



# bulletin



Contact:

For distribution to relevant parties within your firm

Greg Clarke  
Senior Vice President, Member Regulation  
(416) 865-3038

**BULLETIN # 2680**  
January 7, 2000

## **U.S. State Broker-Dealer Exemptions and Special Registrations for Snowbirds and Holders of Canadian Self-Directed Tax Advantaged Plans**

The U.S. Securities and Exchange Commission (SEC) has proposed securities exemptions and a broker-dealer exemption under federal securities law to permit Canadian broker-dealers to deal with Canadians who are residents of the United States for transactions in Canadian self-directed tax advantaged retirement plans. Until these exemptions are approved, Canadian broker-dealers and their salesmen cannot take advantage of the special limited registration procedures or special exemptions which are referred to below to deal with Canadians resident in the United States for transactions in Canadian self-directed tax advantaged retirement plans.

**For a more complete description of the implications for Members dealing in the United States you should refer to Bulletin # 2537, dated 26 November 1998.**

The North American Securities Administrators Association (NASAA), which represents state securities regulators in the United States, approved in late 1995 a proposal to offer a special limited registration procedure for Canadian broker-dealers and their salesmen if the transactions are conducted with Canadians temporarily resident in the respective states and with whom the broker-dealer had a prior relationship or the transactions are in a Canadian self-directed tax advantaged retirement plan held by Canadians resident in the respective states. At present, 21 states have adopted a useful special limited registration or special exemption from registration for Canadian broker-dealers and their salesmen when dealing with clients in the United States who are snowbirds or holders of Canadian self-directed tax advantaged plans.

**Until the SEC provides the necessary securities exemptions and broker-dealer exemption under federal securities law, Canadian broker-dealers and their salesmen cannot take advantage of the special limited registration procedure or special exemption to deal with Canadians who are residents of the United States for transactions in Canadian self-directed tax advantaged retirement plans.** However, Canadian broker-dealers should be aware that they can take advantage of the special limited registration and special exemptions available in the aforementioned 21 states to deal with their snowbird clients temporarily resident in these states. Canadian broker-dealers and salesmen are not restricted under federal law from dealing with these snowbird clients who are temporarily resident in the United States (i.e., generally interpreted to mean resident in the United States for fewer than 183 days in any

calendar year to avoid being subject to United States personal income tax).

The purpose of this Bulletin is to inform interested IDA member firms of the requirements to obtain the special limited registrations or special exemptions to deal with their snowbird clients temporarily resident in the United States. The Bulletin identifies those states that offer either a special limited registration procedure or special exemption procedure, classifies these states into three different categories, and provides a detailed, step-by-step analysis of the requirements to obtain the special limited registration or special exemption in an illustrative state within each category.

Category I: Category I states require Canadian broker-dealers and their salesmen to register as broker-dealers pursuant to a **special limited registration procedure** to deal with clients located in these states who are snowbirds or holders of Canadian self-directed tax advantaged plans. Category I states also **provide that the securities sold by Canadian broker-dealers and their salesmen who are registered in these states under the special limited registration procedure will also be exempt** from the state's securities registration requirements. A detailed analysis of Florida's requirements is attached to illustrate the requirements, which may vary somewhat among the states.

Alaska	Michigan
Florida	New Hampshire
Iowa	

Category II: Category II states provide for a **special exemption from broker-dealer and salesman registration** for Canadian broker-dealers and their salesmen who deal with clients located in these states who are snowbirds or holders of Canadian self-directed tax advantaged plans. Most Category II states require an initial notice filing to obtain the exemption and ongoing filings to keep current. Category II states also **provide that the securities sold by exempted Canadian broker-dealers and their salesmen will also be exempt** from the state's securities registration requirements. A detailed analysis of Washington's requirements is attached to illustrate the requirements, which may vary somewhat among the states.

Alabama	New Jersey
Arkansas	North Dakota
Colorado	South Carolina
Indiana	Utah
Maine	Washington
Massachusetts	Wyoming

Category III: Category III states provide for a **special exemption from broker-dealer and salesman registration** for Canadian broker-dealers and their salesmen who deal with clients located in these states who are snowbirds or holders of Canadian self-directed tax advantaged plans. Some Category III states require an initial notice filing and ongoing filings to keep current.

Category III states **do not provide a concurrent exemption from the state's securities registration requirements**; accordingly, a Canadian broker-dealer will have to take care to only sell securities in these states that are either registered or exempt from the respective state's securities registration requirements. An analysis of Rhode Island's requirements is attached to illustrate the nature of the requirements, which may vary somewhat among the states.

New Mexico

Pennsylvania

Rhode Island

Tim Ryan  
*Association Secretary*

---

## FLORIDA

The law (Section 517.12(17)) provides for a special limited registration procedure for Canadian broker-dealers and their salesmen. In order to register under this state's special limited broker-dealer registration procedure, the Canadian broker-dealer must comply with the following requirements.

The Canadian broker-dealer must:

1. Be located in Canada.
2. Have no office or other physical presence in this state.
3. Only effect or attempt to effect transactions in securities:
  - (a) With broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies (as defined in the Investment Company Act of 1940), pension or profit-sharing trusts, or "qualified institutional buyers" as defined in Rule 144A under the Securities Act of 1933 as such rule existed on November 1, 1992, whether acting in its individual or fiduciary capacity; provided however, that any offer or sale to any of the foregoing is not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of the Florida Securities Act;
  - (b) With or for a person from Canada who temporarily resides in this state and with whom the Canadian broker-dealer had a bona fide dealer-client relationship before the person entered the United States; or
  - (c) With or for a person from Canada who is a resident of this state and whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.
4. Register by filing with the state:
  - (a) An application in the form required by the jurisdiction in which its head office is located;
  - (b) A consent to service of process;
  - (c) Evidence that the broker-dealer is effectively registered as a broker-dealer in good standing in the jurisdiction from which it is effecting transactions into this state; and
  - (d) The required \$200 registration fee.
5. Be a member in good standing of a self-regulatory organization or stock exchange in Canada.
6. Maintain effective registration as a broker-dealer in good standing in the jurisdiction from which it is effecting transactions into this state.
7. Maintain its provincial or territorial registration.
8. Maintain its membership in a self-regulatory organization or stock exchange in good standing.
9. Provide the state upon request with its books and records relating to its business in

the state as a broker-dealer.

10. Provide the state with notice of each civil, criminal, or administrative action initiated against it.
11. Disclose in writing to its clients in this state that neither the broker-dealer nor its agents are subject to the full regulatory requirements of the state's securities laws and regulations promulgated thereunder.
12. Correct any inaccurate information within 30 days, if the information contained in the application form becomes inaccurate for any reason before or after the broker-dealer becomes registered.
13. Satisfy any continuing education requirements established by rule or law.
14. Renew the registration annually by December 31 of each year.

In order for a salesman to register under this state's special limited salesman registration procedure (which is required for all salesmen transacting business in this state on behalf of a registered Canadian broker-dealer), the salesman must comply with the following requirements.

The Canadian salesman must:

1. Be associated with a Canadian broker-dealer registered under the special limited registration procedure set forth above.
2. Only effect transactions in this state which the Canadian broker-dealer may effect as set forth above.
3. Register by filing with the state:
  - (a) An application in the form required by the jurisdiction in which the broker-dealer has its head office;
  - (b) Evidence that the Canadian salesman is registered in good standing in the jurisdiction from which he or she is effecting transactions into this state; and
  - (c) The required \$40 registration fee.
4. Maintain provincial or territorial registration in good standing.
5. Provide the state with notice of each civil, criminal, or administrative action initiated against such person.
6. Through its Canadian broker-dealer, correct any inaccurate information within 30 days, if the information contained in the salesman's application form becomes inaccurate for any reason before or after he or she becomes registered.
7. Satisfy any continuing education requirements established by rule or law.
8. Renew the registration annually by December 31 of each year.

Securities sold by Canadian broker-dealers and their salesmen who are registered in this state under the special limited registration procedures set forth above will be exempt from this state's securities registration requirements.

---

## WASHINGTON

Rule WAC 460-20B-035 provides for a notice procedure to obtain the exemption. In order to qualify for this state's exemption from broker-dealer registration, the Canadian broker-dealer must comply with the following requirements. If the exemption is available, persons acting on behalf of the exempt broker-dealer are also exempt from this state's salesman registration requirements provided that (i) they are registered in good standing in the appropriate Canadian jurisdiction and (ii) they are not associated with a broker-dealer otherwise registered in the United States. Furthermore, if the exemption is available, any securities sold will also be exempt from this state's securities registration requirements.

The Canadian broker-dealer must:

1. Be a Canadian resident.
2. Have no office or other physical presence in the United States and not be an office of or a branch of a broker-dealer otherwise registered in the United States.
3. Only effect or attempt to effect transactions in securities:
  - (a) With broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies (as defined in the Investment Company Act of 1940), pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or in some fiduciary capacity;
  - (b) With or for a Canadian person who is temporarily present in this state, with whom the Canadian broker-dealer had a bona fide customer relationship before the person entered this state; or
  - (c) With or for a Canadian person in a self-directed tax advantaged retirement plan in Canada of which that person is the holder or contributor.
4. File with the state:
  - (a) A notice in the form of its current application for registration required by the jurisdiction in which its head office is located; and
  - (b) A consent to service of process.
5. Be a member in good standing of a self-regulatory organization or stock exchange in Canada.
6. Maintain its provincial or territorial registration and its membership in a Canadian self-regulatory organization or stock exchange in good standing.
7. Disclose in writing to its customers in this state that it is not subject to the full regulatory requirements of the state's securities laws and regulations promulgated thereunder.

---

## **RHODE ISLAND**

Rule 202(a)-2 provides for a notice procedure to obtain the exemption. However, it should be noted that Rhode Island does not provide an exemption from its securities registration requirements for securities transactions by Canadian broker-dealers that are appropriately exempted from Rhode Island's broker-dealer registration requirements; accordingly, any securities must be registered or otherwise exempt from Rhode Island's securities registration requirements.

In order to qualify for this state's exemption from broker-dealer registration, the Canadian broker-dealer must comply with the following requirements. If the exemption is available, persons acting on behalf of the exempt broker-dealer are also exempt from this state's salesman registration requirements.

The Canadian broker-dealer must:

1. Be a Canadian resident.
2. Have no office or other physical presence in this state.
3. Only effect or attempt to effect transactions in securities:
  - (a) With or for a person from Canada who is temporarily present in this state, with whom the Canadian broker-dealer had a bona fide business-client relationship before the person entered this state; or
  - (b) With or for a person from Canada who is present in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.
4. File with the state:
  - (a) A notice in the form of its current application (including any amendments) required by the jurisdiction in which its head office is located;
  - (b) A consent to service of process;
  - (c) Evidence that the broker-dealer is a member in good standing of a self-regulatory organization or stock exchange in Canada; and
  - (d) Evidence that the broker-dealer maintains provincial or territorial registration and membership in a self-regulatory organization or stock exchange in good standing.
5. Be a member in good standing of a self-regulatory organization or stock exchange in Canada.
6. Maintain its provincial or territorial registration and its membership in a self-regulatory organization or stock exchange in good standing.
7. Disclose in writing to its clients in this state that it is not subject to the full regulatory requirements of the state's securities laws and regulations promulgated thereunder.
8. Provide the state, upon request, a copy of the broker-dealer's books and records relating to the broker-dealer's business in this state as a broker-dealer.
9. Inform the state promptly of any regulatory, disciplinary or criminal action being taken against the broker-dealer, and the state determines that such action would not

be grounds for denial of the exemption.

10. Not be in violation of any of the provisions of this state's securities laws or any rules and regulations promulgated thereunder and not be in violation of any U.S. federal securities law and any rules and regulations promulgated there