



INVESTMENT DEALERS
ASSOCIATION OF CANADA

bulletin



ASSOCIATION CANADIENNE DES
COURTIERS EN VALEURS MOBILIÈRES

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For distribution to relevant parties within your firm

BULLETIN #3218
November 24, 2003

Industry Relations and Representation Privacy Legislation

As of January 1, 2004, organizations in Canada which collect, use or disclose “personal information” in the course of “commercial activities” (this would include Member firms) will have to comply with Part 1 and Schedule 1 the federal *Personal Information Protection and Electronic Documents Act* (“PIPEDA”), except in provinces for which exempting orders have been issued because they have enacted legislation that is “substantially similar” to PIPEDA.

Privacy legislation has been in place since 1994 in Québec. To the extent that you have operations in Quebec or deal with individuals in that province, you should already be aware of this legislation and be complying with it.

British Columbia has enacted the *Protection of Personal Information Act* (“PIPA”), which will come into force on January 1, 2004, and is expected to be recognized as substantially similar to PIPEDA. Alberta has a bill pending which is similar to PIPA and, if enacted, would also come into force on January 1, 2004.

It therefore appears that in addition to complying with the Quebec law, Members will have to comply with the provincial laws in British Columbia and Alberta, and with PIPEDA in the other provinces and territories.

This Bulletin is intended as a reminder to Members that they must comply with the relevant privacy legislation in force as of 1 January 2004. For your convenience, we have included the addresses of the federal and provincial privacy websites, below. The legislation and other, helpful resources to aid compliance can be found on the websites:

Privacy Commissioner of Canada's Website:

http://www.privcom.gc.ca/information/guide_e.asp

British Columbia's Corporate Privacy and Information Access Branch Website:

http://www.msar.gov.bc.ca/foi_pop/Privacy/Tools/Tools_toc.htm

Alberta's Freedom of Information and Protection of Privacy Website:

http://www3.gov.ab.ca/foip/guidelines_practices/index.cfm

Website for the Commission d'accès à l'information du Québec

http://www.cai.gouv.qc.ca/eng/index_en.htm

As a very high level overview, the 10 key elements of privacy legislation are set out below. The elements are expanded upon in the privacy presentation on the IDA's website at http://www.ida.ca/IndIssues/Privacy_en.asp:

- 1. Accountability:** An organization is responsible for personal information under its control and shall designate an individual or individuals that are accountable for the organization's compliance with established privacy principles.
- 2. Identify the Purpose:** The purpose for which personal information is collected shall be identified by the organization at or before the time the information is collected.
- 3. Obtain Consent:** The knowledge and informed consent of the individual are required for the collection, use or disclosure of personal information, except where exempted by law.
- 4. Limit Collection:** The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.

5. **Limit Use, Disclosure and Retention:** Personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the informed consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfillment of those purposes.
6. **Be Accurate:** Personal information shall be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used.
7. **Use Appropriate Safeguards:** Security safeguards appropriate to the sensitivity of the information shall protect personal information.
8. **Be Open:** An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.
9. **Give Individual Access:** Upon request, an individual shall be informed of the existence, use, and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.
10. **Provide Recourse:** An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization's compliance.

Ken Nason
Association Secretary