

February 29, 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, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland and Labrador  
Superintendent of Securities, Northwest Territories  
Superintendent of Securities, Yukon Territory  
Superintendent of Securities, Nunavut

c/o

**Gordon Smith**

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**M<sup>e</sup> Anne-Marie Beaudoin**

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Dear Sirs and Madames:

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

WealthSpark Inc. was registered as an Exempt Market Dealer in January of 2011. Its business is focused on the sale of exempt market securities to individuals where the exempt market securities form part of an investment portfolio structured to meet the needs of the individual. We believe that diversification should be a cornerstone of an individual's investment strategy and

portfolio, and that exempt market securities have a place in the diversified portfolios of average Canadians. Accordingly, we believe that average Canadians should have access to exempt market securities in a manner that is practical and offers reasonable protections for that investor in the absence of prospectus level disclosure.

### **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.*

*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?*

It is our view that the minimum amount (“MA”) exemption is not an appropriate basis for trades of exempt securities by individuals. In practice we do not generally see a strong enough logical connection between the size of the investment made and the rationale for the investment being made on an exempt basis. We do not generally see a connection between financial sophistication, financial knowledge or ability to withstand loss and the amount of an investment.

We do see the accredited investor (“AI”) exemption as generally more reliable in identifying trades in exempt securities that are suitable for the individual completing the trade: in our experience persons who qualify for the AI exemption generally are financially sophisticated determining, possess significant financial knowledge, have financial capacity to withstand loss on any particular investment and generally well suited to making investments in exempt market securities on the basis of the AI exemption.

Notwithstanding the foregoing comment, we do not believe that it would be unreasonable to increase the role of Dealing Representative in assuring the qualification of an individual for the AI exemption, including restricting the use of the AI exemption to situations where a Dealing Representative has advised the individual on the investment. Given the responsibilities of Dealing Representative under the current KYC obligations, such an extension would not represent an unreasonable burden on the capital markets, or capital raising abilities of business entities in Canada.

*3. Do you have comments on the issues described above? [Background on MA exemption]*

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

5. *Do you agree with maintaining the minimum amount exemption in its current form?*
6. *How much should the minimum investment threshold be increased? Would your answer to this question change depending on whether:*
  - *any disclosure is provided to investors, including risk factor disclosure?*
  - *the purchaser is an individual, instead of an institutional investor?*
  - *the security is novel or complex?*
  - *the issuer of the security is a reporting issuer?*
  - *a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?*
7. *Should the \$150,000 threshold be periodically indexed to inflation?*
8. *If we changed the \$150,000 threshold what would the impact be on capital raising?*
9. *Should individuals be able to acquire securities under the minimum amount exemption? Would your answer to this question change depending on whether:*
  - *any disclosure is provided to investors, including risk factor disclosure?*
  - *the security is novel or complex?*
  - *the issuer of the security is a reporting issuer?*
  - *a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?*
10. *If individuals are able to acquire securities under the minimum amount exemption, should there be any limitations?*
11. *If we limited the use of the exemption to persons who are not individuals, what would the impact be on capital raising?*
12. *Are there alternative qualification criteria for the minimum amount exemption?*
13. *Are there other limitations that should be imposed on the use of the minimum amount exemption?*
14. *Should the minimum amount exemption be repealed? Would your answer to this question change depending on whether:*
  - *any disclosure is provided to investors, including risk factor disclosure?*
  - *the purchaser is an individual, instead of an institutional investor?*
  - *the security is novel or complex?*
  - *the issuer of the security is a reporting issuer?*
  - *a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?*
15. *If the minimum amount exemption was repealed:*
  - *would that materially affect issuers' ability to raise capital?*

- *is the AI exemption (in its current or modified form) an adequate alternative to the minimum amount exemption?*

*16. Are there other options for modifying the minimum amount exemption that we should consider?*

We reiterate our view that the minimum amount (“MA”) exemption is not an appropriate basis for trades of exempt securities for individuals. We do support the continuation of the MA exemption for non-individual investors at the level of \$250,000 per investment.

*17. Do you have comments on the issues described above? [Background on AI exemption]*

We believe that the AI exemption is an important and valid basis on which to permit trades in securities on an exempt basis. It is our view that the thresholds should be adjusted periodically to retain their original impact. Further, we believe that the use of the AI exemption could be supported through status verification by Dealing Representatives in conjunction with the current KYC obligations.

*18. Are there any other issues you may have with the AI exemption?*

We share the general concern that in the absence of participation of a registrant who is trained in respect of suitability evaluation that the AI exemption may be knowingly or unknowingly misused to the detriment of investors.

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

Generally yes, although we view adjustments to update the exemption as reasonable.

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

- *any disclosure is provided to investors, including risk factor disclosure?*
- *the security is novel or complex?*
- *the issuer of the security is a reporting issuer?*
- *a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?*

We believe the current financial criteria are appropriate.

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

Yes, we believe the thresholds should be adjusted to maintain the vigor.

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

23. *What qualification criteria should be used in the AI exemption for individual investors? Would your answer to this question change depending on whether:*

- *any disclosure is provided to investors, including risk factor disclosure?*
- *the security is novel or complex?*
- *the issuer of the security is a reporting issuer?*
- *a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?*

We believe the current criteria are appropriate.

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

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

- *any disclosure is provided to investors, including risk factor disclosure?*
- *the security is novel or complex?*
- *the issuer of the security is a reporting issuer?*
- *a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?*

Yes, we believe the AI exemption should be available to individuals.

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:*

- *any disclosure is provided to investors, including risk factor disclosure?*
- *the security is novel or complex?*
- *the issuer of the security is a reporting issuer?*
- *a registrant is involved in the distribution who has an obligation to recommend only suitable investments to the purchaser?*

We do not think a limit is appropriate where the individual is qualified as accredited.

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

*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?*

29. *Do you agree with imposing such a requirement?*

We believe strongly that the imposition of a third-party verification for individuals will not improve the utilization of the AI exemption. We anticipate that a lawyer or accountant would simply rely on the same representation from the individual that an issuer would in rendering an opinion on qualification: the result is no improvement of protection for investors, but only the imposition of systemic cost.

*30. Are there alternatives that we should consider?*

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

We thank you for the opportunity to submit our views on these aspects of the structure of Canadian capital markets, and look forward to the results of the consultative process.

Sincerely,

**WealthSpark Inc.**

*“David McKenzie”*

Per:

**David G.L. McKenzie**  
**Chief Compliance Officer**

cc: Western Exempt Market Association  
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