

PROVINCE OF BRITISH COLUMBIA

RULE OF THE BRITISH COLUMBIA SECURITIES COMMISSION

*Securities Act*

The British Columbia Securities Commission orders that

- (a) *B.C. Reg. 288/2019 is amended by repealing section 12 (a) of Schedule B, and*
- (b) *effective December 31, 2021, National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, B.C. Reg. 226A/2009, is amended as set out in the attached Schedule.*

<p><b>DEPOSITED</b></p> <p>December 21, 2021</p> <p>B.C. REG. <u>341/2021</u></p>
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December 17, 2021

Date

British Columbia Securities Commission

*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: Securities Act, R.S.B.C. 1996, c. 418, s. 184

Other: \_\_\_\_\_

## SCHEDULE

1. ***National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, B.C. Reg. 226A/2009, is amended as set out in this Schedule.***

2. ***Section 1.1 is amended by adding the following definitions:***

**“financial exploitation”** means the use or control of, or deprivation of the use or control of, a financial asset of an individual by a person or company through undue influence, unlawful conduct or another wrongful act;

**“temporary hold”** means a hold that is placed on the purchase or sale of a security on behalf of a client or on the withdrawal or transfer of cash or securities from a client’s account;

**“trusted contact person”** means an individual identified by a client to a registrant whom the registrant may contact in accordance with the client’s written consent;

**“vulnerable client”** means a client who might have an illness, impairment, disability or aging-process limitation that places the client at risk of financial exploitation; .

3. ***Subsection 11.5 (2) is amended***

***(a) by replacing paragraph (l) with the following:***

(l) demonstrate compliance with sections 13.2, 13.2.01, 13.2.1 and 13.3; , ***and***

***(b) by adding the following paragraph:***

(s) demonstrate compliance with section 13.19.

4. ***The following section is added:***

### **13.2.01 Know your client – trusted contact person**

- (1) Concurrently with taking the reasonable steps required under subsection 13.2 (2), a registrant must take reasonable steps to obtain from the client the name and contact information of a trusted contact person, and the written consent of the client for the registrant to contact the trusted contact person to confirm or make inquiries about any of the following:
  - (a) the registrant’s concerns about possible financial exploitation of the client;
  - (b) the registrant’s concerns about the client’s mental capacity as it relates to the ability of the client to make decisions involving financial matters;
  - (c) the name and contact information of a legal representative of the client, if any;
  - (d) the client’s contact information.
- (2) A registrant must take reasonable steps to keep current the information required under this section, including updating that information within a reasonable time after the registrant becomes aware of a significant change in the client’s information required under subparagraph 13.2 (2) (c) (i).
- (3) This section does not apply to a registrant in respect of a client that is not an individual.

5. ***Part 13 is amended by adding the following Division:***

**Division 8 – Temporary Holds**

**13.19 Conditions for temporary hold**

- (1) A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not place a temporary hold on the basis of financial exploitation of a vulnerable client unless the firm reasonably believes all of the following:
  - (a) the client is a vulnerable client;
  - (b) financial exploitation of the client has occurred, is occurring, has been attempted or will be attempted.
- (2) A registered firm, or a registered individual whose registration is sponsored by the registered firm, must not place a temporary hold on the basis of a client's lack of mental capacity unless the firm reasonably believes that the client does not have the mental capacity to make decisions involving financial matters.
- (3) If a registered firm or a registered individual places a temporary hold referred to in subsection (1) or (2), the firm must do all of the following:
  - (a) document the facts and reasons that caused the firm or individual to place and, if applicable, to continue the temporary hold;
  - (b) provide notice of the temporary hold and the reasons for the temporary hold to the client as soon as possible after placing the temporary hold;
  - (c) review the relevant facts as soon as possible after placing the temporary hold, and on a reasonably frequent basis, to determine if continuing the hold is appropriate;
  - (d) within 30 days of placing the temporary hold and, until the hold is revoked, within every subsequent 30-day period, do either of the following:
    - (i) revoke the temporary hold;
    - (ii) provide the client with notice of the firm's decision to continue the hold and the reasons for that decision.

6. ***Subsection 14.2 (2) is amended:***

***(a) by adding the following paragraph:***

- (1.1) a description of the circumstances under which a registrant might disclose information about the client or the client's account to a trusted contact person referred to in subsection 13.2.01(1); , ***and***

***(b) by adding the following paragraph:***

- (p) a general explanation of the circumstances under which a registered firm or a registered individual may place a temporary hold under section 13.19 and a description of the notice that will be given to the client if a temporary hold is placed or continued under that section.