

CSA NOTICE 12-309

**Impact of the MI 11-101 Principal Regulator System on
the Mutual Reliance Review System for Exemptive Relief Applications****August 26, 2005****Implementing MI 11-101 Principal Regulator System**

Effective September 19, 2005, members of the Canadian Securities Administrators (CSA or we), except for the Ontario Securities Commission, will implement the principal regulator system contemplated under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101).

MI 11-101 simplifies the regulatory system for market participants in those jurisdictions adopting MI 11-101 by providing a single window of access in areas where there already are highly harmonized securities laws across Canada, such as the prospectus and continuous disclosure regimes.

Under the principal regulator system, market participants can access and participate in the capital markets in multiple jurisdictions by following certain continuous disclosure and prospectus-related requirements in the jurisdiction of their principal regulator under MI 11-101 and by dealing generally with their principal regulator under MI 11-101.

A market participant will generally have the same principal regulator under MI 11-101 and the existing mutual reliance review system for exemptive relief applications (MRRS) described in National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications* (NP 12-201).

Where an issuer receives an exemption from its principal regulator under MI 11-101, that exemption will apply in other jurisdictions, except Ontario, where that issuer operates.

The purpose of this notice is to provide issuers with practical guidance on how the principal regulator system works in conjunction with MRRS for issuers that need an exemption from continuous disclosure or prospectus eligibility requirements.

Jurisdictions Willing to Act as Principal Regulator

Those jurisdictions willing to act as principal regulator under MRRS currently include British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador. The CSA has decided to revise this list for purposes of both MI 11-101 and MRRS to add New Brunswick and to remove Newfoundland and Labrador as it is no longer willing to act as a principal regulator for purposes of MRRS. The CSA (including Ontario) are amending NP 12-201 to reflect these changes.

Types of Applications Principal Regulator System Applies To

The principal regulator system applies to any application for exemptive relief

- (a) from a CD requirement (as defined in MI 11-101), or
- (b) under the long form rule or the national prospectus rules or from the local prospectus-related requirements (as those terms are defined in MI 11-101) that cannot be evidenced by a receipt for a prospectus, such as relief from the eligibility requirements under NI 44-101.

All other applications for exemptive relief continue to be made under MRRS.

Principal Regulator System Not Available in Ontario

The Ontario Securities Commission will not be adopting MI 11-101 for the reasons set out in an OSC Notice dated May 27, 2005 published at (2005) 28 OSCB 4749. Ontario-based market participants will not be able to rely on the exemptions contained in MI 11-101, but will be able to continue to use MRRS with the Ontario Securities Commission acting as their principal regulator under MRRS.

Interplay between MI 11-101 and MRRS

The following chart illustrates where to file an application for exemptive relief when an issuer intends to rely on the exemptions contained in MI 11-101.

Filer Head Office	Principal Regulator under MI 11-101	Principal Regulator under MRRS	Type of Application	Where to file application
Ontario	not available	OSC	MRRS	all jurisdictions where relief needed
a province or territory other than Ontario, and no relief needed in Ontario	generally the jurisdiction where head office located ¹	not applicable	local application to principal regulator	only in the jurisdiction of the principal regulator under MI 11-101
a province or territory other than Ontario but relief is needed in Ontario	generally the jurisdiction where head office located ¹	jurisdiction where head office located (generally the same as under MI 11-101) ¹	MRRS application (2 jurisdictions)	in both the jurisdiction of the principal regulator under MI 11-101 and in Ontario (as non-principal regulator under MRRS)
a jurisdiction outside Canada (foreign issuer)	apply “most significant connection test” ² to select principal regulator (other than OSC)	selection by issuer based on most significant connection test ³ - can choose Ontario as principal regulator	issuer must select principal regulator other than Ontario in order to obtain the benefits of the exemptions in MI 11-101 - application will be either local or MRRS depending on whether relief is needed in Ontario	Three possible scenarios: (i) if no relief is needed in Ontario, apply only in the jurisdiction of principal regulator under MI 11-101, (ii) if relief is needed in Ontario but Ontario is not the principal regulator under MRRS, apply in the jurisdiction of the principal regulator under MI 11-101 and in Ontario (as non-principal

Filer Head Office	Principal Regulator under MI 11-101	Principal Regulator under MRRS	Type of Application	Where to file application
				jurisdiction under MRRS), or (iii) if relief is needed in Ontario and Ontario is the principal regulator under MRRS, apply in Ontario as principal regulator under MRRS and in the jurisdiction of principal regulator under MI 11-101 (as the non-principal jurisdiction under MRRS).

¹ If the head office of the filer is located in Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories or Nunavut, then the principal regulator for the filer is the securities regulatory authority or regulator in a participating principal jurisdiction under MI 11-101 (i.e. British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick or Nova Scotia) with which the issuer has the most significant connection as of the date it first files a continuous disclosure document in reliance on MI 11-101.

² The filer should select the securities regulatory authority or regulator in a participating principal jurisdiction under MI 11-101 (i.e. British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick or Nova Scotia) with which the filer has the most significant connection to act as the principal regulator under MI 11-101.

³ The filer should select the securities regulatory authority or regulator in a participating principal jurisdiction under MRRS (i.e. British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick or Nova Scotia) with which the filer has the most significant connection to act as the principal regulator under MRRS.

Decisions

If a filer is relying on an exemption in MI 11-101, the filer must disclose that in the draft decision document submitted with its application for exemptive relief. Filers relying on MI 11-101 should e-mail their applications to the MRRS contact person for their principal regulator or file their application electronically in those jurisdictions with an electronic filing system, such as British Columbia. Filers should continue to send payment for their application to their principal regulator using the process designated by their principal regulator for local applications.

The CSA is publishing illustrative versions of a local decision document (see Schedule A) and an MRRS decision document (see Schedule B) with this notice for use by filers when preparing their application materials for submission to their principal regulator under MI 11-101. The CSA (including Ontario) will add this version of the MRRS decision document as a new appendix to NP 12-201.

Locating Decisions Issued by Principal Regulators Under MI 11-101

Decisions (local and MRRS) issued by all principals regulator under MI 11-101 will be posted on the following website: www.csa-acvm.ca

Questions

Please refer your questions to any of:

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SCHEDULE A

**[Filer requiring relief in principal regulator jurisdiction only
under MI 11-101]**

[Citation: **[neutral citation]**]

[Date of Decision]

In the Matter of
the [title of the securities legislation] (the Act)
of **[name of jurisdiction acting as principal regulator under MI 11-101] (the Jurisdiction)**

and

In the Matter of Multilateral Instrument 11-101 *Principal Regulator System*

and

In The Matter of **[name(s) of filer(s) and relevant parties,
including definitions as required, collectively, the Filer]**

Decision
[insert section no.]

Background

The [insert name of principal regulator] (the Decision Maker) in the Jurisdiction has received an application from the Filer(s) for a decision under [name of Act, rules or regulation] (the Legislation) for **[describe the requested relief (the Requested Relief) in words following the examples below - (put statutory references in brackets e.g. see section 4.3 of NI 51-102) - include defined terms as necessary:**

- **an exemption from the prospectus form and content or disclosure requirements of the Legislation**
- **an exemption from the continuous disclosure requirements of the Legislation]**

Application of Principal Regulator System

Under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101),

(a) the Decision Maker is the principal regulator for the Filer, and

(b) the Filer is relying on the exemption in Part [3 or 4] of MI 11-101 in [list the jurisdictions where the exemption(s) would apply to for this filer] .

Representations

This decision is based on the following facts represented by the Filer(s):

[Insert material representations necessary to explain why the Decision Maker came to this decision. Include:

- **the location of the Filer's head office,**
 - **the jurisdictions in which the Filer or the issuer of the relevant securities is or will be a reporting issuer or its equivalent, where applicable, and**
 - **that the Filer is not in default of its obligations as a reporting issuer under the legislation of any jurisdiction in which it is a reporting issuer or its equivalent.**
- If using statutory references, include both word description and statutory reference. It may be appropriate to refer to national or multilateral instruments.]**

Decision

The Decision Maker being satisfied that it has jurisdiction to make this decision and that [insert the relevant test e.g. to do so would not be prejudicial to the public interest], the Requested Relief is granted if / unless / for so long as / provided that ... [as appropriate]:

[Insert numbered terms and conditions.

If the effective date of any head of relief differs from the date of the decision document, state here.]

_____**(Name of Decision Maker)**

_____**(Title)**

_____**(Name of Principal Regulator)**
(justify signature block)

SCHEDULE B

[Filer with Head Office Outside Ontario and Requiring Relief in Ontario under MRRS]

[Citation:[neutral citation]

[Date of Decision Document]]¹

In the Matter of
the Securities Legislation
of **[name of jurisdiction acting as principal regulator under MI 11-101 and Ontario] (the Jurisdictions)]**

and

In the Matter of the Mutual Reliance Review System for Exemptive Relief Applications

and

In The Matter of **[name(s) of filer(s) and relevant parties,
including definitions as required, collectively, the Filer]**

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer(s) for a decision under the securities legislation of the Jurisdictions (the Legislation) for **[describe the requested relief (the Requested Relief) in words following the examples below - do not use statutory references - include defined terms as necessary:**

- **an exemption from the prospectus form and content or disclosure requirements of the Legislation (e.g. long form rule, national prospectus rules or local prospectus-related requirements as defined in MI 11-101 that cannot be evidenced by a prospectus receipt, such as the eligibility requirements under NI 44-101)**
- **an exemption from the continuous disclosure requirements of the Legislation (i.e. the CD requirements as defined in MI 11-101)]**

¹ The citation and date of decision will be completed by staff after the opt-out period has expired

Application of Principal Regulator System

Under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101) and the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the **[name of the principal regulator]** is the principal regulator for the Filer,
- (b) the Filer is relying on the exemption in Part [3 or 4] of MI 11-101 in [list the jurisdictions where the exemption would apply for this Filer], and
- (c) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are otherwise defined in this decision. **[add additional definitions here]**

Representations

This decision is based on the following facts represented by the Filer(s):

[Insert material representations necessary to explain why the Decision Makers came to this decision. Include:

- the location of the Filer's head office,
- the jurisdictions in which the Filer or the issuer of the relevant securities is or will be a reporting issuer or its equivalent, where applicable, and
- that the Filer is not in default of its obligations as a reporting issuer under the legislation of any jurisdiction in which it is a reporting issuer or its equivalent.

Do not use statutory references. It may be appropriate to refer to national or multilateral instruments.]

Decision

The Decision Makers being satisfied that they have [each has] jurisdiction to make this decision and that the relevant test under the Legislation has been met, the Requested Relief is granted if / unless / for so long as / provided that ... [as appropriate].

[Insert numbered terms and conditions. These should be generic and without statutory references to the Legislation of the Jurisdictions where this application was filed]

If the effective date of any head of relief differs from the date of the decision document, state here.]

_____(Name of Decision Maker)

_____(Title)

_____(Name of Principal Regulator)
(justify signature block)