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Ontario Securities Commission
20 Queen Street West
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Re: CSA Proposed Amendments Relating to the Offering Memorandum Exemption

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To Whom It May Concern:

I am writing this letter in response to the proposed amendments for National Instrument 45-106.

Let me first begin by saying that I appreciate the process and the value of interacting with the CSA and its constituent members as it explores new rules and regulations for the betterment of the Canadian capital markets. The spirit in which I write the following comments is one of sharing information, perspective and opinion such that the CSA can make decisions in an informed manner. At no point would I want my words to be considered an attack. Rather, please accept my comments as a critique of proposed amendments to NI 45-106, and I am hoping that you will view them as being constructive as you make important decisions, which will inevitably have measurable affects.

I am the President of Privest Wealth Management, a registered Exempt Market Dealer, based in Calgary, Alberta. Privest has been registered as an Exempt Market Dealer since 2010, and processes in excess of 1,000 exempt securities trades annually.

The CSA has made several proposed amendments, and the balance of this comment letter will focus on only one of them. The proposed amendment I wish to address is:

> "to limit the risks associated with an investment by a retail investor in illiquid securities, new caps on the aggregate amount that can be sold to any one investor under the OM Exemption in a 12 month period have been proposed:
> - o $10,000 in respect of all investors who are not eligible investors; and
> - o $30,000 in respect of investors who are individuals that are not accredited investors and who do not qualify as specified family members, close personal friends or close business associates under the FFBA exemption;"

For ease of comprehension, I will refer to the above as the "proposed amendment" from this point forward.

Issue #1 – Capital Markets Competitiveness

The proposed amendment is plainly a government imposed restriction of the supply of capital. Privest estimates that the rule will result in a 20% reduction in the supply of capital available for the small business issuers, with whom it works. Our internal analysis suggests that if the proposed amendment were to be retroactively applied to the past 12 months of trades, our dollar volume trade approval would drop by 21.6%. This is a relatively simplistic calculation on our part. There are undoubtedly subtleties and nuances that could be argued, but we see no way to arrive at a calculation that would result in anything less than a 20% reduction in dollar trade volume.

Importantly, we are unaware of any data that suggests a current or future drop in demand for capital in the Exempt Securities market and, therefore, offer the following argument. Basic principles of economics will undoubtedly govern the realities of the market place. If you accept the Law of Supply and Demand, then you must accept that a government-imposed restriction on capital supply will have an almost immediate effect on the cost of capital. Markets are efficient and will find price points that reflect the balance between supply and demand. In this case, and based on our internal calculations, the rule will result in a 20% drop in capital supply. Critically, it is important to understand that this 20% drop in capital supply will be born exclusively by small to medium-sized businesses. Larger enterprises have far more options when sourcing capital (public markets, institutional investors, etc) so the proposed rule is not likely an existential threat.

I am assuming that the CSA doesn't want EMDs to slash administrative and compliance budgets, in order to be financially viable. If this is the case, the inevitable consequence of your proposed rule is that fees (commissions or otherwise) will have to rise. While fees are theoretically born by issuers, they are always ultimately paid for by investors. The proposed amendment will directly affect investor returns negatively. The affect will be easily quantified, and there will be no gray area for interpreting the data. The cost of capital will have been directly affected by the CSA. The unintended consequence of your rule will likely yield results that are very much in direct contradiction to your mandate.

The contradiction is illustrated two ways:

1. By reducing the supply of capital, the proposed amendment will increase the cost of capital. The increase in the cost of capital will ultimately be borne by investors and will negatively affect

their returns. Investors that choose to allocate a portion of their portfolios to Exempt Securities will be forced to absorb increases in costs of capital. I respectively ask you to answer how does this fit with your mandate of protecting investors?

2. Small to medium-sized businesses will be forced to pay an unfair premium on their cost of capital. High costs of capital will jeopardize commercial viability and results. Owners of such businesses will do one of the following:
   a. Accept new economics and risks associated with higher costs of capital, ultimately passing them on to investors.
   b. Attempt to access the capital markets through a Prospectus mechanism. This is expensive, time consuming and requires an issuer to find an investment bank to sign off on its prospectus. This alternative is not likely realistic for most small to medium -sized businesses.
   c. Choose not to pursue growth plans due to higher costs of capital.
   d. Choose to move to a jurisdiction where they can access capital less expensively.
      Note: In my experience, most of these people are entrepreneurs. If they can't live out their dreams in this country, they will live them out somewhere else.

   I respectfully ask you to answer how does this fit in with your mandate of fostering healthy and efficient capital markets?

Issue #2 – Unequal Access to Opportunity for Canadian Citizens

The TSX Private Markets Group has recently been promoting their new platform for trading Exempt Securities. In their presentations they disclose that they measure the dollar volume of new capital raised in 2012 as follows:

Exempt Securities:	$160 Billion (approximately)
TSX + TSXV:	$60 Billion (approximately)

Given the global reputation of the TMX Group, I believe these numbers are accurate. These numbers are not current (a few years old), but they tell us something, regardless. The Exempt Securities market is proportionately significant and meaningful in the Canadian economy. If you accept the basic principle that capital is mobile, then you should easily be able to conclude that such significant dollar volumes are an indication that capital is flowing to Exempt Securities because it is categorically offering returns that are not obtainable elsewhere. Exempt Securities are not on the fringe of the market and they aren't a passing fad. They are clearly part of the mainstream of the capital markets and are entrenched as a viable channel for issuers to access capital and investors to access investment opportunities.

The proposed amendment will limit the access to the Exempt Market for the vast majority of Canadian citizens in the top 20% of income earners in the country. As I'm sure you know, 75-80% of Canadian citizens do not meet the minimum income threshold tests relating to "Eligible Investors". So, what we are talking about here is the 20% of investors that pass the "Eligible Investor" income threshold tests, but do not qualify as "Accredited Investors".

The proposed amendment is essentially restricting self-determination for the top quintile of Canadian citizens (as measured by income). Is the top quintile not smart enough, or responsible enough, to make

its own decisions? To put the absurdity of this selective restriction on self-determination in perspective, Canadian citizens are allowed to spend their money without governmental restriction on:

a) The purchase of any house they choose, regardless of price.
b) The purchase of any car they choose, regardless of price.
c) The purchase of any vacation they choose, regardless of price.
d) Gambling at a casino where the government is the primary beneficiary of profit. They can drop $50,000 at a casino anytime they want.

It is the last point (d) that cries hypocrisy the most. Any citizen of Canada (18 or older) can gamble at government-regulated (and for all intents and purposes, owned) casinos to his heart's content, but the top 20% of income earners can't fully access a major channel of the capital markets.

But it's worse. If you are financially well off (as defined by "Accredited Investor" criteria) you may do as you please and access the Exempt Market as you see fit. The proposed amendment effectively entrenches a two-tiered system where access to investment opportunities is restricted to all but the wealthy. The rich get richer. There are many academics that worry that Canada is moving away from a system of social democracy toward an oligarchy. Your proposed amendment evidences that not only are we moving in this direction, but that governmental agencies are actively promoting systemic changes that promote oligarchical ends. This observation lands well above the granular discussion about the wording of securities rules or laws. It has to do with what kind of country we want to live in, and where do we draw the line with respective to the government's role in our lives.

The Priority Above All Other Considerations

In the end, I believe the most compelling part of the debate comes down to the competitiveness of the Canadian capital markets. Sustainable growth of the Canadian economy is dependent upon domestic enterprises being able to access capital. Foreign sources of capital are unlikely to drive growth in domestic small businesses. Domestic sources of capital are required; otherwise, the formation and growth of small businesses will be stifled.

The proposed amendment will definitively restrict the current and future supply of capital in an important economic category – small business. In my view, Securities Regulators must pursue and promote policies that allow capital to flow freely within the Canadian economy. The market is quite capable of assessing the appeal or viability of investment opportunities. The market does not require government rules and regulations that restrict its decision-making capabilities.

Suggestion

As an alternative to imposing annual limits on Eligible Investors, I would suggest to you that the control mechanisms required to promote sensible market activity already exist. National Instrument 31-103 has caused the formation of Dealer Compliance Regimes that oversee Registrants and assess trade suitability on a trade by trade basis. Dealer Compliance Regimes are effective and there are many precedents regarding how they work and how Regulators can influence their structure and operational effectiveness.

Among other things, a core function of a Dealer Compliance Regime is to continuously assess the suitability of trades based on the circumstances of each investor. If you want to promote good business practices, the most effective tool you have is found within the Dealers that you have, by your actions, created. I urge you to abandon your pursuit of implementing annual caps on Eligible Investors in favour of working with, and overseeing, Dealer level compliance systems.

Just because you have a hammer, it doesn't mean that every problem is a nail.

Sincerely,

Drew Adams
President, Privest Wealth Management Inc.