

Canadian regulators mull options for incorporation of individual sales representatives

Provincial policymakers have initiated a consultation on how to deal with the issue of personal incorporation in the investment industry. A working group of provincial/territorial government officials has been struck to consider allowing broader incorporation of individual sales reps.

A paper released Monday by Alberta's finance department seeks input on whether changes to allow personal incorporation are appropriate, and it presents several options, including two legislative proposals, one developed by the **Alberta Securities Commission** and the other by Advocis, both of which are designed to allow personal incorporation. A third option would be to allow a broader range of sales reps to redirect their remuneration to a non-registered corporation.

The paper notes that discussions of whether to allow individual reps to incorporate have been underway since 1999 when securities regulators flagged the issue. Moreover, mutual fund dealer reps had historically been allowed to incorporate, and, in March 2010, securities regulators in several provinces (**BC, Saskatchewan, Manitoba, Ontario, New Brunswick and Nova Scotia**) signed off on a rule for fund dealers allowing their reps to flow commissions through a non-registered corporation. However, Alberta hasn't adopted this approach.

There remains an unlevel playing field between fund dealer reps and investment dealer reps, as the latter aren't allowed to incorporate under Investment Industry Regulatory Organization of Canada rules. IIROC has proposed changing those rules, but the provincial regulators would not sign off on the change.

Regulators have been concerned about preserving liability to, and regulatory accountability of, dealers for the actions of their reps. They don't want personal corporations to act as a shield for dealers, damaging investor protection. Reps want to be allowed to incorporate primarily for the tax advantages, but there can be administrative and operational advantages too.

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