Highlights from the 2025 OSC Registration, Inspections and Examinations Division Annual Report

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OSC Staff Notice 33-759 Registration, Inspections and Examinations Division 2025 Annual Report is the second annual report issued by the recently reorganized Registration, Inspections and Examinations (RIE) division at the Ontario Securities Commission (OSC). This Annual Report builds on the examination priorities announced by RIE in June 2025 (found here) and together form an instructive compliance check-list for registered firms.

Below we highlight some of the most interesting findings, though we encourage firms to read the Annual Report in full.

Findings from RIE reviews

Know-Your-Client (KYC), Know-Your-Product (KYP), and Suitability Determination Examinations

Like everyone in the industry, we continue to wait for the publication of the findings from the joint review by the Canadian Securities Administrators (CSA) and the Canadian Investment Regulatory Organization (CIRO) on compliance with KYC, KYP and suitability determination requirements, as amended by the client focused reforms (CFRs). This report had originally been anticipated in the spring of 2025 and the delay in publication suggests that the regulators may be further refining or aligning their views on these issues.

Referral arrangements

The Annual Report notes that not all registered firms have established adequate controls over referral arrangements and reminds firms that they should include the following:

- entering into a written agreement with the referring party that clearly defines each party's roles and responsibilities;
- entering into a written agreement with the client that includes all necessary and accurate disclosures to minimize possible client confusion; and
- developing policies and procedures to maintain ongoing oversight of all referral arrangements and exercise professional judgement to determine that a referral is in the client's best interest, both at the outset and throughout the lifecycle of the arrangement.

The suggestion that firms should enter into a written agreement with clients in relation to a referral arrangement is of particular interest because the referral arrangement requirements do not specifically contemplate that firms must or should enter into a separate agreement with clients and, in our experience, this is not a common practice. That said, the comment highlights that firms should consider whether the terms of a referral arrangement warrant some form of specific agreement with clients to address certain matters related to the arrangement, or simply to ensure the terms of each arrangement are clear and well understood.

In instances where firms are authorized by their clients to remit fees from the client's accounts to the referral agent, RIE staff expects firms to verify that the referral agent continues to provide the services to the client in respect of which the fees are being remitted. Events such as the retirement of a referral agent trigger an expectation that the registered firm will verify that: a new agent is continuing to provide services to the client; that the referral fee is appropriate; and that the arrangement remains in the best interest of the client. These comments are consistent with guidance published by other regulators, including the British Columbia Securities Commission.

Conflicts of interest

Conflicts of interest are now a perennial topic. RIE found that some registrants failed to adequately identify existing and reasonably foreseeable material conflicts of interest, address those conflicts in clients' best interest, and disclose them appropriately.

The Annual Report lists the following as components that should be included in a firm's conflict of interest inventory. We have bolded certain items that we view as expanding the previously articulated guidance in respect of conflicts matrices and draw clients' attention to our experience that both the CSA and CIRO are increasingly commenting on firms' conflicts of interest inventories.

- a description of each material conflict identified by the firm;
- the controls in place to manage or address each material conflict, **and how these controls are sufficient to address the conflict in clients' best interest**;
- how the conflict has been disclosed to clients;
- the potential impact and risks posed by the conflict;
- **the registrant's obligations to address conflicts in the best interest of clients;**
- **the firm's assessment explaining why the conflict is material, including the criteria used to make that assessment; and**
- **the individuals involved in identifying and assessing the conflict's materiality**.

The Annual Report reminds firms to maintain evidence of their periodic reviews of the conflicts inventory and the effectiveness of the controls implemented. Clients should consider whether any additional analysis and documentation may be beneficial in demonstrating compliance.

The Annual Report also calls attention to exempt market dealers (EMDs) distributing multiple series/classes of the same issuer to clients where some of the attributes create a material conflict. The attributes of concern include differences in up-front and continuing compensation paid to the EMD and differences in redemption charges for clients. RIE staff has articulated they believe this to be a material conflict of interest that requires identification, control and disclosure. These controls may include suitability determination documentation showing that the series/class sold to the client was suitable and puts the client's interest first by not prioritizing a higher level of remuneration or other incentives accruing to the firm.

Additionally, RIE staff are seeing increased use of the issuer-sponsored dealing representative model wherein there is an inherent conflict created when an individual works for an issuer or an issuer's affiliate and is also registered as an EMD that markets the issuer's securities. EMDs are expected to identify, control and disclose these conflicts, including clear disclosure about the limited range of products and services that the issuer-sponsored dealing representative is able to sell and that, as a consequence, alternatives available to the client through the firm are not being considered.

Prospectus exemption misuse

RIE highlighted instances where EMDs distributed securities relying on a prospectus exemption that was either (a) not available in the circumstances, or (b) not sufficiently supported with evidence.

Some EMDs failed to adequately consider the investment limits of $30,000 or $100,000 within a 12-month period for eligible investors when distributing securities relying on the Offering Memorandum exemption and also noted that EMDs cannot use client-directed trades to get around the $30,000 basic investment limit for individual eligible investors.

RIE staff noted that, when relying on the family, friends and business associates (FFBA) exemption, some EMDs did not adequately document the relationship between the investor and issuer. In particular, when citing reliance on the "close personal friend" or "close business associate" components of the FFBA exemption, staff expects EMDs to document the person with the relationship (e.g., "a close personal friend of a director of the issuer") as well as details confirming the nature and length of the relationship.

For securities distributed under the Accredited Investor (AI) exemption, RIE staff noted cases where a corporation indicated reliance on paragraph (j) which is only available to individuals (alone or with a spouse) having net financial assets in excess of $1,000,000 or two individuals who are not spouses relying on paragraph (j). Despite the fact that in many cases, the clients could have been completed in proper reliance on another paragraph of the accredited investor definition, RIE staff will still note a deficiency due to incorrect reliance and documentation by the firm.

As stated at the outset, firms are encouraged to read the full Annual Report which contains helpful reminders on properly calculating working capital, as well as the need

to ensure that books and records are accessible for inspection. Should you have any questions about this bulletin or anything in the Annual Report, please reach out to your usual BLG lawyer or BLG Beyond AUM Law lawyer or any of the authors below.

The authors would like to thank Muna Tojiboeva, student-at-law, for her contributions to this insight.

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