

# CSA Staff Notice 31-336

## *Guidance for Portfolio Managers, Exempt Market Dealers and Other Registrants on the Know-Your-Client, Know-Your-Product and Suitability Obligations*



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- CSA Staff Notice 31-336 published January 2014
  - Compliance reviews demonstrated need for additional guidance
  - Conduct involving failure to comply with these obligations is a serious matter
  - Activities related to these obligations is a key focus of compliance reviews
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## Importance of KYC, KYP and Suitability

- Among the most fundamental obligations owed to clients
- Cornerstones of our investor protection regime
- Suitability obligation requires a registrant to:

Know the client

Know the  
product being  
recommended

Form an opinion as to whether the  
product is suitable based on a  
client's investment needs and  
objectives

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## Overview of CSA Staff Notice 31-336

- Guidance representing our expectations of registrants
  - Brief summary of the applicable securities law
  - Best practices
  - Unacceptable practices
  - Examples of recent decisions
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- KYC, KYP and suitability requirements are basic obligations of a registrant
  - Expectation that market participants will comply not only with the letter of the law but also with the spirit of the requirements
  - These obligations are extensions of each registrant's duty of care: see Section 75.2 of Securities Act (*Alberta*)
  - Failure to adequately know your client may lead to a distribution in breach of a prospectus exemption
  - Adequate documentation of the suitability process (including KYC) is critical
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- Take reasonable steps to establish the identity of a client and to ensure they have sufficient information to meet their suitability obligation
  - Section 13.2 of the Companion Policy to NI 31-103 states:  
“KYC information forms the basis for determining whether trades in securities are suitable for investors. This helps protect the client, the registrant and the integrity of the capital markets. The KYC obligation requires registrants to take reasonable steps to obtain and periodically update information about their clients.”
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## What KYC information is required?

- Registrants must take reasonable steps to ensure that they have sufficient information about their clients:

Investment needs and objectives, including time horizon

Financial circumstances, including net worth, income, current investment holdings and employment status

Risk tolerance for various types of securities and investment portfolios

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## What KYC information is required?

- The extent of KYC information that a registrant needs to determine suitability of trade will depend on:

The client's circumstances

The type of security

The client's relationship to  
the registrant

Registrant's business model

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## When does the KYC obligation apply?

- A registrant must have current KYC information whenever a suitability determination is required.
- A registrant is required to make a suitability determination before a registrant:

Makes a  
recommendation to buy  
or sell a security

Purchases or sells a  
security for a client's  
managed account

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### KYC Information should be updated:

- whenever there is a suitability determination
- when there is a change in the client's circumstances
  - at least annually

Both the client and the registrant should review the KYC information and the client should sign and date the information

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### ***Determine whether investors are Accredited or Eligible***

- Understand the different categories of investor as well as the definitions and conditions outlined in NI 45-106

### **Best Practices:**

Develop a KYC form that has sufficient information to determine if the client is accredited or eligible

Obtain a breakdown of the client's financial and net assets

Establish policies and procedures and training for dealing and advising reps

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### ***Determine whether investors are Accredited or Eligible***

#### Unacceptable Practices:

Solely relying on investors representation without obtaining KYC information

Relying on another person to determine that the client qualifies for the exemption

Process prospectus exempt trades without complete KYC

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### ***How should registrants collect and document KYC information?***

- Compliance reviews continue to identify inadequate collection and documentation KYC information

#### **Best Practices:**

Engage in  
meaningful  
discussions with  
clients

Develop an  
“investor friendly”  
KYC form

Consider a client’s  
willingness and  
ability to accept  
risk

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### ***How should registrants collect and document KYC information?***

#### **Unacceptable Practices:**

Using a “tick box” approach or relying solely on the KYC form

Processing a trade if there is missing or conflicting KYC information

Delegating the KYC or suitability obligation to an unregistered individual

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- Conduct a thorough review of your practices
  - Implement improvements where necessary
  - Update your Policies and Procedures Manual
  - Take the opportunity to further educate representatives
  - Be prepared for a compliance review focused on these areas
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# Questions

