
**NOTICE OF AND REQUEST FOR COMMENT ON
PROPOSED AMENDMENTS TO**

**NATIONAL INSTRUMENT 31-103
REGISTRATION REQUIREMENTS AND EXEMPTIONS**

**COMPANION POLICY 31-103CP REGISTRATION REQUIREMENTS AND
EXEMPTIONS**

Exemptions from certain requirements for SRO Members

Introduction

As contemplated in the Notice published on April 15, 2011, the Canadian Securities Administrators (the CSA or we) are seeking comments on proposed amendments to National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103 or the Rule) and Companion Policy 31-103CP *Registration Requirements and Exemptions* (the Companion Policy) related to the exemptions for SRO members and their dealing representatives in Parts 3 and 9 of the Rule.

The comment period will end on July 18, 2011.

Summary and purpose of the proposed amendments to the Rule and the Companion Policy

We are proposing amendments to sections 3.16, 9.3 and 9.4 of the Rule in order to add, as a condition to the exemptions provided in these sections, that the registered individual or the registered investment dealer firm comply with the specified corresponding provision of the Investment Industry Regulatory Organization of Canada (IIROC) or, in the case of a mutual fund dealer firm, the Mutual Fund Dealers Association of Canada (MFDA). These proposed amendments are in Appendix A to this Notice. The draft amendments are further to those in the amended Rule published on April 15, 2011, which are scheduled to come into force on July 11, 2011, subject to all requisite approvals, including ministerial approvals¹.

We are also proposing amendments to the Companion Policy to provide guidance on our expectations with respect to compliance with the SRO rules and policies. These proposed amendments are in Appendix B to this Notice. The proposed amendments are further to those in the amended Companion Policy published on April 15, 2011, which are scheduled to come into force on July 11, 2011.

The purpose of these amendments is to ensure that all registrants are subject to the same enforcement regime in respect of a breach of the Rule.

If necessary, we will update the references to IIROC and MFDA provisions in the appendices to the Rule so that at the time these amendments come into force, we refer to the most current corresponding IIROC and MFDA provisions.

Authority for the proposed amendments

In Ontario, the rule making authority for the proposed amendments is in paragraphs 2, 3, 8, 8.1 and 8.2 of subsection 143(1) of the *Securities Act* (Ontario).

¹ Pursuant to the amendments published on April 15, 2011, the title to NI 31-103 is being changed from “*Registration Requirements and Exemptions*” to “*Registration Requirements, Exemptions and Ongoing Registrant Obligations*”. As these amendments will not be in force before July 11, 2011, the title currently in effect is used in this Notice.

Alternatives considered

Due to the nature of the proposed amendments, no other alternatives were considered appropriate.

Unpublished materials

In developing the proposed amendments, we have not relied on any significant unpublished study, report or other written materials.

Anticipated costs and benefits

The proposed amendments will make the Rule, the Companion Policy and the ongoing requirements more clear and specific while at the same time ensuring that all registrants will be subject to the same enforcement provisions for a breach of securities law, to the benefit of registrants and the investors they serve.

Request for comments

We would like your input on the Rule and the Companion Policy. We need to continue our open dialogue with all stakeholders if we are to achieve our regulatory objectives while balancing the interests of investors and registrants. All comments will be posted on the Ontario Securities Commission website at www.osc.gov.on.ca and on the Autorité des marchés financiers website at www.lautorite.qc.ca.

All comments will be made publicly available.

Please note that 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. In this context, you should be aware that some information which is personal to you, such as your e-mail and residential or business address, may appear in the websites. It is important that you state on whose behalf you are making the submission.

Thank you in advance for your comments.

Where to send your comments

Please address your comments to all CSA members, 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
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Nunavut

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

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55
Toronto, ON M5H 3S8
Fax: 416-593-2318
E-mail: jstevenson@osc.gov.on.ca

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Fax : 514-864-6381
E-mail: consultation-en-cours@lautorite.qc.ca

Questions

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

Sarah Corrigan-Brown
Senior Legal Counsel, Legal Services
Capital Markets Regulation Division
British Columbia Securities Commission
Tel: 604-899-6738
1-800-373-6393
scorrigan-brown@bcsc.bc.ca

Navdeep Gill
Legal Counsel, Market Regulation
Alberta Securities Commission
Tel: 403-355-9043
navdeep.gill@asc.ca

Curtis Brezinski
Acting Deputy Director, Legal and Registration
Saskatchewan Financial Services Commission
Tel: 306-787-5876
curtis.brezinski@gov.sk.ca

Chris Besko
Legal Counsel, Deputy Director
The Manitoba Securities Commission
Tel. 204-945-2561
Toll Free (Manitoba only) 1-800-655-5244
chris.besko@gov.mb.ca

Leigh-Ann Ronen
Legal Counsel, Compliance and Registrant Regulation
Ontario Securities Commission
Tel: 416-204-8954
lronen@osc.gov.on.ca

Sophie Jean
Analyste expert en réglementation – pratiques de distribution
Autorité des marchés financiers
Tel: 514-395-0337, ext. 4786
Toll-free: 1-877-525-0337
sophie.jean@lautorite.qc.ca

Brian W. Murphy
Deputy Director, Capital Markets
Nova Scotia Securities Commission
Tel: 902-424-4592
murphybw@gov.ns.ca

Jason L. Alcorn

Legal Counsel
New Brunswick Securities Commission
Tel: 506-643-7857
Jason.Alcorn@gnb.ca

Katharine Tummon
Superintendent of Securities
Prince Edward Island Securities Office
Tel: 902-368-4542
kptummon@gov.pe.ca

Craig Whalen
Manager of Licensing, Registration and Compliance
Office of the Superintendent of Securities
Government of Newfoundland and Labrador
Tel: 709-729-5661
cwhalen@gov.nl.ca

Louis Arki, Director, Legal Registries
Department of Justice, Government of Nunavut
Tel: 867-975-6587
larki@gov.nu.ca

Donn MacDougall
Deputy Superintendent, Legal & Enforcement
Office of the Superintendent of Securities
Government of the Northwest Territories
Tel: 867-920-8984
donald_macdougall@gov.nt.ca

Frederik J. Pretorius
Manager Corporate Affairs (C-6)
Dept of Community Services
Government of Yukon
Tel: 867-667-5225
Fred.Pretorius@gov.yk.ca

May 13, 2011

APPENDIX A

PROPOSED AMENDMENTS TO NI 31-103

1. *National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations is amended by this Instrument.*

2. *Section 1.1 is amended by*

(a) *adding the following after the definition of “IIROC”*

“IIROC Provision” means a by-law, rule, regulation or policy of IIROC named in Appendix G, as amended from time to time; *and*

(b) *adding the following after the definition of “MFDA”*

“MFDA Provision” means a by-law, rule, regulation or policy of the MFDA named in Appendix H, as amended from time to time;

3. *Section 3.16 is amended by*

(a) *adding the following after subsection (1):*

(1.1) Subsection (1) only applies to a registered individual who is a dealing representative of a member of IIROC in respect of a requirement specified in any of paragraphs (1)(a) to (c) if the registered individual complies with the corresponding IIROC Provisions that are in effect. , *and*

(b) *adding the following after subsection (2):*

(2.1) Subsection (2) only applies to a registered individual who is a dealing representative of a member of the MFDA in respect of a requirement specified in paragraphs (2)(a) or (b) if the registered individual complies with the corresponding MFDA Provisions that are in effect.

4. *Section 9.3 is amended by*

(a) *adding the following after subsection (1):*

(1.1) Subsection (1) only applies to a registered firm in respect of a requirement specified in any of paragraphs (1)(a) to (q) if the registered firm complies with the corresponding IIROC Provisions that are in effect. , *and*

(b) *adding the following after subsection (2):*

(2.1) Subsection (2) only applies to a registered firm in respect of a requirement specified in any of paragraphs (2)(a) to (m) if the registered firm complies with the corresponding IIROC Provisions that are in effect.

5. Section 9.4 is amended by

(a) adding the following after subsection (1):

(1.1) Subsection (1) only applies to a registered firm in respect of a requirement specified in any of paragraphs (1)(a) to (q) if the registered firm complies with the corresponding MFDA Provisions that are in effect. , *and*

(b) adding the following after subsection (2):

(2.1) Subsection (2) only applies to a registered firm in respect of a requirement specified in any of paragraphs (2)(a) to (k) if the registered firm complies with the corresponding MFDA Provisions that are in effect.

6. The Instrument is amended by adding the following appendices after Appendix F:

APPENDIX G – EXEMPTIONS FROM CERTAIN REQUIREMENTS FOR IIROC MEMBERS

(Section 9.3 [Exemptions from certain requirements for IIROC members])

NI 31-103 Provision	IIROC Provision
section 12.1 <i>[capital requirements]</i>	1. Dealer Member Rule 17.1; and 2. Form 1 <i>Joint Regulatory Financial Questionnaire and Report - Part I, Statement B, “Notes and Instructions”</i>
section 12.2 <i>[notifying the regulator of a subordination agreement]</i>	1. Dealer Member Rule 5.2; and 2. Dealer Member Rule 5.2A
section 12.3 <i>[insurance – dealer]</i>	1. Dealer Member Rule 400.2 <i>[Financial Institution Bond]</i> ; 2. Dealer Member Rule 400.4 <i>[Amounts Required]</i> ; and 3. Dealer Member Rule 400.5 <i>[Provisos with respect to Dealer Member Rules 400.2, 400.3 and 400.4]</i>
section 12.6 <i>[global bonding or insurance]</i>	1. Dealer Member Rule 400.7 <i>[Global Financial Institution Bonds]</i>
section 12.7 <i>[notifying the regulator of a change, claim]</i>	1. Dealer Member Rule 17.6; 2. Dealer Member Rule 400.3 <i>[Notice of Termination]</i> ;

<i>or cancellation]</i>	and 3. Dealer Member Rule 400.3B [<i>Termination or Cancellation</i>]
section 12.10 [<i>annual financial statements</i>]	1. Dealer Member Rule 16.2 [<i>Dealer Member Filing Requirements</i>]; and 2. Form 1 <i>Joint Regulatory Financial Questionnaire and Report</i>
section 12.11 [<i>interim financial information</i>]	1. Dealer Member Rule 16.2 [<i>Dealer Member Filing Requirements</i>]; and 2. Form 1 <i>Joint Regulatory Financial Questionnaire and Report</i>
section 12.12 [<i>delivering financial information – dealer</i>]	1. Dealer Member Rule 16.2 [<i>Dealer Member Filing Requirements</i>]
subsection 13.2(3) [<i>know your client</i>]	1. Dealer Member Rule 1300.1(a)-(n) [<i>Identity and Creditworthiness</i>]; 2. Dealer Member Rule 1300.2; 3. Dealer Member Rule 2500, Section II [<i>Opening New Accounts</i>]; and 4. Form 2 <i>New Client Application Form</i>
section 13.3 [<i>suitability</i>]	1. Dealer Member Rule 1300.1(o) [<i>Business Conduct</i>]; 2. Dealer Member Rule 1300.1(p) [<i>Suitability Generally</i>]; 3. Dealer Member Rule 1300.1(q) [<i>Suitability Determination Required When Recommendation Provided</i>]; 4. Dealer Member Rule 1300.1(r) and Dealer Member Rule 1300.1(s) [<i>Suitability Determination Not Required</i>]; 5. Dealer Member Rule 1300.1(t) [<i>Corporation Approval</i>]; 6. Dealer Member Rule 2700, Section I [<i>Customer Suitability</i>]; and 7. Dealer Member Rule 3200 [<i>Minimum Requirements for Dealer Members Seeking Approval Under Rule 1300.1(t) for Suitability Relief for Trades not Recommended by the Member</i>]
section 13.12 [<i>restriction on lending to clients</i>]	1. Dealer Member Rule 100 [<i>Margin Requirements</i>]
section 13.13 [<i>disclosure when recommending the use</i>]	1. Dealer Member Rule 29.26

<i>of borrowed money]</i>	
section 13.15 [<i>handling complaints]</i>	<ol style="list-style-type: none"> 1. Dealer Member Rule 2500B [<i>Client Complaint Handling</i>]; and 2. Dealer Member Rule 2500, Section VIII [<i>Client Complaints</i>]
subsection 14.2(2) [<i>relationship disclosure information]</i>	<ol style="list-style-type: none"> 1. Dealer Member Rules of IIROC that set out the requirements for relationship disclosure information similar to those contained in IIROC's Client Relationship Model proposal, published for comment on January 7, 2011; <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>At the time of publication, IIROC had not assigned a number to the relationship disclosure dealer member rule in its Client Relationship Model proposal. We will refer to the dealer member rule number when IIROC has assigned one.</p> </div> 2. Dealer Member Rule 29.8; 3. Dealer Member Rule 200.1(c); 4. Dealer Member Rule 200.1(h); 5. Dealer Member Rule 1300.1(p) [<i>Suitability Generally</i>]; 6. Dealer Member Rule 1300.1(q) [<i>Suitability Determination Required When Recommendation Provided</i>]; 7. Dealer Member Rule 1300.2; and 8. Dealer Member Rule 2500B, Part 4 [<i>Complaint procedures / standards</i>]
section 14.6 [<i>holding client assets in trust</i>]	<ol style="list-style-type: none"> 1. Dealer Member Rule 17.3
section 14.8 [<i>securities subject to a safekeeping agreement</i>]	<ol style="list-style-type: none"> 1. Dealer Member Rule 17.2A 2. Dealer Member Rule 2600 – Internal Control Policy Statement 5 [<i>Safekeeping of Clients' Securities</i>]
section 14.9 [<i>securities not subject to a safekeeping agreement</i>]	<ol style="list-style-type: none"> 1. Dealer Member Rule 17.3; 2. Dealer Member Rule 17.3A; and 3. Dealer Member Rule 200.1(c)
section 14.12 [<i>content and delivery of trade confirmation</i>]	<ol style="list-style-type: none"> 1. Dealer Member Rule 200.1(h)

APPENDIX H – EXEMPTIONS FROM CERTAIN REQUIREMENTS FOR MFDA MEMBERS

(Section 9.4 [Exemptions from certain requirements for MFDA members])

NI 31-103 Provision	MFDA Provision
section 12.1 <i>[capital requirements]</i>	<ol style="list-style-type: none"> 1. Rule 3.1.1 <i>[Minimum Levels]</i>; 2. Rule 3.1.2 <i>[Notice]</i>; 3. Rule 3.2.2 <i>[Member Capital]</i>; 4. Form 1 <i>MFDA Financial Questionnaire and Report</i>; and 5. Policy No. 4 <i>[Internal Control Policy Statements – Policy Statement 2: Capital Adequacy]</i>
section 12.2 <i>[notifying the regulator of a subordination agreement]</i>	<ol style="list-style-type: none"> 1. Form 1 <i>MFDA Financial Questionnaire and Report</i>, Statement F <i>[Statement of Changes in Subordinated Loans]</i>; and 2. Membership Application Package – Schedule I (Subordinated Loan Agreement)
section 12.3 <i>[insurance – dealer]</i>	<ol style="list-style-type: none"> 1. Rule 4.1 <i>[Financial Institution Bond]</i>; 2. Rule 4.4 <i>[Amounts Required]</i>; 3. Rule 4.5 <i>[Provisos]</i>; and 4. Policy No. 4 <i>[Internal Control Policy Statements – Policy Statement 3: Insurance]</i>
section 12.6 <i>[global bonding or insurance]</i>	<ol style="list-style-type: none"> 1. Rule 4.7 <i>[Global Financial Institution Bonds]</i>
section 12.7 <i>[notifying the regulator of a change, claim or cancellation]</i>	<ol style="list-style-type: none"> 1. Rule 4.2 <i>[Notice of Termination]</i>; and 2. Rule 4.3 <i>[Termination or Cancellation]</i>
section 12.10 <i>[annual financial statements]</i>	<ol style="list-style-type: none"> 1. Rule 3.5.1 <i>[Monthly and Annual]</i>; 2. Rule 3.5.2 <i>[Combined Financial Statements]</i>; and 3. Form 1 <i>MFDA Financial Questionnaire and Report</i>
section 12.11 <i>[interim financial information]</i>	<ol style="list-style-type: none"> 1. Rule 3.5.1 <i>[Monthly and Annual]</i>; 2. Rule 3.5.2 <i>[Combined Financial Statements]</i>; and 3. Form 1 <i>MFDA Financial Questionnaire and Report</i>
section 12.12 <i>[delivering financial information – dealer]</i>	<ol style="list-style-type: none"> 1. Rule 3.5.1 <i>[Monthly and Annual]</i>
section 13.3 <i>[suitability]</i>	<ol style="list-style-type: none"> 1. Rule 2.2.1 <i>[“Know-Your-Client”]</i>; and 2. Policy No. 2 <i>[Minimum Standards for Account Supervision]</i>

section 13.12 <i>[restriction on lending to clients]</i>	<ol style="list-style-type: none"> 1. Rule 3.2.1 <i>[Client Lending and Margin]</i>; and 2. Rule 3.2.3 <i>[Advancing Mutual Fund Redemption Proceeds]</i>
section 13.13 <i>[disclosure when recommending the use of borrowed money]</i>	<ol style="list-style-type: none"> 1. Rule 2.6 <i>[Borrowing for Securities Purchases]</i>
section 13.15 <i>[handling complaints]</i>	<ol style="list-style-type: none"> 1. Rule 2.11 <i>[Complaints]</i> 2. Policy No. 3 <i>[Complaint Handling, Supervisory Investigations and Internal Discipline]</i>; and 3. Policy No. 6 <i>[Information Reporting Requirements]</i>
subsection 14.2(2) <i>[relationship disclosure information]</i>	<ol style="list-style-type: none"> 1. Rule 2.2.5 <i>[Relationship Disclosure]</i>
section 14.6 <i>[holding client assets in trust]</i>	<ol style="list-style-type: none"> 1. Rule 3.3.1 <i>[General]</i>; 2. Rule 3.3.2 <i>[Cash]</i>; and 3. Policy No. 4 <i>[Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients’ Securities]</i>
section 14.8 <i>[securities subject to a safekeeping agreement]</i>	<ol style="list-style-type: none"> 1. Rule 3.3.3 <i>[Securities]</i>; and 2. Policy No. 4 <i>[Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients’ Securities]</i>
section 14.9 <i>[securities not subject to a safekeeping agreement]</i>	<ol style="list-style-type: none"> 1. Rule 3.3.3 <i>[Securities]</i>
section 14.12 <i>[content and delivery of trade confirmation]</i>	<ol style="list-style-type: none"> 1. Rule 5.4.1 <i>[Delivery of Confirmations]</i>; 2. Rule 5.4.2 <i>[Automatic Payment Plans]</i>; and 3. Rule 5.4.3 <i>[Content]</i>

7. This Instrument comes into force on (insert date) 2011.

APPENDIX B
Proposed Amendments to Companion Policy

The CSA are publishing changes to the Companion Policy for comment. The changes would come into effect on the implementation of the corresponding changes to the Rule.

This Appendix shows the proposed amendments to the Companion Policy through the use of blackline relative to the relevant portions of the consolidation of the Companion Policy published on April 15, 2011.

Companion Policy 31-103 CP
REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT
OBLIGATIONS

...

Division 3 Membership in a self-regulatory organization

3.16 Exemptions from certain requirements for SRO approved persons

Section 3.16 exempts registered individuals who are dealing representatives of IIROC or MFDA members from the requirements in NI 31-103 for suitability and disclosure when recommending the use of borrowed money. This is because IIROC and the MFDA have their own rules for these matters.

In Québec, these requirements do not apply to dealing representatives of a mutual fund dealer to the extent that equivalent requirements are applicable to those dealing representatives under regulations in Québec.

This section also exempts registered individuals who are dealing representatives of IIROC from the know your client obligations in section 13.2.

[We expect registered individuals who are dealing representatives of IIROC or MFDA members to comply with the by-laws, rules, regulations and policies of IIROC or the MFDA, as applicable \(SRO provisions\). These individuals cannot rely on the exemptions in section 3.16 unless they are complying with the appropriate SRO provisions specified in NI 31-103. We regard compliance with IIROC or MFDA procedures, interpretations, notices, bulletins and practices as relevant to compliance with the applicable SRO provisions.](#)

...

Part 9 Membership in a self-regulatory organization

9.3 Exemptions from certain requirements for IIROC members

9.4 Exemptions from certain requirements for MFDA members

NI 31-103 now has two distinct sections, section 9.3 and 9.4, which distinguish the exemptions which are available on the basis of whether or not the member of IIROC or the MFDA is registered in another category. This clarifies our intent with respect to the exemptions for SRO members and recognizes that IIROC and the MFDA have rules in these areas.

Sections 9.3 and 9.4 contain exemptions from certain requirements for investment dealers that are IIROC members, for mutual fund dealers that are MFDA members and in Québec, for mutual fund dealers to the extent equivalent requirements are applicable under the regulations in Québec.

However, if an SRO member is registered in another category, these sections do not exempt them from their obligations as a registrant in that category. For example, if a firm is registered as an investment fund manager and as an investment dealer with IIROC, section 9.3 does not exempt them from their obligations as an investment fund manager under NI 31-103.

However SRO members that are registered in multiple categories may use the forms prescribed by the SROs, on certain conditions. See sections 12.1, 12.12 and 12.14 for requirements on calculating working capital and the delivery of working capital calculations for SRO members that are registered in multiple categories.

[We expect registered firms that are members of IIROC or the MFDA to comply with the by-laws, rules, regulations and policies of IIROC or the MFDA, as applicable \(SRO provisions\). These firms cannot rely on the exemptions in Part 9 unless they are complying with the appropriate SRO provisions specified in NI 31-103. We regard compliance with IIROC or MFDA procedures, interpretations, notices, bulletins and practices as relevant to compliance with the applicable SRO provisions.](#)

...