



**Canadian Securities
Administrators**

**Autorités canadiennes
en valeurs mobilières**

National Instrument 31-103

Registration Requirements

Notice And Request For Comment

Proposed National Instrument 31-103
Registration Requirements

Proposed Companion Policy 31-103CP
Registration Requirements

And Proposed Consequential Amendments

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February 29, 2008

INTRODUCTION

The Canadian Securities Administrators (the **CSA** or **we**) are seeking comment on a revised draft National Instrument 31-103 *Registration Requirements* (the **Rule**) as well as on a revised draft Companion Policy 31-103CP *Registration Requirements* (the **Companion Policy**).

The Rule, which introduces harmonized registration requirements across all CSA jurisdictions, the Companion Policy and related instruments were initially published for comment on February 20, 2007 (the **2007 Proposal**). The Companion Policy provides guidance on how the CSA will interpret or apply the Rule and related securities legislation.

The Rule will constitute the primary instrument for regulating registration requirements. However, other instruments, such as the national registration database (**NRD**) instruments, also apply to registrants, and registrants should refer to securities legislation of their local jurisdiction and to other CSA instruments for additional requirements that may apply to them.

The Rule will be implemented as:

- a rule in each of Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, New Brunswick, Ontario and Prince Edward Island;
- a regulation in each of Québec, the Northwest Territories, Nunavut and the Yukon Territory;
- a commission regulation in Saskatchewan.

The text of the Rule, Companion Policy and consequential amendments (the **Revised Proposal**) will be available on websites of CSA members, including:

www.lautorite.qc.ca

www.albertasecurities.com

www.bsc.bc.ca

www.gov.ns.ca/nssc

www.nbsc-cvmnb.ca

www.osc.gov.on.ca

www.sfsc.gov.sk.ca

We are publishing the Rule, the Companion Policy and consequential amendments for comment for 90 days. The comment period will expire on May 29, 2008 and will not be extended by the CSA.

CONSULTATIVE PROCESS

Industry consultations

Throughout the development of the Rule, the CSA have sought to keep stakeholders informed about the issues being considered and proposals being developed. The CSA registration project has a dedicated website at www.rrp-info.ca on which we published, among other things, proposal papers, which discuss the policy basis for the proposed registration regime. Industry consultations were held in British Columbia, Alberta, Ontario, Québec and New York at various times over the past three years to seek feedback on the issues being considered and proposals being developed.

Comment letters

The CSA received 267 comment letters on the 2007 Proposal. The comments were thorough, detailed and very extensive. Most commenters generally supported the 2007 Proposal. The CSA would like to thank all those who participated in the consultations and those who provided written comments. This participation and these comments have been extremely helpful to us in the development of the Rule and Companion Policy.

The Autorité des marchés financiers (AMF) would particularly like to thank all those who participated in the two consultations in February and September 2007 on the mutual fund sector in Québec.

We believe the Revised Proposal addresses the majority of the concerns raised by commenters, while remaining consistent in substance with the 2007 Proposal. The majority of the amendments to the Rule are in response to the comments we received during the comment period. Other amendments are in response to answers we received to the specific questions posed in the CSA Notice that accompanied the 2007 Proposal. Finally, some amendments are the result of further development by the CSA of the policies underlying the Rule.

Summary of comments and responses

A summary of the comments we received and our responses to those comments is available at www.rrp-info.ca as well on the websites set out above.

PROPOSED LEGISLATIVE AMENDMENTS

Legislative amendments

As indicated in the February 20, 2007 Notice, most of the CSA jurisdictions are proposing to make the following legislative amendments, in addition to the implementation of the business trigger:

- amendments to detailed registration provisions in the legislation which relate to or are replaced by provisions included in the Rule
- in Québec, amendments to the *Securities Act* and the *Act respecting the Distribution of Financial Products and Services (Distribution Act)* to provide the transfer of mutual fund dealers, scholarship plan dealers and investment contracts firms and their representatives, from the Distribution Act to the *Securities Act*
- new provisions to require registration of investment fund managers and key compliance and supervisory positions in all categories of firm registration, namely the ultimate designated person (**UDP**) and chief compliance officer (**CCO**)
- new, or amendments to existing, rule-making authority to allow implementation of the Rule
- other amendments to facilitate harmonization across the CSA and consistency of securities legislation with the Rule

British Columbia and New Brunswick will replace the current “trade” trigger with a “business” trigger for dealer registration. However, they intend to do so by introducing an exemption from dealer registration in National Instrument 45-106 – *Prospectus and Registration Exemptions* (NI 45-106) for persons who are not in the business of trading in securities, rather than by amending the current dealer registration provision in their respective securities legislation.

British Columbia will also maintain the capital-raising and safe securities exemptions currently set out in NI 45-106 for a person who trades solely under these exemptions in British Columbia. A person trading under these exemptions will not need to be registered in British Columbia as an exempt market dealer unless the person is registered in any other category in British Columbia or is registered in any category in any other Canadian jurisdiction.

Manitoba is not adopting the “business” trigger for dealer registration under its securities legislation. Manitoba will retain all the registration exemptions currently set out in NI 45-106 and a person trading under these exemptions in Manitoba will not need to be registered in Manitoba as an exempt market dealer unless the person is registered in any other category in Manitoba or is registered in any category in any other Canadian jurisdiction.

The requirements in NI 31-103 will apply to everyone who is registered in any jurisdiction in Canada.

PROPOSED CONSEQUENTIAL AMENDMENTS

Consequential amendments

CSA instruments and local rules governing registration and registrants will be repealed or amended as necessary. In addition to the consequential amendments described in this Notice,

- we are publishing and seeking comment, by way of a separate notice being published concurrently with this Notice, accessible at www.albertasecurities.com, on proposed amendments to the instruments relating to NRD, namely National Instrument 31-102 *National Registration Database* (NI 31-102) and Companion Policy 31-102CP, and 33-109 *Registration Requirements* (NI 33-109) and Companion Policy 33-109CP, as well as several forms
- we propose to amend NI 45-106, which is being published under a separate notice concurrently with this Notice, accessible at www.albertasecurities.com, in order to reflect, among other things, the adoption of the business trigger for dealers and the transition from the exemptions regime under NI 45-106 to the exemptions regime under the Rule

In addition, we are proposing the revocations of and amendments to National Instruments and National Policies set out in Appendices A – L to SCHEDULE 1. The instruments providing for the revocation or amendment are proposed to be effective upon the coming into force of the Rule.

Substance and purpose of proposed consequential amendments

The amendment instruments provide for changes that mostly reflect new terminology used in, and the relocation of subject matter to the Rule. The revocation instruments provide for the elimination of instruments and policies on the basis that the subject matter of the instrument or policy is now addressed in the Rule. This summary does not provide a complete list of all changes. The following summarizes the more significant proposed changes.

Amendments

(i) National Instrument 14-101 – *Definitions*

The new term “investment fund manager registration requirement” is proposed to be added to reflect the adoption of a registration requirement for investment fund managers. The terms “dealer registration requirement” and “underwriter registration requirement” are proposed to be changed to reflect the adoption of a “business trigger” and to clarify to appropriate category in the case of “underwriter registration requirement”.

(ii) National Instrument 33-105 – *Underwriting Conflicts and Companion Policy 33-105CP*

The term “registrant” which is proposed to be re-termed “specified firm registrant” has been revised to include persons or companies registered, or required to be registered, as a “registered investment fund manager”.

(iii) National Instrument 81-102 – *Mutual Funds*

The proposed amendments to this instrument preserve the exemption provided in subsection 4.1(5) of NI 81-102.

(iv) National Instrument 81-107 – *Independent Review Committee for Investment Funds*

The amendments to this instrument update section references and reflect the revocation of applicable sections in the Ontario Regulation 1015.

(v) Multilateral Policy 34-202 – *Registrants Acting as Corporate Directors*

Sections 1.3 and 1.4 are revised to refer to agency relationships. The repeal of section 1.6 is also proposed.

Revocations

The following are proposed to be revoked on the basis that the subject matter is subsumed in the Rule:

- National Instrument 33-102 – *Regulation of Certain Registrant Activities* and Companion Policy 33-102CP
- National Policy 34-201 – *Breach of Requirements of other Jurisdictions*
- Multilateral Instrument 11-101 – *Principal Regulator System* (MI 11-101) and Companion Policy 11-101CP *Principal Regulator System*¹

Please refer to Schedule 2 to this Notice for consequential amendments to local instruments.

BUSINESS TRIGGER FOR REGISTRATION*Revised Proposal – Business trigger factors*

We have made two technical changes to the discussion of the business trigger factors in the Companion Policy. Neither represents a material change to the substance of the business trigger, which remains as it was in the 2007 Proposal.

- The business trigger for dealing activities is now described by way of a reference to “trading in securities”, instead of “dealing in securities”. This change was made in response to comments received which suggested that referencing the business trigger to “dealing in securities” could create some degree of uncertainty about the breadth of activity intended to be captured by the trigger. The change has been made to clarify the breadth of the trigger and ensure consistency with securities legislation. It does not reflect any change in policy.

¹ The mobility exemption in MI 11-101 has been replaced by an exemption in the Rule.

- We have added the concepts of acting in an intermediary capacity or as a market-maker to the discussion in the Companion Policy of the factors to be considered when assessing whether an activity is conducted as a business. These factors were not included in the 2007 Proposal. However, they were discussed in the February 2006 *Proposal for Registration Reform* paper, accessible at www.rrp-info.ca.

Applying the business trigger

The Companion Policy includes expanded guidance on the application of the business trigger, particularly in respect of security issuers, mortgage investment companies, venture capital financing, principal trading activities and activities not commonly in the business of trading or advising in securities.

We have also included in the Companion Policy further discussion of “incidental activity”, namely an activity which is incidental to the primary business of a firm and which may suggest that there is no business purpose in the activity itself. Registration and, consequently, registration exemptions, would therefore not be required in such situations.

SUMMARY OF KEY CHANGES MADE TO THE RULE

Part 1: Definitions

MFD SRO

We have deleted the definition of MFD SRO, which was intended to cover both the Mutual Fund Dealers Association of Canada (**MFDA**) and in Québec, a self-regulatory organization (**SRO**) recognized for the purpose of regulating mutual fund dealers. This change has been made following the consultation process in Québec on the regulatory framework for mutual fund dealers².

Permitted clients

In responses to the comments received, we have introduced a new category of investor: the “permitted client”. Permitted clients form a subset of “accredited investor” (as that term is defined in NI 45-106) consisting primarily of institutional, corporate and very high net worth individuals. Prospectus exemptions under NI 45-106 are not affected by the introduction of the permitted client concept in the Rule.

We believe that, at the upper end of the accredited investor spectrum, there are investors who are sufficiently sophisticated, or have sufficient resources to obtain expert advice, that they may neither need nor wish for the same level of protection as that which the registration regime extends to other investors. For example, the suitability obligation does not apply to exempt market dealers when dealing with permitted clients.³

Permitted clients of advisers and dealers, other than exempt market dealers, will have the ability to waive the requirement for the adviser or dealer to make investment suitability determinations

² See *Québec regulatory framework for mutual fund dealers* in this Notice.

³ The entire regulatory framework proposed for exempt market dealers in response to comments is discussed in greater detail below.

for them. Accordingly, registrants will have a reduced suitability review obligation when dealing with permitted clients, which will result in reduced regulatory burden.

Prescribed functions

We have deleted the reference in the Rule to prescribed functions relating to the ultimate designated person and chief compliance officer under Alberta securities laws. This will form part of local Alberta rule and the reference is therefore no longer required in the Rule.

Part 2: Categories of registration and permitted activities

Registration categories for firms and certain exemptions

We have not changed the categories of registration for firms. However, we have:

- clarified that only investment dealers and exempt market dealers are permitted to act as an underwriter
- clarified in the Companion Policy that investment fund managers are required to register only in the jurisdiction where the person or company that directs the management of the fund is located, which in most cases will be where their head office is located. This includes investment fund managers that are located in a foreign jurisdiction. Regardless of where the investment fund manager of an investment fund is located, the distribution of units of the investment fund in a jurisdiction is subject to the prospectus requirements; and trades in, or advising on the buying or selling of, units in the investment fund are subject to the dealer and adviser registration requirements of that jurisdiction
- indicated that in certain jurisdictions (excluding Québec), mutual fund dealers are permitted to trade in securities of investment funds that are labour sponsored investment fund corporations or labour sponsored venture capital corporations and, in British Columbia, securities of scholarship plans, educational plans or educational trust.

We have clarified the exemption from dealer registration for advisers trading in securities of their pooled funds, and the exemption from adviser registration for dealers without discretionary authority, both set out in Part 2 of the Rule. A notice requirement for advisers who use the exemption has been added.

Exempt market dealer category

In response to the comments we received, we have made important changes to the regulatory framework which will apply to exempt market dealers.⁴ Certain fit and proper and conduct requirements will not apply to exempt market dealers that do not handle, hold or have access to client cash or assets, including cheques and other similar instruments, and when dealing with permitted clients. The Companion Policy provides guidance and examples of situations in which a registered dealer would be considered to handle, hold, or have access to client cash or assets,

⁴ British Columbia and Manitoba will, however, maintain the capital-raising and safe securities exemptions currently set out in NI 45-106 for persons who trade solely in prospectus-exempt securities in British Columbia or Manitoba, and who are not otherwise registered in any Canadian jurisdiction in any category. Such persons will not need to register locally in British Columbia or in Manitoba as an exempt market dealer.

including cheques and other similar instruments. The full regime of the Rule will apply to those exempt market dealers who handle, hold, or have access to client cash or assets, including cheques and other similar instruments.

Exempt market dealers that do not handle, hold or have access: The Revised Proposal provides that the following requirements will not apply to exempt market dealers that do not handle, hold or have access to client cash or assets, including cheques and other similar instruments, whether or not they deal with permitted clients:

- capital requirements
- insurance requirements
- the delivery of annual audited financial statements. However, exempt market dealers that do not handle, hold or have access to client cash or assets, including cheques and other similar instruments will be required to deliver certified quarterly unaudited financial statements

Exempt market dealers when dealing with permitted clients: When dealing with permitted clients, the following requirements will not apply to exempt market dealers, whether or not they handle, hold or have access to client cash or assets, including cheques and other similar instruments:

- the know-your-client rule, except for basic information gathering to establish the identity of the client
- the suitability obligation
- account opening information requirements
- complaint handling requirements

Dealing representatives for exempt market dealers: We have eliminated the requirement to pass either the Partners, Directors and Senior Officers exam or the Conduct and Practices Handbook exam for the exempt market dealer representative.

Registration categories for individuals

We have not changed the categories of registration for individuals, although we have:

- added a notice requirement when the adviser designates an advising representative⁵ to approve the advice of an associate advising representative

⁵ As stated in the 2007 proposal, the associate advising representative category, which currently exists in some CSA jurisdictions, is proposed for all jurisdictions. This category is primarily an apprentice category for individuals who are seeking full adviser registration but do not meet the experience or education requirements. It will also accommodate individuals who work for a portfolio manager and are in charge of client relationships but who do not perform portfolio management for clients.

- clarified that the UDP may also be the registered firm's sole proprietor, a position equivalent to that of the chief executive officer of the firm
- clarified in the Company Policy the responsibilities of the CCO

Multiple registration categories

The Companion Policy includes expanded guidance concerning multiple registration categories. While we have not eliminated multiple categories we have made every effort to reduce duplicative requirements for registrants who hold multiple registrations.

For example:

- if a firm is registered in multiple categories, it must meet the highest capital requirement of its various categories of registration
- a firm that is registered in multiple categories is only required to have one CCO. In this case, the CCO must meet the most stringent of the proficiency requirements of the firm's various categories of registration

Part 3: SRO Membership

We have expanded the list of the Rule requirements which will not apply to members of SROs on the basis that the requirements for these areas will be prescribed by the applicable SRO. This exemption is available for registrants registered as investment dealers and, subject to conditions in Québec, mutual fund dealers. It applies to mutual fund dealers in Québec and their representatives, on the condition that they comply with the applicable regulations on mutual fund dealers in Québec.

For example, SRO members will be exempt from the following requirements in the Rule:

- solvency requirements
- relationship disclosure information
- in the case of investment dealers, proficiency requirements
- disclosure when recommending the use of borrowed money to purchase securities

Harmonization of SRO rules

The CSA intend to ensure harmonization between the Rule and the SRO requirements on an on-going basis through the existing SRO rule approval process.

Part 4: Fit and Proper Requirements

Proficiency requirements

We have not changed the substantive proficiency requirements from the 2007 Proposal, except that we have:

- added a general proficiency principle in the Rule, requiring education and experience reasonably necessary to perform the activity of the registered individual
- included the proficiency requirements which will apply to all mutual fund dealer representatives⁶
- eliminated the requirement that exempt market dealer representatives must pass either the Partners, Directors and Senior Officers exam or the Conduct and Practices Handbook exam
- amended the proficiency requirement applicable to the associate advising representative

Solvency Requirements

We have made the following changes to the *capital requirement* set out in the 2007 Proposal:

- added guidance on line 12 *Unresolved differences* in the instructions pertaining to Form 31-103F1 *Calculation of excess working capital (Form F1)*
- added a Schedule 1 to Form F1, in support of calculating market risk as provided in line 9 of the form
- added, as Appendix B to the Rule, a harmonized form of subordination agreement for long-term related party debt
- eliminated the capital requirement for those exempt market dealers that do not handle, hold or have access to client cash or assets, including cheques, and other similar instruments

In addition to changes specific to the exempt market dealer category, we have made the following changes to the *insurance requirement* set out in the 2007 Proposal:

- we no longer refer only to a “financial institution bond”, but rather “bonding or insurance”
- we have added that the terms of the bonding or insurance must be acceptable to the regulator

⁶ The Rule prescribes proficiency requirements for all mutual fund dealer representatives, whether or not the firm is a member of the MFDA, since the registration of those individuals will continue to be done by the securities regulatory authority or regulator, as applicable, in each jurisdiction.

- we have included guidance in the Companion Policy on the concepts of double aggregate limit or a provision for full reinstatement of coverage
- we have added a provision allowing for registered firms to hold a global financial institution bond that benefits or names another person as insured subject to conditions

Part 5: Conduct Rules

Relationship with clients

We have maintained the provisions of the Rule relating to account opening and requiring that the registered firm⁷ maintain *account opening documentation* for each client.

With respect to the know-your-client (KYC) requirement, we have added a provision requiring the registered firm to establish the identity of any individual who is the beneficial owner, directly or indirectly, of more than 10 % of the shares of a corporate client.

We have replaced the requirement to provide a *relationship disclosure document* to clients, with a principle based provision requiring registrants to provide information that a reasonable client would consider important respecting the client's relationship with the registrant. The Rule provides a basic list of information items which will be required to be given to clients by registrants (except exempt market dealers that do not handle, hold or have access to client cash or assets, including cheques and other similar instruments).

As indicated in the Companion Policy, this requirement may be met by providing clients with separate documents which, together, give them the prescribed information. We anticipate that, in many cases, registrants will be able to satisfy this requirement using existing documents.

We received comments to the effect that relationship disclosure to clients should be considered together with the ongoing point of sale initiative by the Joint Forum, and the broader objective of a principle-based approach to the client relationship. We will continue to work within the Joint Forum on the development of the point of sale initiative, which is a separate project and does not form part of the registration reform project.

We have not changed the *suitability obligation*, except to provide that it does not apply to permitted clients as follows:

- to registrants where the permitted client has waived the obligation in writing
- to exempt market dealers when dealing with permitted clients.

Compliance

We have clarified that a registrant must establish, maintain and apply a system of controls and supervision. This system must be designed to provide reasonable assurance that the firm and

⁷ Except for exempt market dealers who do not handle, hold or have access to client cash or assets, including cheques and other similar instruments.

each individual acting on its behalf complies with securities legislation, thereby emphasizing that compliance is a firm-wide responsibility. We have expanded the discussion of compliance systems generally in the Companion Policy.

The Rule now prescribes that the functions of the UDP are the supervision of the firm's compliance directed activities, and promoting compliance.

The functions of the CCO are described as follows in the Rule:

- establish policies and procedures for assessing compliance by the firm
- monitor and assess compliance
- report to the UDP as soon as practicable in the event of substantial non-compliance
- submit an annual report to the board of directors or partnership for the purpose of assessing compliance.

Complaint handling

We have not made substantial changes to the basic requirements of the 2007 Proposal other than to exempt investment fund managers and exempt market dealers from the requirements.

We expect registrants to handle complaints promptly. In most cases, a registered firm should have provided a substantive response to a complaint within three months of the date it was received, as discussed in the Companion Policy.

Part 6: Conflicts of interest

We have maintained the three mechanisms for responding to conflicts of interests situations: avoidance, control and disclosure. We have made a number of changes to the conflicts proposal following the comments received, and have include new and revised guidance in the Companion Policy⁸.

The main changes from the 2007 Proposal are as follows:

- we have added an exemption for an investment fund manager in respect of an investment fund that is subject to National Instrument 81-107 – *Independent Review Committee for Investment Funds*
- while the registrant has the obligation to make reasonable efforts to identify conflicts, only conflicts which a client, acting reasonably, would expect to be informed of must be disclosed to the client

⁸ In particular, we have clarified and given examples of the regulation of conflicts between clients in the Companion Policy.

- the scope of the prohibition on certain managed account transactions, in the case of associates, has been narrowed to include only those associates who have access or participate in formulating an investment decision
- we have added a provision in the Rule prohibiting a registered firm from acting as an adviser in respect of its own securities, or the securities of a related issuer and, in the course of a distribution, a connected issuer of the firm
- the issuer disclosure statement regime has been simplified to take into account the situations which the commenters have brought to our attention, particularly with respect to keeping the statement constantly updated
- a disclosure obligation of an adviser's financial or other interest when making a recommendation has been included in the Rule

Part 7: Suspension and revocation of registration

We propose in the amendments to NI 33-109 being published under a separate notice a new form (Form 33-109F7) for individuals transferring between firms. We believe the form will be helpful in connection with the transfer procedure in the Rule.

Former Part 8: Information sharing

We have removed Part 8 of the Rule following the comments we received and, in Québec, a particular concern about the impact of privacy legislation. Instead of the information sharing provision as originally proposed, we have amended NI 33-109 to provide:

- an obligation on the part of the registered firm to provide the representative with a copy of the Form 33-109F1
- an obligation on the part of a registered firm that is considering becoming the sponsoring firm of a registered individual to obtain from such individual a copy of the Form 33-109F1 completed by his or her most recent sponsoring firm.

New Part 8: Exemptions from registration

In response to comments we have added a few exemptions and made amendments to others. For example, we have:

- added an exemption from the dealer registration requirement for issuers who are considered to be in the business and therefore subject to registration. The exemption will apply to issuers trading in securities of their own issue and solely for their own account, provided they do so solely through a registered dealer
- added Alberta to the list of jurisdictions in which the mortgages exemption is not available for trades in syndicated mortgages

- added an exemption for trading in government guaranteed debt
- added an exemption for trading in self-directed registered educational savings plans
- expanded the list of permitted clients for international dealers and advisers
- removed the prohibition on international advisers from soliciting new business

Federally regulated financial institutions

The application of securities legislation to federally regulated financial institutions is not set out in the same way in all jurisdictions. In Ontario, the Hockin-Kwinter Accord sets out the understanding on the respective responsibilities of the federal and provincial governments concerning the securities-related activities of federally regulated financial institutions.

The exemption regime that currently exists for federally regulated financial institutions in Ontario will continue under the proposed regime.

The other jurisdictions will continue to follow their existing practices concerning the securities-related activities of federally regulated financial institutions.

Relationship between exemptions under NI 45-106 and exemptions under NI 31-103

As mentioned in the CSA Notice to the 2007 Proposal, many of the exemptions that currently exist in securities legislation are not needed with a business trigger for dealers. We propose to transition from the exemptions under NI 45-106 to the exemptions under the Rule, when implemented, in the following way:

- NI 45-106 is being published concurrently with the Rule for the purpose of seeking comment on amendments to the substantive provisions as well as provisions needed for the transition from the exemptions under NI 45-106 to the exemptions under the Rule
- the registration and prospectus exemptions have been separated and a provision added which will render the registration exemptions inoperative in certain jurisdictions following a transition period after the coming into force of the Rule
- after the coming into force of the Rule, the registration exemptions will be in the Rule and NI 45-106 will become primarily a prospectus exemption rule except for registration exemptions that will continue in British Columbia, Manitoba and New Brunswick⁹

Part 9: Exemption

We have added a standard exemption provision to the Rule providing for the granting of exemptions from provisions of the Rule.

⁹ Some jurisdictions will continue with more exemptions than other jurisdictions. For more detail please see the CSA Notice for NI 45-106 and the amendments to NI 45-106 being published concurrently with this Notice.

Part 10 : Transition

The general transition regime is as follows:

For firms

- registered firms will be deemed to be registered in their new category¹⁰
- a person or company that is acting as an investment fund manager must apply for registration as an investment fund manager within six months of the effective date of the Rule
- investment fund managers will have a one year transition period to comply with capital and insurance requirements
- exempt market dealers¹¹ must apply for registration within six months of the effective date of the Rule
- a six month transition starting on the effective date of the Rule is provided to all registrants for the delivery of relationship disclosure to clients
- except in Québec, a six month transition starting on the effective date of the Rule is provided to all registrants in respect of complaint handling obligations
- a six month transition starting on the effective date of the Rule is provided to all registrants in respect of referral arrangements

For individuals

- registered individuals will be deemed to be registered in their new category¹²
- dealing representatives for scholarship plan dealers must comply with the proficiency requirements 12 months after the effective date of the Rule
- dealing representatives for exempt market dealers must apply for registration within six months of the effective date of the Rule
- individuals designated as UDP or CCO must apply for registration within one month of the effective date of the Rule¹³

During the transition period registrants will need to comply with existing requirements until such time as they are in compliance with the new requirements.

¹⁰ See Appendix C to the Rule.

¹¹ In Ontario and Newfoundland and Labrador, a person or company registered as a limited market dealer will have to apply to be registered as an exempt market dealer.

¹² See Appendix D to the Rule.

¹³ CCOs and UDPs currently registered will be grandfathered.

QUÉBEC REGULATORY FRAMEWORK FOR MUTUAL FUND DEALERS

The AMF has carried on extensive public consultations in February and September 2007 to discuss with mutual fund dealers and other interested parties in Québec, the question of the recognition of an SRO in Québec for mutual fund dealers and the most efficient way to achieve regulatory harmonization.

As a result of these consultations, the AMF has formulated the following recommendations:

- Québec mutual fund dealers, scholarship plan dealers and investment contract dealers and their representatives, which are currently subject to the Distribution Act, will upon the coming into force of the Rule, be subject to the Securities Act and the Rule
- mutual fund dealers registered in Québec will not be required to be members of the MFDA, and will remain under the direct supervision of the AMF
- they will be required to maintain professional liability insurance, as is the case currently
- mutual fund representatives, scholarship plan representatives and investment contract representatives will continue to be required to be members of the Chambre de la sécurité financière
- no change will be made to the obligation to contribute to the Fonds d'indemnisation des services financiers¹⁴

ONTARIO LEGISLATIVE AMENDMENTS

Changes to the *Securities Act* (Ontario) would be required to implement the proposed Rule. At this time the Government of Ontario has not completed its consideration of possible legislative amendments. Any statutory amendments will only become law if they are passed by the Legislative Assembly of Ontario. If the government publishes a consultative draft of the legislative proposals for public review, the OSC has suggested that it would be helpful to stakeholders for the review to occur within the timeframe for comment on the Rule.

If and when a consultation draft of the legislation is published, the OSC would prepare a cross-reference to assist public consideration, relating the provisions in the legislation to the comparable provisions in the Rule and identifying any modifications to the Rule which might be required in Ontario to complement and maintain consistency with any proposed legislative amendments. This could result in the OSC having to publish a modified rule proposal in Ontario in conjunction with the proposed legislative amendments.

¹⁴ The compensation fund which provides financial compensation to investors who are victims of fraudulent tactics or embezzlement committed by firms or representatives in the mutual fund, scholarship plan and investment contract sectors in Québec.

HEADS OF AUTHORITY

In Ontario, the OSC is seeking amendments to the *Securities Act* (Ontario) to provide it with the requisite authority to make certain provisions in the Rule. The remaining provisions are made under the authority of the following paragraphs of subsection

143(1) of the *Securities Act* (Ontario): 1, 2, 3, 4, 5, 7, 8, 10, 13, 18, 25, 31, 33, 34, 35, 39, 39.1, 45, 47, 50 and 56.

In Québec, the Rule is made under the authority of the following paragraphs of section 331.1 of the *Securities Act* (Québec): 1°, 8°, 9°, 11°, 25°, 26°, 27°, 27.1° and 34°.

In Alberta, the Rule is made under the authority of section 224 of the *Securities Act* (Alberta) and the following subsections of section 223: (g), (j), (o), (p), (q), (v), (gg), (hh.3), and (hh.4).

ANTICIPATED COSTS AND BENEFITS

We believe that the overall benefits of the proposed registration regime will substantially outweigh the costs. Given that the securities regulatory regimes of the jurisdictions are not harmonized today, the specific costs and benefits will vary from jurisdiction to jurisdiction. Nonetheless, the common benefits of the proposed harmonized registration regime across all CSA jurisdictions include:

- harmonization of individual and firm registration categories, fit and proper requirements, conduct requirements and exemptions, which creates efficiencies for regulators, for NRD and for industry
- reduction in regulatory burden through adoption of a permanent registration regime and streamlined transfer procedures
- the introduction of a business trigger which is intended to require registration of those who present regulatory risk because they are engaging in business in the securities industry. It will not require registration of those who may be doing a trade (by definition) but who do not present regulatory risk. This reduces the number of statutory registration exemptions required and consequently reduces the exemptive relief applications that have been needed in the past for transactions or trades that do not present regulatory risk but do not fall within the wording of the statutory exemptions
- increased investor protection through the introduction of:
 - relationship disclosure requirements
 - referral arrangement restrictions
 - complaint handling procedures
 - enhanced conflicts and compliance requirements
- reduction of regulatory burden for registered firms dealing with permitted clients through reduced requirements in certain areas
- new exemptions which will reduce regulatory burden for international registrants

Some of the costs associated with the proposed registration regime, depending on the jurisdiction, include:

- obtaining and maintaining registration for exempt market dealers and investment fund managers
- increased capital and insurance requirements for some registrants

ALTERNATIVES CONSIDERED

No alternatives to the Rule were considered.

UNPUBLISHED MATERIALS

In proposing the revised version of the Rule, we have not relied on any significant unpublished study, report or other written materials.

HOW TO PROVIDE YOUR COMMENTS

You must submit your comments in writing by May 29, 2008. If you are not sending your comments by email, you should also send a diskette containing the submissions (in Windows format, Microsoft Word).

Please address your comments to all of the CSA member commissions, as follows:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

Please send your comments **only** to the addresses below. Your comments will be forwarded to the remaining CSA jurisdictions.

Anne-Marie Beaudoin

Corporate Secretary

Autorité des marchés financiers
Tour de la Bourse
800, square Victoria
C.P. 246, 22 étage
Montreal, Québec
H4Z 1G3
Fax: (514) 864-6381
Email: consultation-en-cours@lautorite.qc.ca

John Stevenson

Secretary

Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario
M5H 3S8
Fax (416) 593-2318
Email: jstevenson@osc.gov.on.ca

Please note that all comments received during the comment period will be made publicly available. We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period. We will post all comments received during the comment period to the OSC website at www.osc.gov.on.ca and to the AMF website at www.lautorite.qc.ca to improve the transparency of the policy-making process.

QUESTIONS

Please refer your questions to any of the following CSA members:

David McKellar
Director, Market Regulation
Alberta Securities Commission
Tel: (403) 297-4281
david.mckellar@seccom.ab.ca

Sophie Jean
Conseillère en réglementation
Surintendance de la distribution
Autorité des marchés financiers
Tel: (514) 395-0337 ext. 4786
sophie.jean@lautorite.qc.ca

Laura Bliss
Senior Legal Counsel
Capital Markets Regulation
British Columbia Securities Commission
Tel: (604) 899-6666
1-800-373-6393 (in B.C. and Alberta)
lbliss@bcsc.bc.ca

Marsha Gerhart
Assistant Manager, Legal
Registrant Regulation
Ontario Securities Commission
Tel: (416) 595-8918
mgerhart@osc.gov.on.ca

Dean Murrison
Deputy Director, Legal/Registration
Saskatchewan Financial Services Commission
Tel: (306) 787-5879
dmurrison@sfsc.gov.sk.ca

The text of the Rule, Companion Policy, consequential amendments and summary of comments and responses can be found on various CSA member websites.

SCHEDULE 1

**PROPOSED CONSEQUENTIAL CHANGES TO NATIONAL INSTRUMENTS AND
POLICIES**

Appendix A

**Revocation of
Multilateral Instrument 11-101 *Principal Regulator System***

1. Multilateral Instrument 11-101 *Principal Regulator System* is revoked on •.

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Appendix B

**Rescission of
Companion Policy 11-101CP *Principal Regulator System*
to Multilateral Instrument 11-101 *Principal Regulator System***

1. Companion Policy 11-101CP *Principal Regulator System* is rescinded on •.

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Appendix C

**Revocation of
Form 11-101F1 *Notice of Principal Regulator*
under Multilateral Instrument 11-101 *Principal Regulator System***

1. Form 11-101F1 *Notice of Principal Regulator under Multilateral Instrument 11-101* is revoked on •.

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Appendix D

**Amendments to
National Instrument 14-101 Definitions**

1. *National Instrument 14-101 Definitions* is amended by this Instrument.
2. *Section 1.1(3)* is amended
 - a. *by repealing the definition of “dealer registration requirement” and substituting the following:*

“dealer registration requirement” means the requirement in securities legislation that, depending upon the jurisdiction, either prohibits a person or company from trading in a security, or prohibits a person or company from engaging in, or holding himself, herself or itself as engaging in, the business of trading in securities, unless, in each case, the person or company is registered in the appropriate category of registration under securities legislation;

- b. ***by adding the following after the definition of “insider reporting requirement”:***

“investment fund manager registration requirement” means the requirement in securities legislation that prohibits a person or company from acting as investment fund manager, unless the person or company is registered in the appropriate category of registration under securities legislation;

- c. ***by repealing the definition of “registration requirement” and substituting the following:***

“registration requirement” means the requirement in securities legislation that:

- (a) depending upon the jurisdiction, either prohibits a person or company from trading in a security, or prohibits a person or company from engaging in, or holding himself, herself or itself out as engaging in, the business of trading in securities, or
- (b) prohibits a person or company from acting as an underwriter, an adviser or an investment manager,

unless, in each case, the person or company is registered in the appropriate category of registration under securities legislation; ,***and***

- d. ***by repealing the definition of “underwriter registration requirement” and substituting the following:***

“underwriter registration requirement” means the requirement in securities legislation that prohibits a person or company from acting as an underwriter unless the person or company is registered in the appropriate category of registration under securities legislation; and

- 3. ***This Instrument comes into force on •.***

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Appendix E

Revocation of National Instrument 33-102 *Regulation of Certain Registrant Activities*

1. National Instrument 33-102 *Regulation of Certain Registrant Activities* is revoked on •.

Appendix F

Revocation of Companion Policy 33-102CP *Regulation of Certain Registrant Activities*

1. Companion Policy 33-102CP *Regulation of Certain Registrant Activities* is revoked on •.

Appendix G

Amendments to National Instrument 33-105 *Underwriting Conflicts*

1. *National Instrument 33-105 Underwriting Conflicts is amended by this Instrument.*
2. *Section 1.1 is amended*
 - a. *in the definition of “connected issuer” by striking out “registrant” wherever it occurs and substituting “specified firm registrant”,*
 - b. *in the definition of “influential securityholder” by striking out “the registrant of the professional group” and substituting “specified firm registrant”,*
 - c. *in the definition of “professional group” by striking out “registrant” wherever it occurs and substituting “specified firm registrant”,*
 - d. *by repealing the definition of “registrant”,*
 - e. *in the definition of “related issuer” by striking out “; and” and substituting “;”,*
 - f. *in the definition of “special warrant” by striking out “distribution of the other security” and substituting “distribution of the other security; and”, and*
 - g. *by adding the following after the definition of “special warrant”:*

- h. “specified firm registrant” means a person or company registered, or required to be registered, under securities legislation as a registered dealer, registered adviser or registered investment fund manager..
3. ***In the following provisions of the Instrument, “registrant” is struck out wherever it occurs and “specified firm registrant” is substituted:***
- a. *section 1.2,*
 - b. *section 2.1, and*
 - c. *section 3.1.*
4. ***Appendix C is amended by striking out “registrant” wherever it occurs and substituting “specified firm registrant”.***
5. ***This Instrument comes into force on •.***

Appendix H

Amendments to Companion Policy 33-105CP Underwriting Conflicts

1. ***Companion Policy 33-105CP Underwriting Conflicts is amended by this Instrument.***
2. ***In the following provisions of the Companion Policy “registrant” is struck out wherever it occurs and “specified firm registrant” is substituted:***
 - a. *section 2.1,*
 - b. *section 2.2,*
 - c. *section 2.4,*
 - d. *section 4.1,*
 - e. *section 4.2,*
 - f. *section 4.3,*
 - g. *section 5.1, and*
 - h. *section 6.1.*
3. ***Appendix A-1 is amended by striking out “registrant” wherever it occurs and substituting “specified firm registrant”.***

- 4. *Appendix A-2 is amended by striking out “registrant” wherever it occurs and substituting “specified firm registrant”.*
- 5. *Appendix A-3 is amended by striking out “registrant” wherever it occurs and substituting “specified firm registrant”.*
- 6. *Appendix A-4 is amended by striking out “registrant” wherever it occurs and substituting “specified firm registrant”.*
- 7. *This Instrument comes into force •.*

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Appendix I

**Revocation of
National Policy 34-201 Breach of Requirements of Other Jurisdictions**

- 1. National Policy 34-201 *Breach of Requirements of Other Jurisdictions* is revoked on •.

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Appendix J

**Amendments to
National Instrument 81-102 Mutual Funds**

- 1. *National Instrument 81-102 Mutual Funds is amended by this Instrument.*
- 2. *Appendix C is amended*
 - a. *in the column Securities Legislation Reference*
 - (i) *by striking out “s. 227 of Reg. 1015”, and*
 - (ii) *by adding “Section 6.6 of National Instrument 31-103 Registration Requirements” at the end of Appendix C.*
 - b. *in the column Jurisdiction by adding the following at the end of Appendix C:*

Alberta, British Columbia, Manitoba, Newfoundland and Labrador, New Brunswick, North-West Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, Saskatchewan, and Yukon.
- 3. *This Instrument comes into force on •.*

Appendix K

Amendments to Multilateral Policy 34-202 Registrants Acting As Corporate Directors

1. *Multilateral Policy 34-202 Registrants Acting as Corporate Directors is amended by this Instrument.*
2. *Section 1.3 is amended by striking out* “Any director of a reporting issuer who is a partner, director, officer or employee of a registrant should, in the view of the Canadian securities regulatory authorities, recognize that the director's first responsibility in this area is to the reporting issuer on whose board the director serves. A director should meticulously avoid any disclosure of inside information to partners, directors, officers and employees of the registrant or to its clients.” *and substituting* “Any director of a reporting issuer who is a partner, director, officer, employee or agent of a registrant should, in the view of the Canadian securities regulatory authorities, recognize that the director's first responsibility in this area is to the reporting issuer on whose board the director serves. A director should meticulously avoid any disclosure of inside information to partners, directors, officers, employees or agents of the registrant or to its clients.”
3. *Section 1.4 is amended by striking out* “If a representative of a registrant” *and substituting* “If a partner, director, officer, employee or agent of a registrant”.
4. *Section 1.6 is repealed.*
5. *This Instrument comes into force on •.*

Appendix L

Amendments to National Instrument 81-107 Independent Review Committee for Investment Funds

1. *National Instrument 81-107 Independent Review Committee for Investment Funds is amended by this Instrument.*
2. *Appendix A is amended by adding* “and section 6.2 of National Instrument 31-103 – Registration Requirements” *after* “Part 4 of National Instrument 81-102 Mutual Funds”.
3. *Appendix B is amended*
 - a. *in the column Securities Legislation Reference*
 - (i) *by striking out* “Section 118(2)(b) of the *Securities Act* (Ontario)”, *and*

- (ii) **by striking out** “Section 115(6) of Reg. 1015”, **and**
- (iii) **by adding** “Section 6.2(2) of National Instrument 31-103 – Registration Requirements” **at the end of Appendix B.**

b. **in the column Jurisdiction by adding**

“Alberta, British Columbia, Manitoba, Newfoundland and Labrador, New Brunswick, North-West Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, Saskatchewan, and Yukon” **at the end of Appendix B.**

4. **This Instrument comes into force on •.**

SCHEDULE 2
PROPOSED [LOCAL] CONSEQUENTIAL AMENDMENTS