



OSC Staff Notice 11-784 Burden Reduction

The OSC is seeking suggestions on ways to further reduce unnecessary regulatory burden, as provided in OSC Staff Notice 11-784.

We invite your comments on the Staff Notice through the survey below. Please note that each question has a 4000 character response limit.

Closing date: March 1, 2019

Thank you for sharing your thoughts with the OSC Burden Reduction Task Force.

* Required

1. Please provide your name. *

Anthony Couture

2. What is the name of your firm or company, if applicable?

Silver Maple Ventures inc. (dba FrontFundr)

3. What is your role in the capital markets? *

- Registrant
- Issuer
- Other: _____

4. Do you have any general comments on the topic of regulatory burden reduction related to securities regulation? If so, please enter only the legislative reference for your suggestions in the box below (for example 31-103 1.1)

31-103 - (Registration and Periodic review)
31-103 13.8 - 13.11
31-103 CP 13.7 - 13.10
31-103 Proposed Changes, Section 13
45-106 2.9

45-108/45-535 inclusive

5. Please use the space below to provide your general comments.

31-103 - (Registration and Periodic review)

There is the perception in the industry that too much oversight is placed upon registered firms while unregistered entities continue to undermine the integrity of the capital markets unchecked.

31-103 13.8 – 13.11

31-103 CP 13.7 – 13.10

31-103 Proposed Changes, Section 13

There is a need for stronger guidance on referral arrangements and clearer definition of the ‘furtherance of a trade’ concept for issuers and dealers.

45-106 2.9

Harmonization across jurisdictions for OM exemption would provide clarity to dealers and investors.

45-108/45-535 inclusive

Harmonization is required across all jurisdictions for crowdfunding legislation. The regulators risk marginalizing Canada’s competitive position and unnecessarily slow efforts to support a strong engine for growth in the country by market participants.

6. Are there operational or procedural changes that would make market participants’ day-to-day interaction with the OSC easier or less costly? If so, please enter only the legislative reference for your suggestions in the box below.

31-103 - (Registration and Periodic review)

31-103 13.8 – 13.11

31-103 CP 13.7 – 13.10

31-103 Proposed Changes, Section 13

45-106 2.9

45-108/45-535 inclusive

45-106 (report of exempt distribution)

1. Please use the space below to provide your suggestions for operational or procedural changes.

31-103 (Registration and Periodic review)

Oversight

Registered firms undergo a rigorous process to gain registration, after which they should be given the benefit of the doubt on their activities - if conducted without complaint by investor and issuer clients, or by a periodic light review, which would highlight key responsibilities of a registrant. There is the appearance within the industry that registrants are easy targets for overly granular reviews by regulators, while unregistered entities continue to operate within the system, unidentified until the damage they inflict becomes a headline; which feeds the public's imagination of major failures within the industry. The OSC would do well to focus more on systemic risk and less on potential processing faults of registrants within their administrative systems, etc. It is better to be a leader in identifying and dealing with serious risk, rather than as a meter maid for lesser transgressions. This is especially so for online dealers, whose activities are already very public and clear.

A possible approach to oversight for registered entities:

A dealer must often complete a risk evaluation yearly within each jurisdiction in which they operate. After registration, a portal should submit their annual compliance reports not only to their board (as required by 31-103) but to the regulators as well through NRD. Following a framework provided by the CSA, a firm could provide all the information required for all regulators on the state of the enterprise and its compliance efforts throughout the year. The compliance report would be submitted along with the firm's audited financials or other support material as required. After which they should not expect reviews which invariably require months of engagement to unearth administrative deficiencies - which appear to be less about protecting the capital markets and more about demonstrating to the public that oversight is in place – and opt for check-ins and site visits to confirm the material presented in the compliance report and as an outreach to assist registrants in fulfilling their obligations. The former (exhaustive reviews) takes an incredible amount of resources for both regulator and registrant and may not be an effective use of these resources. The FINTRAC model of a 2-year risk assessment coupled with an annual compliance report submission and further supported by a real-time relationship management system, could be a more efficient use of time for both registrant and regulator.

As previously mentioned, reviewing the practices of online dealers is a fairly quick and easy affair – the firm's activities are all online and available for a regulator to review at any time. As identified, realtime regulation would be a more effective approach, wherein a sweep of a dealer's online activities is conducted and if issues are present, a reminder to the registrant of their duties would be in order with a chance to respond and address any concerns discussed. The length of time undertaken for formal reviews may not match with the access to and delivery of information currently available to most online registrants.

31-103, 13.8-13.11, 31-103CP 13.7-13.10, 31-103 Proposed Changes, Section 13

As indicated within the proposed changes, legislation should be direct on whether referral arrangements should only exist with registered individuals or entities, with clear guidelines on best practices for the promotion of offerings by non-registered marketing agents, and the fee structure which might be reasonably employed for this service by a registrant.

The landscape for the promotion of offerings has changed dramatically over the previous 5-7 years and legislation trails behind these developments in some measure.

Harmonization of the differing stipulations by jurisdiction within the OM exemption are required. The time and effort from an IT development and administrative perspective have been extensive for a firm such as ours, which is registered in jurisdictions across the country. Catering to the needs of jurisdictions individually for this exemption is unnecessarily cumbersome.

45-108/45-535 inclusive

We are Canada's leading crowdfunding platform and we have yet to use the 45-108 Crowdfunding exemption. The differences between the crowdfunding exemptions are extreme and have required a great deal of time in explaining this to issuers, who invariably choose not to pursue it over the time and cost to undertake it. Though the CSA has notified the community on the efforts to harmonize this item more effectively, we fear it may take an inordinate amount of time and Canada - *and in particular Ontario* - will miss out on an opportunity to assist its economy in pulling itself (no matter in whatever small measure this may be) from out of a growing recessionary climate.

The requirement for investors to acknowledge their entry onto a platform to satisfy the requirements of 45-108, 33, or 45-535, 8(b)(ii)(C), do not consider that other exemptions are utilized in offerings which do not require this feature. The acknowledgement serves to overly stigmatize the process for crowdfunding users and is a nuisance for more sophisticated investors. The statements included within the acknowledgment also reside in multiple areas of a dealer's platform and form part of an investor's onboarding knowledge throughout the subscription process.

2. Are there ways in which we can provide greater certainty regarding regulatory requirements or outcomes to market participants? If so, please enter only the legislative reference for your suggestions in the box below.

31-103

3. Please use the space below to provide your suggestions regarding how the OSC could provide greater certainty regarding regulatory requirements or outcomes.

Guidance

Regulators should avoid where possible a best practice approach via staff notices and always provide specific requirements for registrants via updates to the relevant national instrument. Oftentimes, a dealer seeking clarity on legislation is simply told by a regulator that they must obtain independent legal advice for interpretation of the legislation to determine if the registrant is within the bounds of the requirements. There is significant drag, expense and risk for a dealer, as at any point down the road from receiving an interpretation, a regulator may simply disagree, and open the possibility of being offside for previous activities. This is untenable in the long-term. Regulators often insist on precision from registrants yet can fail to be precise themselves when providing guidance.

4. Are there forms and filings that issuers, registrants or other market participants are required to submit that should be streamlined or required less frequently? If so, please enter only the legislative reference for your suggestions in the box below.

31-103

5. Please use the space below to provide your suggestions regarding forms and filings.

Fines & Fees

Fines related to late reports of exempt distribution can be prohibitive for small dealers with limited staff. Oftentimes, these firms must hire inexperienced individuals and allow them the opportunity learn the system over time. There will invariably be some mistakes made within this process. Accuracy is paramount, but the fees are simply too high as it is, for either experienced or inexperienced participants.

Our firm pays over \$25,000 in fees annually through NRD alone, not including costs associated with OBSI, Fintrac etc... and we only have four registered individuals - two of whom are dealing representatives. Each jurisdiction requires fees which may not correspond to the level of business available in that jurisdiction. Consolidating oversight overall and lessening fees is essential if access to the private capital markets for all eligible investors across the country is important to the regulators.

The annual compliance report submission mentioned in 1 above, could include a standard form providing detail on a registrant's business in accord with the 'participation' fee process with the OSC. Standardizing this could consolidate info for all and limit a registrant's efforts to address each regulator individually in this regard.

6. Are there particular filings with the OSC that are unnecessary or unduly burdensome? If so, please enter only the legislative reference for your suggestions in the box below.

Form 45-106F1 Report of Exempt Distribution

7. Please use the space below to provide your comments regarding burdensome filings.

Form 45-106F1 Report of Exempt Distribution

The lack of harmonization, and standalone nature of the OSC filing system (and BCSC's, for that matter) means that the actual report, which is filed as a single document for SEDAR jurisdictions, must be pulled apart piece by piece and each field must be painstakingly re-entered as a separate data-field. This is obviously time-consuming and inefficient, but also makes the process more prone to inadvertent errors and discrepancies.

8. Is there information that the OSC provides to market participants that could be provided more efficiently?

The OSC has a good outreach program but they would also do well to have a 'relationship manager' position for those registrants that are not directly under their supervision as a 'principal' regulator. In general, the perception is that the OSC's relationship with registrants is adversarial. A more personal relationship between the CCO of a registered firm and a OSC rep would help a firm to meet their requirements and build greater goodwill within the industry overall.

9. Are there requirements under the OSC rules that are inconsistent with the rules of other jurisdictions and that could be harmonized? If so, please enter only the legislative reference for your suggestions in the box below.

45-106 2.9
45-535/45-108

10. Please use the space below to provide your comments and suggestions around harmonization of rules.

As noted previously in Q1:
45-106 2.9
Harmonization of the differing stipulations by jurisdiction within the OM exemption are required. The time and effort from an IT development and administrative perspective have been extensive for a firm such as ours, which is registered in jurisdictions across the country. Catering to the needs of jurisdictions individually for this exemption is unnecessarily cumbersome.

11. Are there specific requirements that no longer serve a valid purpose? If so, please enter only the legislative reference for your suggestions in the box below.

NA

12. Please use the space below to provide your comments and suggestions around requirements that may no longer serve a valid purpose.

NA

13. Are there ways to enhance and improve how investors experience disclosure provided: (i) before they invest; (ii) as part of ongoing public disclosure; and (iii) by registrants?

As per Q1 above:

45-108/45-535 inclusive

The requirement for investors to acknowledge their entry onto a platform to satisfy the requirements of 45-108 33, or 45-535, 8(b)(ii)(C), do not consider that other exemptions are utilized in offerings which do not require this feature. The acknowledgement serves to overly stigmatize the process for crowdfunding users and is a nuisance for more sophisticated investors. The statements included within the acknowledgment also reside in multiple areas of a dealer's platform and form part of an investor's onboarding knowledge throughout a subscription process.

On Platform

Continued referral to the offering documents for an offering within a platform and within its communications with investors is the best method for providing disclosure. This text can be placed throughout the on-boarding process at key junctures.

The offering documents themselves should always focus on material information and be devoid of any promotional language. Key information for a raise should reside in the initial pages of the document (UOF & material agreements, etc). Risk sections may be more effectively used at the beginning of the offering documents – or at least paraphrased and referenced to section - as oftentimes an investor will only read so much of a large and comprehensive document.

14. Please use the space below to provide your suggestions for modernizing information provided to investors because of regulatory requirements. For example, specific areas where we could promote the use of plain language?

We have received comments from investors that the subscription documents, RAF and applicable schedules are overwhelming and sometimes confusing. As well, much of the qualifying information we collect online mirrors the information an investor must acknowledge offline (Schedule 1 & 2 for OM exemption for example). An online dealer should be able to show acknowledgement of these elements when done through its system, rather than force an investor to double-up their process time.

Though a subscription document itself is often the purvey of lawyers entrusted with protecting an issuer, there may be an opportunity to universalize sub agreements with each exemption, simplifying the language while providing clear understanding to investors and issuers on expectations. This is a mandate which must spring from the regulators, with specific guidance on a proper form and content for these agreements. A 'plain language' initiative fits well with an online EMD's overall place within the industry as an entry point for retail investors hoping to diversify a portfolio with private issuances and looking for accessible information within what can be a confusing and complicated environment.

15. Do you have any other comments for the OSC Burden Reduction Task Force?

Excessive burden overall may be addressed in some manner by extending OSC's outreach to include specific relationship management interactions. These interactions could serve to remove what at times can be a fractious relationship with the regulator and assist both dealer and regulator create a healthier capital market. The current model of periodic and intensive review does not match with a quickly evolving online environment where information is distributed with

immediacy and may only come under scrutiny later by a regulator. On-going, real-time check-ins may allow for a better partnership to exist between a regulator and registrant, wherein potential issues could be addressed quickly, and the regulator becomes more available to respond to queries and gather on the ground information more readily in assessing the capital markets overall.

16. If you don't have enough space for your response to any question above, please use the space below to continue your comments. Please indicate which question these comments relate to.

Enter your answer