

January 2019

Registered Dealers, Advisers and Entities Relying on Registration Exemptions Take Note - Canada adds New Individuals to its Sanctions List

On November 29, 2018, Canada amended the Regulations to the *Justice for Victims of Corrupt Foreign Officials Act* (the "**Act**") to add targeted sanctions against 17 Saudi nationals (each, together with the other foreign nationals listed in the Regulations to the Act, a "**Sanctioned Individual**") linked to the October 2, 2018 murder of journalist Jamal Khashoggi at the Saudi Arabian consulate in Istanbul, Turkey.

The Act, also known as the "*Sergei Magnitsky Law*", named after a lawyer in Moscow who uncovered the largest tax fraud in Russian history and was subsequently detained without a trial and tortured, dying in a Moscow prison in 2009, is meant to provide for sanctions in respect of foreign nationals responsible for gross violations of internationally recognized human rights.

The sanctions effectively freeze any assets linked to Canada or to Canadians that are owned by, or held for the benefit of, a Sanctioned Individual.

The Act allows the Canadian government to place restrictions and prohibitions on Canadians transacting with foreign nationals. The targeted sanctions prohibit all persons in Canada, or Canadians outside of Canada, from:

- (in)directly dealing with any property (wherever located) of a Sanctioned Individual;
- making available any property (wherever located) to a Sanctioned Individual or to a person acting on their behalf;
- (in)directly entering into or facilitating financial transactions with/for a Sanctioned Individual; and
- providing or acquiring any services for the benefit, or on the direction, of a Sanctioned Individual.

The Act also places ongoing monitoring obligations on numerous entities conducting business in Canada, including registered Investment Dealers, Mutual Fund Dealers, Exempt Market Dealers and Portfolio Managers under Canadian securities laws; as well as entities relying on exemption(s) with respect to such registration(s) (each, a "**Reporting Entity**").

Each Reporting Entity is required to determine, on an ongoing basis, whether it is in possession or in control of any property that it has reason to believe is the property of a Sanctioned Individual and such determinations are required to be reported on a monthly basis. The Canadian Securities Administrators published Staff Notice 31-352 - *Monthly Suppression of Terrorism and Canadian Sections Reporting Obligations* (the "**Notice**") to assist Reporting Entities with their monthly reporting obligations. More information about the Notice can be found in our [March, 2018 McMillan Client Alert](#). Such monthly reports are due to be filed with the Reporting Entity's principal regulator the 14th day of each month.

We recommend that all registered dealers and advisers (including entities relying on exemption(s) from such registration(s)), update their list of Sanctioned Individuals as the financial, criminal and reputational consequences for the failure to comply can be harsh.

Please contact a member of McMillan's Investment Management Group if you have any questions with respect to these changes or the reporting obligations noted above.

by Hari Marcovici, Leila Rafi and Michael Burns

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[a cautionary note](#)

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