

# Sloane Capital Corp.

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

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Dear Sirs and Madams:

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

### **About Sloane Capital Corp.**

**Sloane Capital Corp. is an Exempt Market Dealer registered in the five provinces of ON, MB, SK, AB and BC. Stephen Freedman, the President of Sloane Capital Corp., has been registered in the province of Ontario since 1975 with IDA and MFDA firms as well as his own Limited Market Dealers, the first of which Mr. Freedman registered in 1990. Mr. Freedman has personal experience in the five provinces listed above both pre and post September 28, 2010. Both Sloane Capital Corp. and Mr. Freedman already registered in ON, added the four provinces of MB, SK, AB and BC in 2011.**

### **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.

**WITH 37 YEARS EXPERIENCE IN THE INDUSTRY I FIRMLY BELIEVE THAT THE MINIMUM AMOUNT EXEMPTION SHOULD BE REMOVED IMMEDIATELY. MORE POTENTIAL FINANCIAL HARM HAS BEEN INFLICTED ON RETAIL INVESTORS FROM THE M A EXEMPTION THAN ALMOST ANY OTHER CAUSE. IF ONE OF THE MANDATES OF THE CSA IS TO REDUCE RISK TO RETAIL INVESTORS THE ABSOLUTE, NUMBER ONE PLACE TO START IS BY ELIMINATING THE REQUIREMENT THAT INVESTORS WHO NEITHER MEET THE INCOME NOR ASSET THRESHOLDS BE FORCED TO INVEST A REDICULOUSLY SIGNIFICANT AMOUNT OF \$150,000 OR MORE, MOST LIKELY BORROWED AGAINST THE EQUITY IN THEIR**

HOMES, INTO ONE, ILLIQUID INVESTMENT. IF THESE INVESTORS DO NOT HAVE \$1MILLION OF FINANCIAL ASSETS THEN THE \$150,000 REPRESENTS FAR TOO HIGH AN AMOUNT THAT THEY SHOULD BE PLACING IN ONE, MOST LIKELY ILLIQUID, INVESTMENT. THE ELIMINATION OF THE M A EXEMPTION WOULD STOP THE POTENTIAL DESTUCTION OF MOST RETAIL INVESTORS PORTFOLIOS AND ELIMINATE THE COMPLAINTS ABOUT INVESTORS LOSING THEIR HOMES DUE TO ONE BAD INVSTMENT THAT THEY PURCHASED FAR MORE OF THAN THEY HAD ORIGINALLY INTENDED TO. IN FACT, RATHER THAN A MINIMUM AMOUNT, COMMON SENSE DICTATES THAT CERTAIN RETAIL INVESTORS SHOULD BE LIMITED TO A MAXIMUM AMOUNT WHICH THEY COULD PLACE IN ONE INVESTMENT. SOMEWHERE IN THE \$10,000 TO \$25,000 RANGE. BY CHANGING THE MINIMUM OF \$150,000 TO A MAXIMUM OF \$10,000 TO \$25,000 THE CSA WOULD MOST LIKELY ELIMINATE THE COMPLAINTS OF RETAIL INVESTORS LOSING THEIR HOMES OR LIFE SAVINGS.

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?

THERE SHOULD DEFINITELY BE A QUALIFIED REGISTRANT INVOLVED TO RECOMMEND ONLY SUITABLE INVESTMENTS.

3. Do you have comments on the issues described in background #3?

I HAVE STATED MY VIEWS IN QUESTION 1 ABOVE

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

I HAVE ALREADY MADE MY VIEWS CLEAR THAT THE M A EXEMPTION HAS DAMAGED MORE RETAIL INVESTORS THAN ANY OTHER CAUSE AND SHOULD BE ELIMINATED ASAP.

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

THE M A EXEMPTION HAS TO BE ELIMINATED ASAP.

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?

THE MINIMUM EXEMPTION HAS TO BE ELIMINATED ASAP

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

THE MINIMUM EXEMPTION HAS TO BE ELIMINATED ASAP.

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

FIRSTLY THE MA EXEMPTION HAS TO BE ELIMINATED TO REDUCE THE RISK TO RETAIL INVESTORS. SECONDLY, THE ANNUAL INCOME REQUIREMENT SHOULD BE REDUCED TO SAY, \$100,000 OR \$125,000. AT THAT POINT THERE WOULD BE A RETAIL BUSINESS FOR EMD'S IN ONTARIO. THE CURRENT EXEMPTIONS DO NOT ALLOW FOR A RETAIL BUSINESS IN ONTARIO AND FORCE ISSUERS OF RETAIL PRODUCTS TO RAISE CAPITAL OUTSIDE ONTARIO.

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?

THERE SHOULD BE AN OFFERING MEMORANDUM AND THERE SHOULD ALWAYS BE A QUALIFIED REGISTRANT

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

A QUALIFIED REGISTRANT CAN ASSIST THE INVESTOR TO DETERMINE THE APPROPRIATE AMOUNT AFTER THEY COMPLETE A KYC FORM. THERE SHOULD NOT BE A M A EXEMPTION.

11. If we limited the use of the exemption to persons who are not individuals, what would the impact be on capital raising?

THERE WOULD BE EVEN LESS RETAIL BUSINESS IN ONTARIO THAN EXISTS TODAY, WHICH IS ALREADY VERY LIMITED.

12. Are there alternative qualification criteria for the minimum amount exemption?

NO. ELIMINATE THE M A EXEMPTION.

13. Are there other limitations that should be imposed on the use of the minimum amount exemption?

NO. ELIMINATE THE M A EXEMPTION.

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

ABSOLUTELY

- 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?

IF THE AI EXEMPTION WAS REDUCED – INCOME \$100,000 TO \$125,000 RANGE, FINANCIAL ASSETS \$250,000 TO \$350,000, NET WORTH NOT INCLUDING PRINCIPAL RESIDENCE TO \$500,000 TO \$750,000 THERE WOULD BE A RETAIL BUSINESS IN ONTARIO.

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

NO. ELIMINATE IT

17. Do you have comments on the issues described above? See Background 16.

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

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

**ABSOLUTELY NOT. IT SHOULD BE REDUCED.**

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?

**AS STATED IN 15 ABOVE. AS LONG AS THERE WAS A QUALIFIED REGISTRANT ADVISING THE CLIENT AND AN OFFERING MEMORANDUM.**

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

**I HAVE NO PROBLEM WITH THAT.**

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

**BY REDUCING THE THRESHOLDS IT WOULD ALLOW RETAIL ISSUERS TO RAISE CAPITAL IN ONTARIO AND NOT FORCE THEM TO RELY ON RAISING CAPITAL OUTSIDE ONTARIO.**

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?

**QUALIFIED REGISTRANT AND OM**

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

SEE THE ANSWER TO 22 ABOVE

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?

SEE ANSWER TO 22 ABOVE

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?

THAT SHOULD BE DETERMINED WITH A QUALIFIED REGISTRANT

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?

VERY GOOD QUESTION. PERHAPS A CHOICE BY THE INVESTOR OF  
1) VERIFICATION OF THEIR STATUS BY THE INVESTOR (ie TAX RETURNS OR  
MONTH-END STATEMENTS OR  
2) CERTIFICATION BY AN INDEPENDENT THIRD PARTY

29. Do you agree with imposing such a requirement?

NOT AT THIS TIME

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?

I RECOMEMEND STARTING WITH A QUALIFIED REGISTRANT AND AN OM.

FINAL COMMENTS. PLEASE RECOGINIZE THAT A NUMBER OF THE COMPLAINTS FROM RETAIL INVESTORS ARE DUE TO THE FACT THAT THEY INVESTED FAR TOO MUCH MONEY IN ONE INVESTMENT DUE TO THE MINIMUM AMOUNT EXEMPTION. IN GENERAL, OUTSIDE THE PROVINCE OF ONTARIO AND NEWFOUNDLAND, LICENCING WAS NOT REQUIRED PRIOR TO SEPTEMBER 28, 2010. ALTHOUGH WELL-MEANING, A NUMBER OF SALES AGENTS WERE NOT PROPERLY QUALIFIED TO ADVISE INVESTORS. INVESTORS MAY HAVE TAKEN MORE RISK THAN THEY HAD INTENDED TO.

POST SEPTEMBER 28, 2010 DEALING REPRESENTATIVES WERE REQUIRED TO PASS EXAMS AND GET REGISTERED THROUGH AN EMD. EMD'S HAVE CCO'S AND UDP'S TO SUPERVISE DEALING REPS. A NUMBER OF CONFLICTS THAT AROSE FROM ISSUERS SELLING THEIR OWN PRODUCTS THROUGH THEIR OWN UNREGISTERED SALES REPS HAVE BEEN DEALT WITH THROUGH 31-103.

PLEASE CONSIDER THAT 31-103 HAS TAKEN THE EMD SPACE TO A MUCH HIGHER AND A MUCH MORE PROFESSIONAL LEVEL. THE BAR HAS ALREADY BEEN RAISED SIGNIFICANTLY. INVESTORS ARE MEETING WITH A HIGHER LEVEL OF DEALING REPS THAN PRE SETEMBER 28, 2010.

CONSIDER THAT A RESIDENT OUTSIDE THE GTA WHO OWNS A HOME THAT COSTS HALF OF AN EQUIVALENT ONE IN THE GTA MAY EVEN MAKE LESS THAN THEIR COUNTERPART IN THE GTA. HOWEVER THE PERSON OUTSIDE THE GTA MAY VERY WELL HAVE MORE DISPOSABLE INCOME TO INVEST DUE TO LOWER MONTHLY FIXED COSTS ON THEIR MORTGAGE ETC.

QUALIFIED DEALING REPS, KYC'S, ONGOING PRODUCT TRAINING ARE THE SOLUTION. NOT ARBITRARY THRESHOLDS.