



## SASKATCHEWAN POLICY STATEMENT 34-601

### PROCEDURE WHEN INDIVIDUAL REGISTRANTS BECOME IN FINANCIAL DIFFICULTY

#### Part 1 Definitions

In this policy statement:

"Act" means *The Securities Act, 1988*;

"Commission" means the Saskatchewan Financial Services Commission;

"Director" means the Director of the Commission's Securities Division;

"financial difficulty" means:

- (a) having made or making an assignment in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada);
- (b) being the subject of an order to pay under the *Income Tax Act* (Canada);
- (c) being the subject of an outstanding garnishee summons; and

"individual" or individual registrant" means an individual who is registered or seeking to become registered as a partner, officer, director or salesperson of a dealer;

#### Part 2 Purpose

2.1 This policy sets out the procedure that staff of the Commission will follow:

- (a) when an individual registrant who is in financial difficulty applies for registration;  
and
- (b) when an individual registrant becomes in financial difficulty while registered.

### **Part 3 Procedure On Application For Registration**

- 3.1 Subsection 28(1) of the Act requires the Director to determine whether or not an applicant for registration is suitable for registration and whether the registration is not objectionable. In order for the Director to make this determination, an individual who is in financial difficulty and who applies for registration under the Act will be asked to file, together with the other forms and documents normally required:
- (a) a copy of the legal documents relating to the financial difficulty; and
  - (b) a detailed explanation as to the reasons for his or her financial difficulty.
- 3.2 The Director will review this information. If the Director is of the opinion that the applicant is suitable for registration and the registration is not objectionable as required by subsection 28(1) of the Act, the Director will register the applicant if the manager responsible for supervising the individual provides the Commission with a written undertaking in the form attached as Appendix A.

### **Part 4 Procedure Upon Bankruptcy Of A Registered Individual Or Officer**

- 4.1 Subsection 4.1(1) of Multilateral Instrument 33-109 *Registration Information* requires an individual registrant to notify the Commission within five business days of a change to any information submitted in Form 33-109F4 *Registration Information for an Individual*. Item 16 of Form 33-109F4 relates to bankruptcy, debt obligations, garnishments, unsatisfied judgments and orders to pay.

There is no provision in the Act that automatically suspends the registration of an individual in the event of financial difficulty. However, the financial difficulty of an individual registrant is a circumstance that will cause the Commission to review the individuals' fitness for continued registration.

- 4.2 Generally the staff of the Commission will not request that a individual's registration be suspended when they become in financial difficulty if:
- (a) the individual registrant promptly notifies the Director when he or she becomes in financial difficulty as required by subsection 4.1(1) of Multilateral Instrument 33-109;
  - (b) there is no indication that the individual's continued registration would be prejudicial to the public interest; and
  - (c) the procedures outlined in sections 4.3 and 4.4 are followed, and the information supplied is satisfactory and indicates no unusual circumstances.

- 4.3 When a individual registrant first becomes in financial difficulty the Director will request the manager responsible for supervising the individual to provide to the Commission:
- (a) a copy of the legal documents relating to the individual's financial difficulty;
  - (b) a detailed explanation by the registered individual as to the reasons for their financial difficulty;
  - (c) a written report from the manager indicating the results of a review conducted, of all the individual registrant's client files and transactions; and
  - (d) a written undertaking in the form attached as Appendix B.
- 4.4 When an individual has obtained a discharge or release from financial difficulty and if there are conditions attached to the discharge or release, the Director will request the manager to continue to report every three months, as required in the undertaking pursuant to clause 4.3(d) until the conditions are satisfied.

Adopted by the Commission effective February 3, 1994.

Amended on July 22, 1998.

Amended on November 10, 2004

*"Dave Wild"*

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Dave Wild  
Chairman

## APPENDIX A TO SASKATCHEWAN POLICY STATEMENT 34-601

## UNDERTAKING OF MANAGER

I, \_\_\_\_\_, am a manager for \_\_\_\_\_ (*name of corporate registrant*). \_\_\_\_\_ (the "Applicant") has applied for registration under *The Securities Act, 1988* and I will be responsible for supervising him/her.

If the Applicant is registered I undertake:

- (a) to supervise the Applicant closely, until the Applicant is discharged from financial difficulty, by:
  - (i) reviewing and approving all new client accounts, on a daily basis; and
  - (ii) reviewing all account documentation, and reviewing and approving all trades for suitability on a daily basis;
  
- (b) to file a written report with the Director every three months, until the Applicant is discharged from financial difficulty advising on:
  - (i) the status of the financial difficulty;
  - (ii) the Applicant's financial position including income, expenses and outstanding debts;
 and confirming:
  - (iii) that I have supervised the Applicant as required;
  - (iv) that all new accounts and all trades of the Applicant are proper; and
  - (v) that there have been no client complaints against the Applicant during the period of supervision;
  
- (c) to inform the Commission immediately:
  - (i) if there are concerns with respect to any of the above matters; and
  - (ii) of the Applicant's discharge from financial difficulty.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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(*signature of manager*)

**APPENDIX B TO SASKATCHEWAN POLICY STATEMENT 34-601**

**UNDERTAKING OF MANAGER**

I, \_\_\_\_\_, am a manager for \_\_\_\_\_ (*name of corporate registrant*). \_\_\_\_\_ (the "Registrant") is registered under *The Securities Act, 1988* and I am responsible for supervising him/her.

The Registrant is in financial difficulty, and as a condition of his/her continued registration I undertake:

- (a) to supervise the Registrant closely, until the Registrant receives a discharge from financial difficulty, by:
  - (i) reviewing and approving all new client accounts, on a daily basis; and
  - (ii) reviewing all account documentation, and reviewing and approving all trades for suitability on a daily basis;
  
- (b) to file a written report with the Director every three months, until the Registrant receives a discharge from financial difficulty advising on:
  - (i) the status of the financial difficulty;
  - (ii) the Registrant's financial position including income, expenses and outstanding debts;and confirming:
  - (iii) that I have supervised the Registrant as required;
  - (iv) that all new accounts and all trades of the Registrant are proper; and
  - (v) that there have been no client complaints against the Registrant during the period of supervision;
  
- (c) to inform the Commission immediately:
  - (i) if there are concerns with respect to any of the above matters; and
  - (ii) of the Registrant's discharge from bankruptcy.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(*signature of manager*)