CALGARY URBAN EQUITIES LIMITED

February 28, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Superintendent of Securities, PEI
Nova Scotia Securities Commission
Superintendent of Securities, Nunavut
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory

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Dear Sirs and Madams:

Re: CSA Staff Consultation Note 45-401 *Review of Minimum Amount and Accredited Investor Exemptions*

Calgary Urban Equities Limited is a Calgary-based real estate development company which periodically raises equity capital through private investors on a project-specific basis. As with other capital intensive industries, real estate development industry participants characteristically require third party capital (both private and institutional) in order to fund their development projects.

The principals of Calgary Urban Equities have extensive experience raising private capital through prospectus-exempt investment offerings and have utilized this framework very effectively over the past 10 years or more. Through their commitment to integrity and best practices, not to mention regulatory compliance, Calgary Urban Equities' management have developed some practical insights on individual investor profiling, behaviours and preferences which could be helpful in addressing some of the issues which have prompted the CSA's request for comments.

For simplicity, we respond to several (excerpted) questions below in italics:

Consultation questions

1. What is the appropriate basis for the minimum amount exemption and the AI exemption? For example, should these exemptions be premised on an investor's:

- financial resources (ability to withstand financial loss or obtain expert advice)

- access to financial and other key information about the issuer,

- educational background,

- work experience,

- investment experience, or

- other criteria?

Please explain.

All of the above could be considered appropriate bases for the exemptions in question. The key underlying qualification should relate closely to the investors' ability to assess (independently or through expert advice), tolerate and withstand investment risk.

2. Does the involvement in the distribution of a registrant who has an obligation to recommend only suitable investments to the purchaser address any concerns?

Not really. Our experience and perception is that the development and implementation of a more stringent distribution framework through NI 31-103 promises limited practical value in assisting investors in their understanding of investment risk because the majority of investor risk is sectoral, market- and/or issuer-specific. The level of experience, training and knowledge necessary to evaluate risk in these areas does not appear closely correlated to the NI 31-103 framework.

4. Are there other issues you may have with the minimum amount exemption?

The minimum amount exemption actually obstructs investors who would prefer to make a smaller allocation of their portfolio to a specific investment opportunity. It frustrates the basic strategy of diversification which is, in fact, more characteristic of accredited investors than the general investing public.

5. Do you agree with maintaining the minimum amount exemption in its current form?

No. It should be lowered. Raising the minimum amount is counter-intuitive to a fundamental rationale for investment diversification.

6. How much should the minimum investment threshold be increased? Would your answer to this question change depending on whether:

This question is pejorative in using "increased" rather than "changed".

• any disclosure is provided to investors, including risk factor disclosure?

No. Improved risk disclosure should be implemented regardless.

• the purchaser is an individual, instead of an institutional investor?

Yes. The minimum for individual investors is of greater concern than for institutional investors as it relates notionally to portfolio size. Perhaps a more constructive and robust threshold would be based on a percentage of investable assets rather than a static dollar value.

• the security is novel or complex?

No. This should be adequately addressed in the risk and other disclosures.

• the issuer of the security is a reporting issuer?

No. Ironically, reporting issuer status is only loosely correlated to a reduction in investment risk. One could make an argument for stricter guidelines for investment in certain categories of reporting issuers!

• a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?

No. Registrant involvement does not reasonably replace the need for investors to independently assess risk and the suitability of the investment to their investment needs.

7. Should the $150,000 threshold be periodically indexed to inflation?

No. It should be periodically reviewed to assess the need for adjustment by a committee of market participants that includes a representative cross section of investors.

8. If we changed the $150,000 threshold what would the impact be on capital raising?

Not significantly. As far as it relates to individual investors, few would rely on this exemption because those that could more likely qualify as accredited investors and those that could not are exceedingly rare.

9. Should individuals be able to acquire securities under the minimum amount exemption? Would your answer to this question change depending on whether:

Yes. See our answers to Question 6.

10. If individuals are able to acquire securities under the minimum amount exemption, should there be any limitations?

Yes. Any such limitations should be specifically tied to the investors' ability to understand and assess their tolerance of the specific risks reflected in the underlying use of capital.

14. Should the minimum amount exemption be repealed? Would your answer to this question change depending on whether:

No. The objective should not be to unduly restrict capital raising but rather, improve its functioning by promoting risk awareness through investor education and self-evaluation..

15. If the minimum amount exemption was repealed:

• would that materially affect issuers' ability to raise capital? *Possibly, so why risk it?*

19. Do you agree with retaining the AI exemption and the definition of "accredited investor" in their current form?

Yes.

20. What should the income and asset thresholds be? Would your answer to this question change depending on whether:

The income and asset thresholds should be high enough to effectively screen out the most unsuitable investors. See our answer to #21 below.

21. Should the income and asset thresholds be periodically indexed to inflation?

The income and asset thresholds could be indexed to inflation, however implementing this retroactively to the date the thresholds were first established should be analyzed very carefully.

22. If we changed the income and asset thresholds, what would the impact be on capital raising?

This is difficult to assess anecdotally, but intuitively appears likely to negatively impact capital raising. This result must be carefully avoided.

24. If we changed the qualification criteria, what would the impact be on capital raising?

The opportunity here is to expand the qualification criteria to include investors on the basis of their ability to adequately assess investment risk and portfolio suitability rather than seeking to curtail investor activity in general. Limiting access to prospectus-exempt investment offerings to individuals who meet arbitrary financial thresholds summarily excludes investors who, through training, experience, education or otherwise, are arguably just as capable of assessing investment risk and suitability for themselves.

25. Should individuals be able to acquire securities under the AI exemption? Would your answer to this question change depending on whether:

Absolutely.

26. Should an investment limit be imposed on accredited investors who are individuals? If a limit is appropriate, what should the limit be? Would your answer to these questions change depending on whether:

No. Accredited investors have presumably demonstrated their credentials/ aptitudes through other qualifying means and the investment amount should be left to either or both of the issuer and the investor to determine as appropriate.

27. If investment limitations for individuals were imposed, what would the impact be on capital raising?

Although difficult to assess, it would clearly be disruptive and perhaps unnecessarily so.

An issue with the AI exemption is ensuring compliance with the qualification criteria. One way to improve compliance with the AI exemption would be to require an investor's accredited investor status to be certified by an independent third party, such as a lawyer or qualified accountant.

28. Should this be considered in a review of the AI exemption?

Yes, however independent third party certification should come with a benefit to the investor in the form of simplified subscription documentation. Further, a variety of certification options should be available with the intent of harmonizing with investors' current financial activities (e.g. banking, tax reporting, etc.) rather than an arduous or expensive process that is completely independent of regular financial activities.

29. Do you agree with imposing such a requirement?

Yes, provided it reduces the requirement for other exempt market participants (eg. Issuers, Registrants, etc.) to validate investors through the currently prescribed processes & framework.

30. Are there alternatives that we should consider?

Yes. A brief form available through securities regulators and any exempt market participant which, <u>in one page</u>, requires an investor to complete a worksheet that relates their net worth and / or income to the specific investment they are considering, both in terms of percentage allocation of their overall portfolio as well as a risk adjustment they derive themselves. Such a document, accompanied by reasonable back-up documentation (e.g. tax assessment, portfolio summaries, etc.) could be independently validated (e.g. notary style) by the investor without compromising privacy, and submitted along with their investment subscription for a particular investment. The exercise of completing such a document would be instrumental to the investor's *clearer understanding of the suitability of any given investment and practically demonstrate both prudence and thoughtfulness in the investment decision-making process.*

31. Are there other options we should consider for revising the AI exemption or for substituting an alternative exemption?

It is worth emphasizing the opportunity to expand the AI exemption to include those whose training, education and/ or work experience would allow them to qualify despite not meeting certain financial thresholds.

We trust you'll find the foregoing responses helpful.

Sincerely,

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Calgary Urban Equities Limited

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