



## Securities law

On Sept. 28, 2009, securities regulatory authorities across Canada welcomed the new National Instrument 31-103 Registration Requirements and Exemptions. The new registration rules brought a number of major changes to the securities industry in Canada, one of the most significant of which was the introduction of the new exempt market dealer registration category.

- 1** The new dealer registration category “exempt market dealer” came into force on Sept. 28, 2009, and is a category of dealer registration in every province and territory in Canada.

  - (a) True
  - (b) False — only in Ontario and Newfoundland and Labrador
  - (c) True, but . . .

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- 2** Which of the following prospectus exemptions in National Instrument 45-106 cannot be relied on in Alberta, British Columbia, Manitoba, the Northwest Territories, Nunavut, and the Yukon Territory in order to benefit from the exempt market dealer registration exemption order in those jurisdictions?

  - (a) Accredited investor
  - (b) Family, friends, and business associates
  - (c) Offering memorandum
  - (d) Rights offering
  - (e) Minimum of \$150,000 purchase of a security in one transaction

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- 3** Exempt market dealers that do not hold or have access to client assets are exempt from the solvency and insurance requirements under the new registration rules.

  - (a) True
  - (b) False

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- 4** What is the minimum amount of excess working capital an exempt market dealer is required to maintain?

  - (a) \$25,000
  - (b) \$50,000
  - (c) \$100,000
  - (d) \$150,000

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- 5** Everyone registered with an exempt market dealer now has education and experience proficiency requirements, except for:

  - (a) Salespersons
  - (b) The Chief Compliance Officer
  - (c) The Ultimate Designated Person

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- 6** Everyone registered with an exempt market dealer must have met the education and experience proficiency requirements of their registration category when the rules became effective on Sept. 28, 2009.

  - (a) True
  - (b) False

## QUIZ ANSWERS

**1 TRUE.** The exempt market dealer category of registration exists in every province and territory under the new registration rules (previously the limited market dealer category only applied in Ontario and Newfoundland and Labrador). Exempt market dealers operating in multiple jurisdictions may be registered using the passport system in any province or territory. However, there is one significant exception. Alberta, British Columbia, Manitoba, the Northwest Territories, Nunavut, and the Yukon Territory have issued an order exempting persons from the dealer registration requirement when the person trades in securities pursuant to certain prospectus exemptions in National Instrument 45-106 provided they are:

- Not otherwise registered;
- Not providing suitability advice leading to the trade;
- Not otherwise providing financial services to the purchaser;
- Not holding or have access to the purchaser's assets.

New obligations also imposed on those relying on this registration exemption, specifically:

- They must provide a risk disclosure to the person addressing the risks of dealing with an exempt person or firm (in the prescribed form); and
- They must file an information report with the securities commission.

While many exempt market participants in these jurisdictions will be able to continue business as usual and remain unregistered, there are new obligations on them and the exemption is more restrictive than in the past.

**2 (C).** The rights offering exemption is not one of the exemptions that can be relied on under the order exempting a person from the dealer registration requirements in these jurisdictions. The only prospectus exemptions in National Instrument 45-106 that may be relied on are:

- Accredited investor (section 2.3)
- Family, friends, and business associates (section 2.5)
- Offering memorandum (section 2.9)
- Minimum investment amount of \$150,000 (section 2.10)

**3 FALSE.** The previous draft of N1-31-03 published for comment



in 2008 would have relieved exempt market dealers that did not hold or have access to client assets from the minimum capital and insurance requirements. That position has been reversed in the final version of the rule and all exempt market dealers are expected to meet the capital and insurance requirements.

**4 (B).** The required minimum capital for an exempt market dealer is \$50,000.

**5 (C).** The UDP do not have specific education or experience requirements. The person designated as the UDP of each registered dealer or adviser firm should be its CEO.

**6 FALSE.** Previously registered limited market dealers in Ontario and Newfoundland and Labrador have been automatically moved into the exempt market dealer category and there will be a 12-month transition period for individuals at those firms to meet their required proficiency requirements. For exempt market dealers that are new registrants after the rules became effective on Sept. 28, 2009, the transition period will not be available and the proficiency requirements will have to be met in order for those individuals to be registered with the firm.

### YOUR RANKING?

- **One or fewer correct:** *Might be time to brush up.*
- **Two or three correct:** *Not bad, but could do better.*
- **Four or five correct:** *Very well done, but not perfect.*
- **Six correct:** *Impressive.*

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