



Torkin|Manes BULLETIN

Torkin Manes LLP | Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, ON M5C 2W7
Tel: 416 863 1188
Fax: 416 863 0305
www.torkinmanes.com

OCTOBER 2009

FOCUS ON CORPORATE FINANCE

New Rules affect Market Registrants



Michael J. Hanley

On September 28, 2009 a new regulatory framework governing

securities dealers and advisers came into effect in Ontario with the implementation of the much-anticipated National Instrument 31-103 ("NI 31-103").

The former registration categories of Investment Counsel and Limited Market Dealer (LMD) have disappeared. Registrants in the categories of Investment Counsel and Portfolio Manager (ICPM) and Limited Market Dealer were automatically registered as Portfolio Manager and Exempt Market Dealer, on September 28 without any action required by the registrants. Investment-fund managers are now required by NI 31-103 to become registered.

NI 31-103 imposes a host of new rules for Portfolio Managers and Exempt Market Dealers that did not apply to the former ICPMs and LMDs. There are new capitalization and insurance requirements. Exempt Market Dealers will be required to file audited annual

financial statements, whereas LMDs in Ontario could claim an exemption from this requirement. NI 31-103 prohibits registrants from paying or receiving a fee as a result of a client referral unless certain requirements are met, including that the referral arrangement is made pursuant to a written agreement and disclosure is made of the referral arrangement in a prescribed form. Before Portfolio Managers or Exempt Market Dealers provide advice or services to their clients, they must provide clients with written disclosure of all information that a reasonable client would consider important about his or her relationship with the registrant, including the nature of the advice or services, risk disclosure, conflicts of interest, and compensation payable to the registrant. Portfolio Managers and Exempt Market Dealers are required to document client complaints and respond to them in a fair and effective manner, including providing independent dispute settlement or mediation services to clients. The relationship disclosure and complaint-handling requirements do not apply to investment-fund managers.

Investment-fund managers will also be subject to capitalization and insurance

requirements, must file audited, annual financial statements, and are subject to the referral-arrangement restrictions. The Chief Compliance Officer of an investment-fund manager must satisfy prescribed proficiency requirements.

NI 31-103 provides that persons and firms who were registered as LMDs or ICPMs on the date of implementation of NI 31-103 will have between three and 24 months to comply with the new requirements. Investment-fund managers who were active on the date of implementation of NI 31-103 will have 12 months to apply for registration.

Find out more about how NI 31-103 affects former [LMD registrants](#) and former [ICPM registrants](#), as well as registration requirements for [Investment Fund Managers](#).

Michael Hanley is a partner in our Business Law and Corporate Finance and Securities Groups.

He can be reached at 416 777 5431, or mhanley@torkinmanes.com.

This update is a summary only and should not be regarded or relied upon as specific advice to any specific client, nor in respect to any specific situation. For further details, or if you have any questions, please contact us.