national voice of exempt market dealers, issuers and industry professionals in the private capital markets across Canada.

The PCMA plays a critical role in the private capital markets by:

- being the voice of the private capital markets to securities regulators, government agencies and other industry associations;
- assisting hundreds of dealer and issuer member firms and individual dealing representatives to understand and implement their regulatory responsibilities;
- increasing public and industry awareness of the private capital markets in Canada;
- providing high-quality and in-depth educational opportunities to private capital markets professionals;
- encouraging the highest standards of business conduct amongst its membership across Canada; and
- connecting its members across Canada for business and professional networking.

Additional information about the PCMA is available on our website at [www.pcmacanada.com](http://www.pcmacanada.com).

INCLUDES COMMENT LETTERS RECEIVED

## General

While this Comment Letter will generally read in support of the Finder Exemption Proposal, it will do so with reservation and concern that the approach being proposed by the ASC is both insufficient and carries unnecessary risk to investors. Risks that could have been mitigated if the Canadian Securities Administrators (CSA) were willing to work in harmony with the ASC towards what is clearly a national issue for small business and start-up entrepreneurs across Canada.

The Finder Exemption Proposal demonstrates a very important recognition by the ASC that start-ups and other small businesses are suffering from rules and regulations that impede their ability to raise capital. The PCMA applauds the ASC's acknowledgment that these companies are fundamental to the provincial economy by acting as "*key contributors to employment, quality of life and income within communities*". Start-up and small businesses in Canada find it difficult to efficiently raise capital and this has a deleterious effect on the health and robustness of these important economic contributors.

The PCMA believes that an opportunity has been missed to work within the existing regulatory framework to allow for a more flexible approach to capital raising under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)*, that would allow registrants to work with small businesses to raise capital.

Nonetheless, the PCMA notes that any regulatory reform in this area, including the adoption of the Finder Exemption Proposal in a single jurisdiction, is better than no action. The PCMA respectfully requests the CSA examine the regulatory framework that has resulted in the Finder Exemption Proposal being necessary (*i.e.*, the inflexibility of NI 31-103 due to the high regulatory burden placed on registrants to raise capital for start-ups and small business), and to start working effectively to examine and remedy those rules, regulations and processes. A patchwork solution by the ASC to a problem of the CSA's own design should be unequivocally adopted, but not unconditionally celebrated; there is much more work to do, and the PCMA is willing to be very much part of the solution.

## Why the Finder Exemption Proposal is Necessary

As stated in the Finder Exemption Proposal, before implementation of the modern registered dealer framework set out in NI 31-103, there was generally a dealer registration exemption alongside each of the prospectus exemptions set out in National Instrument 45-106 *Prospectus and Registration Exemptions (NI 45-106)*. As a result, before NI 31-103, there were little to no barriers for small business and start-up companies seeking to retain professional services to assist them in raising capital from qualifying investors.

NI 31-103 brought about significant change to the private capital space, by creating the registrant category of Exempt Market Dealer (EMD) for persons in the business of raising capital for issuers under NI 45-106. With the benefit of over 10 years of hindsight, it is clear that this decision was fundamentally necessary. When purchasing prospectus exempt securities through an EMD, investors are now afforded important registrant investor protections, not the least of which include:

- (a) a duty of care owed by the registrant to their client (**Registrant Duty of Care**);
- (b) an obligation to maintain certain proficiency, solvency and integrity standards (**Suitability for Registration**);
- (c) an obligation to perform know-your-client discovery with clients before recommending or accepting instructions to transaction in exempt market securities (**KYC**);
- (d) an obligation to perform certain know-your-product discovery of the investments being distributed to clients (**KYP**);

- (e) an obligation to assess the suitability of an investment action for their clients (based largely on KYC and KYP) before recommending or accepting instructions to transaction in the securities (**Suitability**);
- (f) an obligation to adhere to certain conflict of interest processes and standard (**Conflict Protections**); and
- (g) standards of marketing, representation and holding out of services (**Sales Practice Protections**), collectively, the “**Registrant Investor Protections**”

The presumably unintended consequence of NI 31-103 was that the costs of administering Registrant Investor Protections were borne by private market issuers and investors (in the form of lost opportunities). As NI 31-103 was amended and the interpretation of the requirements through CSA staff notices and interpretation by individual CSA members, these costs increased dramatically and resulted in a shift ‘up-market’ by the vast majority of capital-raising professionals in the private capital markets. As stated in the Finder Exemption Proposal, most small businesses that raise less than \$5,000,000 are generally not supported by EMDs or other registrants in Canada. EMDs recognize that most small businesses and their investors cannot reasonably afford their services due to the cost of regulatory compliance needed to raise capital through registrant channels. A cost inevitably borne by the investors and issuers.

This has resulted in start-ups and small businesses being largely unsupported by capital sources. While entrepreneurs and business owners privileged enough to have direct access to their own networks of high-net-worth investors (*i.e.*, accredited investors) may be able to survive, many Canadians companies were cut off from the opportunity to raise capital through the distribution of securities to grow their early stage, small business and start-up enterprises. The cost of Registrant Investor Protections priced EMDs out of the small capital raising markets they were originally created to serve, and has starved entrepreneurs – the foundational core of our economy – from the fundamental business resource of capital.

The Finder Exemption Proposal will bring some relief for start-up and early-stage businesses and entrepreneurs. For Albertans not raised with the privilege of having their own network of high-net worth persons capable of directly investing in their businesses (including new Canadians, young Canadians and those outside of traditional centers of wealth), the opportunity to economically outsource capital raising will return. The importance of this should not be understated. Despite the risks, this must be pursued.

### **Why a Better Solution Exists**

Unfortunately for investors, it may be viewed that the Finder Exemption Proposal is a ‘throw the baby out with the bathwater’ approach to solving an economic problem. Investors transacting through finders under the Finder Exemption Proposal will not receive any of the Registrant Investor Protections that were created by NI 31-103, effectively returning investors in this space to a similar position that played a part in the regulatory reform over 10 years ago.

Rather than cutting small business investors off from any Registrant Investor Protections, the CSA should re-evaluate and amend the NI 31-103 regime and its administration of EMD registrants so small businesses can once again economically access these channels, while still preserving some Registrant Investor Protections for participating investors.

Nonetheless, the PCMA recognizes that reform to NI 31-103 requires a harmonized approach by CSA participants. Until the CSA is willing to review the regulatory regime for EMDs in the context of start-up and early-stage businesses and entrepreneurs, the PCMA expects and hopes to see autonomous regulatory action by forward-thinking securities regulatory commissions like the ASC through imperfect solutions like the Finder Exemption Proposal.

**Specific Response to ASC Questions**

Notwithstanding the foregoing, the PCMA’s responses to the ASC’s questions are set out in Schedule “A” attached hereto for your review and consideration.

\*\*\*\*\*

In conclusion, we thank the ASC for the opportunity to provide our comments and look forward to providing additional input or consultation upon request.

Regards,

*“Craig Skauge”*  
President and Vice Chair

*“Brian Koscak”*  
Chair of the Advocacy Committee and Member of  
the PCMA Executive Committee

cc: PCMA Board of Directors

## SCHEDULE "A"

### Specific PCMA Response to ASC's Request for Comment

1. **To what extent do you anticipate that this registration exemption would be relied on by Alberta businesses? Specifically, is the requirement that a finder can only work with an Alberta issuer that has not raised in aggregate more than \$5,000,000 under any prospectus exemption contained in the Proposed Blanket Order an appropriate limit?**

The reliance by issuers on the Finder Exemption Proposal will depend on the degree to which it is communicated and marketed to the capital raising community by the ASC. The PCMA believes the ASC should have an awareness campaign targeting start-up and angel investor groups as well as the Alberta Chambers of Commerce and other business associations.

2. **We have a number of provisions to address investor protection including:**
  - (a) **limiting finders to natural persons;**
  - (b) **disqualifying a bad actor from being a finder;**
  - (c) **not allowing finders to hold or have access to the purchaser's assets;**
  - (d) **building into the risk acknowledgment form a requirement for the finder to provide the amount of compensation to be received from the issuer;**
  - (e) **prohibiting advertising; and**
  - (f) **not allowing finders to have previously provided financial services to the purchaser.**

**Are there any other investor protection measures that would be appropriate?**

The *Risk Acknowledgement Form* states that the purchaser acknowledges that they have a "*substantial pre-existing relationship*" with the Finder. The PCMA believes this has not been clearly communicated as a requirement of the Finder Exemption Proposal or what this means. If there is not a "*substantial pre-existing relationship*", then what happens? Is this a requirement for reliance on the exemption? The PCMA requests clarification and submits such matters must be clearly communicated to both the issuer and the finder.

Additionally, the ASC states that a finder cannot have previously provided financial services to the purchaser where they were a registrant, "*other than in connection with a Specified Distribution*". The PCMA requests clarity on the ASC's carve-out. For example, does this mean existing and former registrants cannot rely on the Finder Exemption Proposal unless they only sold securities to an investor in connection with a Specified Distribution? More so, if they are a registrant and sold securities to an investor solely in connection with a Specified Distribution, can they still act as a finder? If so, how can a firm or registered individual do this since they are a registrant and have obligations under NI 31-103 and a finder has none.

Also, the ASC has also stated that a 'bad actor' cannot be a finder. How will this be enforced? What is the expectation by the ASC on issuers to make reasonable investigations regarding such matters, including any background searches? If reasonable investigations are not done to the ASC's satisfaction and a finder turns out to be a bad actor, how does this impact reliance on the Finder Exemption Proposal when arguably the issuer and investor are innocent of such matters. The PCMA recommends that the ASC provide clarity on such matters.

3. **To what extent do you anticipate limiting finders to individuals will impact the number of finders in Alberta?**

Limiting finders to individuals is consistent with the ASC's approach that a finder and an investor have a "*substantial pre-existing relationship*". However, the "*substantial pre-existing relationship*" requirement

will limit the number of finders that can help start-ups and small businesses raise capital. The PCMA requests clarity on the concern the ASC has with including companies.

**4. We understand limiting finders to individuals would prevent a finder from using a personal holding company. Is this a concern that needs to be addressed?**

Yes, finders should be able to direct their referral fees to an entity in compliance with applicable tax and other laws. The ASC has not stated its concern in doing so, therefore, the PCMA is unable to provide a meaningful response.

**5. We have clarified the requirement that a finder cannot have previously provided financial services to the purchaser by listing the types of relationships as follows: (a) a registrant, other than in connection with a Specified Distribution; (b) a financial planner, providing advice about how to make financial plans having regard to a person's tax, personal or financial situation; (c) an insurance agent offering insurance products; (d) a mortgage broker providing mortgage services; or (e) a similar financial services relationship. Are there any other relationships that should be added to this list? What about other relationships of trust, such as a clergy member?**

As the PCMA has stated in its general response to the Finder Exemption Proposal, the ASC is allowing unregistered individuals to raise capital without the investor protection regime required of registrants. The CSA regulates conflicts of interest between investors and registrants involving registrants who are in a position of influence (*e.g.*, clergy) relative to an investor. The PCMA is unclear how unregisters finders will be able to make such a determination and believes this introduces too much uncertainty into the exemption. The PCMA is concerned conflicts of interest may not be understood or complied with by unregistered finders. More so, by requiring a “*substantial pre-existing relationship*” between an investor and finder, the ASC has increased the likelihood of having such a conflict of interest.

**6. Is a 6 month transition period before the revocation of Blanket Order 31-505 sufficient to complete private placements that are in progress?**

We believe a 6 month transition period is sufficient.

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**From:** [REDACTED]  
**Sent:** May 7, 2021 4:18 PM  
**To:** Denise Weeres <Denise.Weeres@asc.ca>; Lynn Tsutsumi <Lynn.Tsutsumi@asc.ca>  
**Cc:** New Economy <New.Economy@asc.ca>  
**Subject:** RE: Proposed Orders Small Business and Finder's Exemptions

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**EXTERNAL EMAIL**

Dear Denise,

I will send my comments on the Finder's registration to the [new.economy@asc.ca](mailto:new.economy@asc.ca).

My comments regarding the proposed Small Business Financing and Finder's registration are interrelated but will try to reply to both.

**Response to Proposed Order 45-539 Small Business Financing**

First of all, would like to commend the ASC for trying to think outside the box to find a way to attract capital for Alberta businesses to grow our economy. It has been difficult for capital to be raised in Alberta during COVID and the overall poor economy that we all face.

Our recommendation to the ASC on Small Business Financing is the following:

- Notarized declaration to assure the client is accredited is burdensome and will reduce capital formation. For a \$2,500 to \$10,000 investment, do you think a potential investor will make an appointment to meet a lawyer to bring their accounting records for them to sign off

that they are accredited and pay \$200 - \$500 for that service? The ASC's job is to protect investors from fraudsters, not themselves. If they want to lie and misrepresent, that should not be a burden for the ASC. We recommend an acknowledgement form that provides the self-proclaimed investor a way to "check off" their qualification should suffice

- How do you plan to monitor people's annual / lifetime investments without any KYC or registrant to review investments for clients?

**Form 45-539 Small Business Offering Documents:**

- An OM costs \$25,000 to \$100,000 depending on the complexity and audited financials are \$15,000 to \$30,000. Based on these estimates, how can a small business looking to raise \$1.5m - \$5m afford to create a "OM Lite" document?
- If only accredited investors can invest, why not make it an investor deck that would include business plan, management, pro forma, use of funds, risk disclosure form, term sheet and sub docs? Something that could be created easily and affordably? If it can't be explained in a 5 page business plan or 20 page power point, it's too complexed for investors to invest
- Regarding financials, opening statements that say \$0 are worthless to any investor. If you want to have financials, they must be relevant and ongoing. Issuer should have to guarantee to the regulators ongoing financial statements even after the money is raised for a period of time (3 years after the close on money?) or banned from any future capital raises

**Finder's Exemption**

As a registered EMD, we are adamantly opposed to allowing a watered down Northwest Exemption to allow unsophisticated sales people to convince unsophisticated investors to invest in a highly risky investment. This is fraught with disaster and scams. The ASC may not know this but many EMDs will no longer be able to receive E&O insurance and DRs can only get E&O insurance from approved EMDs. At this point, many EMDs will be without E&O insurance by the end of the year. This may be enticing for underperforming DRs to surrender their licence and become Finders instead. Has the ASC forgotten winners like Harvest, Platinum to name a few?

How do you swindle people? By small amounts of money (\$10,000) that's not enough to seek litigation. As a former Police Commissioner, police are over worked and will not put a priority on these little scams. There already is a high risk of total loss with these investments; why would you want to add deceit and theft to the mix?

**Laundering of money**

If there is no registrant, how does the ASC know where the money is coming from and not an opportunity for organized crime to clean money through Alberta small businesses?

**TriView's recommendation**

***Our recommendation is to allow these programs to be administered by registrants like EMDs to perform KYCs to ensure money is clean and to allow minimum investments of \$10,000 without suitability requirements. The goal here is to raise money affordably, responsibly and safely. It allows the regulators to monitor the program more efficiently to gauge success. By allowing maximum lifetime of \$10,000, the ASC can ensure proper KYCs are done and can track the program more effectively.***

Sincerely,

INCLUDES COMMENT LETTERS RECEIVED

Craig  
Craig S Burrows, ICD.D  
President & CEO

TriView Capital Ltd.

[REDACTED]



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