CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

# NOTICE OF AND REQUEST FOR COMMENT ON PROPOSED AMENDMENTS TO

# NATIONAL INSTRUMENT 31-103 *REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS*

# NATIONAL INSTRUMENT 33-109 *REGISTRATION INFORMATION*

# NATIONAL INSTRUMENT 52-107 *ACCEPTABLE ACCOUNTING PRINCIPLES AND AUDITING STANDARDS*

# AND TO RELATED POLICIES AND FORMS

**December 5, 2013**

**Introduction**

The Canadian Securities Administrators (the CSA or we) are seeking comments on proposals to amend the current regulatory framework for dealers, advisers and investment fund managers.

We are proposing amendments, which range from technical adjustments to more substantive matters, the purpose of which is to promote stronger investor protection by resolving ambiguities and clarifying our intentions, which will enhance compliance. In our view, the proposed amendments will also create efficiencies for industry and regulators.

The instruments affected by these proposed amendments are as follows:

- National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103 or the Rule),
- Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103CP or the Companion Policy),
- National Instrument 33-109 *Registration Information* (NI 33-109) and its appended forms (Forms),
- Companion Policy 33-109CP *Registration Information* (NI 33-109CP),
- National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107), and
- Companion Policy 52-107CP *Acceptable Accounting Principles and Auditing Standards* (NI 52-107CP).

We refer to NI 31-103, NI 31-103CP, NI 33-109, NI 33-109CP and the Forms as the “Instrument”.

**Background**

NI 31-103 came into force on September 28, 2009 and introduced a new national registration regime that is harmonized, streamlined and modernized. Since implementation, we have monitored the operation of the Instrument and have had continuing dialogue with stakeholders about questions and concerns they and we have had with working with the Instrument.

**Substance and purpose**

The proposed amendments represent both general improvements to the registrant regulatory framework and specific measures to deal with problems which have been identified. The objective of the amendments is to promote stronger investor protection by resolving ambiguities and clarifying our intentions which will enhance compliance and create internal and external efficiencies.

For example, we propose amendments to:

- Part 8 *Exemptions from the requirement to register* of NI 31-103 by codifying a sub-adviser exemption, as well as a short-term debt exemption, and amending certain existing exemptions in addition to interpretative guidance on certain exemptions in NI 31-103CP,

- limit the activities that may be conducted under the exempt market dealer category of registration to address concerns with the activities of certain foreign broker dealers in Canada,
- enhance and clarify proficiency requirements for registrants,
- streamline and clarify the filing requirements for notices under sections 11.9 [*Registrant acquiring a registered firm's securities*] and 11.10 [*Registered firm whose securities are acquired*] of NI 31-103,
- provide additional guidance relating to conflicts of interest in relation to registered representatives that serve on the boards of reporting issuers or have outside business activities, and
- update and improve certain Forms.

We are soliciting comments on all of the proposed amendments, as well as on some additional proposals that are discussed in this Notice (they are set out in shaded boxes for ease of reference).

The comment period will end on **March 5, 2014.**

**Contents of this Notice**

This Notice consists of the following sections

1. Summary and purpose of the proposed amendments to NI 31-103 and NI 31-103CP
2. Summary and purpose of the proposed amendments to NI 33-109, NI 33-109CP and the Forms
3. Other consequential amendments
4. Alternatives considered and on-going work
5. Request for comments
6. Where to find more information

This Notice contains the following annexes:

- Annex A – Proposed amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*
- Annex B – Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, blacklined to show changes to the current Companion Policy 31-103CP
- Annex C – Proposed amendments to *National Instrument 33-109 Registration Information*
- Annex D – Companion Policy 33-109CP *Registration Information*, blacklined to show changes to the current Companion Policy 33-109CP
- Annex E – Proposed consequential amendments to National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*
- *A*nnex F – Companion Policy 52-107CP *Acceptable Accounting Principles and Auditing Standards*, blacklined to show changes to the current Companion Policy *52-107CP*

## 2. Summary and purpose of the proposed amendments to NI 31-103 and NI 31-103CP

The amendments we propose include proposals to

- give effect to omnibus / blanket relief orders relating to exam requirements for individuals registered when NI 31-103 first came into force, as described in CSA Staff Notice 31-315 *Omnibus / blanket orders exempting registrants from certain provisions of National Instrument 31-103 Registration Requirements and Exemptions*
- impose additional experience requirements for chief compliance officers (CCO) of dealer firms
- amend the activities exempt market dealers are permitted to conduct
- provide a general prohibition that a registrant cannot rely on exemptions to conduct activities that its registration permits
- provide an exemption for sub-advisers and exempt registered sub-advisers from certain registrant obligations
- incorporate into the Companion Policy some of the guidance currently contained in CSA Staff Notices and Multilateral Policies, including:
    - CSA Staff Notice 31-332 *Relevant Investment Management Experience for Advising Representatives and Associate Advising Representatives of Portfolio Managers*
    - CSA Staff Notice 31-326 *Outside Business Activities*
    - Multilateral Policy 34-202 *Registrants Acting as Corporate Directors*
- provide a more streamlined mechanism for the filing of notices under sections 11.9 and 11.10 of NI 31-103
- make various drafting changes to the Rule and clarifications to the guidance in the Companion Policy in order to give better effect to our original intent and to codify staff administrative practice that is in keeping with the original intent of NI 31-103
- give effect to blanket rulings and staff positions concerning the international dealer and international adviser exemptions
- provide an exemption from the dealer registration requirement for trades in short-term debt
- provide guidance concerning the requirement to register for start-up entities, and
- extend certain exemptions to circumstances that are consistent with the original policy intent of the Rule

The following is a summary of the more significant proposed amendments and additional matters for which we would like to receive comments. We follow the same order as the provisions in NI 31-103 and NI 31-103CP.

### Part 1 Interpretation

*(a)* *Section 1.1 [Definitions of terms used throughout this Instrument]*

We propose to add a definition of "principal regulator" in section 1.1 [*Definitions of terms used throughout this Instrument*] of NI 31-103.

*(b)* *Section 1.3 [Information may be given to the principal regulator]*

We propose revisions to clarify most deliveries and submissions required under NI 31-103 may be made to the principal regulator.

*(c)* *Section 1.3 [Fundamental concepts] of NI 31-103CP*

We propose additional guidance in section 1.3 of NI 31-103CP to clarify the application of the business trigger to start-up entities.

We have proposed amendments to the guidance on venture capital and private equity in order to clarify when venture capital and private equity investing activities may trigger the requirement to register.

**Issue for comment:**

Section 1.3 of NI 31-103CP contains guidance on a number of fundamental concepts that form the basis of the registration regime, including the "business trigger" for determining when an individual or firm may be considered "in the business" of trading or advising and therefore subject to a registration requirement. This guidance is largely principles-based and reflects case law and regulatory decisions that have interpreted the business trigger test for securities matters. It is intended to accommodate legitimate start-up issuers who may otherwise have concerns about some of the existing language in section 1.3 of NI 31-103CP. This added guidance takes into account the enforcement cases that have dealt with "business trigger" issues where certain issuers have engaged in illegal distributions of securities with no legitimate business objectives.

We have proposed some additional guidance in section 1.3 of NI 31-103CP to clarify the application of the business trigger test to start-up issuers. We understand that some start-up issuers may be concerned that they are required to register as a dealer since their early stage business may not appear to qualify as an active non-securities business. The additional guidance is intended to make it clear that a start-up issuer will be considered to have an active non-securities business and therefore will not be required to register if it has a bona fide business plan and is raising capital to advance that plan.

We invite specific comment on whether the additional guidance in section 1.3 of NI 31-103CP is sufficiently clear and workable to assist start-up issuers in determining whether their activities trigger the requirement to register. Would this additional guidance be difficult to apply in your specific circumstance and if so what concerns do you have?

If you believe the guidance is not sufficiently clear or workable, how can we improve this guidance? How can we address the interest of start-up issuers in raising capital while ensuring that issuers whose primary business purpose is issuing their own securities remain subject to the business trigger?

**Part 3 Registration requirements – individuals**

*(d)* *Section 3.3 – Time limits on examination requirements*

We propose amendments to section 3.3 of NI 31-103 to codify relief from section 3.3 [*Time limits on examination requirements*] in respect of examinations and programs in sections 3.7 [*Scholarship plan dealer – dealing representative*] if the registrant was registered as a dealing representative of a scholarship plan dealer when NI 31-103 came into force. These proposed amendments will also codify relief from section 3.3 in respect of examinations and programs in section 3.9 [*Exempt market dealer – dealing representative*] if the registrant was registered in Ontario and Newfoundland and Labrador as a dealing representative of a limited market dealer when NI 31-103 came into force. We plan to repeal the existing orders granting the relief if these proposed amendments come into force.

*(e)* *CCO experience requirements for mutual fund dealers, scholarship plan dealers and exempt market dealers*

We propose amendments to section 3.6 [*Mutual fund dealer – chief compliance officer*], section 3.8 [*Scholarship plan dealer – chief compliance officer*] and section 3.10 [*Exempt market dealer – chief compliance officer*] of NI 31-103 to add an experience component to the proficiency requirements for chief compliance officer of dealer firms. This proposed amendment results from our findings during compliance reviews of dealer firms and aligns with the requirement that registered individuals must not perform any activity that requires registration unless they also have the experience that a reasonable person would consider necessary to perform the activity competently.

In the course of compliance reviews, we have identified a number of dealer firms that have CCOs who are not adequately performing their responsibilities, and this deficiency is often associated with a finding that the CCO does not have the relevant experience. By adding the experience component for CCOs of dealers, we would be harmonizing the proficiency requirements with those applicable to CCOs of portfolio managers and investment fund managers.

*(f)* *Sections 3.11 [Portfolio manager – advising representative] and 3.12 [Portfolio manager – associate advising representative] – Relevant investment management experience*

We propose to include guidance in NI 31-103CP about what we may consider to be relevant investment management experience to provide industry with greater clarity and information. This guidance should be considered by registered firms when making hiring decisions, deciding whether an individual should apply for registration as an advising representative or an associate advising representative, and when preparing and reviewing applications to be submitted.

This guidance is based on our review of applications for registration as advising representatives or associate advising representatives since NI 31-103 came into effect. For specific examples, we refer you to the CSA Staff Notice 31-332 *Relevant Investment Management Experience for Advising Representatives and Associate Advising Representatives of Portfolio Managers* published on January 17, 2013.

**Part 4 Restrictions on registered individuals**

*(g)* *Section 4.1 [Restriction on acting for another registered firm]*

We propose to amend section 4.1 of NI 31-103 to clarify its scope. We consider the conflicts of interest that are potentially generated by dual registration to be significant. As part of the review of each individual's fitness for registration, we consider all

of the individual's employment activities, including outside business activities, with one or more registered firms in any jurisdiction of Canada.

The legislative intent of the dual registration prohibition set out in section 4.1 of NI 31-103 is to put the onus on firms, which often operate in multiple jurisdictions, to bring to the regulators' attention circumstances where conflicts of interest are potentially generated by dual registration. This proposed amendment codifies our original intent that the prohibition applies to a firm registered in any jurisdiction of Canada, and not only a firm registered in the local jurisdiction.

**Part 7 Categories of registration for firms**

*(h)* *Section 7.1 [Dealer categories]*

Further to CSA Staff Notice 31-333 *Follow-up to Broker Dealer Registration in the Exempt Market Dealer Category,* we propose amendments to section 7.1 [*Dealer categories*] in order to restrict the activities that exempt market dealers may conduct and prohibit exempt market dealers from conducting brokerage activities (trading securities listed on an exchange in foreign or Canadian markets).

In addition, we are clarifying that exempt market dealers are prohibited from trading freely tradeable exchange-traded securities off marketplace. This prohibition is to ensure consistency with marketplace rules of the Investment Industry Regulatory Organization of Canada (IIROC) which prohibit an investment dealer from trading freely tradeable exchange-traded securities off marketplace.

We are also clarifying in the Companion Policy that exempt market dealers may only underwrite securities in limited circumstances. For example, an exempt market dealer may participate in a private placement of securities of a reporting or non-reporting issuer, but may not participate in an underwriting of a prospectus-offered security.

**Part 8 Exemptions from the requirement to register**

We are proposing amendments to the following registration exemptions:

*(i)* *Proposed sections 8.0.1, 8.22.2 and 8.26.2 – removal of exemptions for registrants for activities that can be conducted under their registration*

We propose to add new sections 8.0.1, 8.22.2 and 8.26.2 to NI 31-103, which would prohibit registrants from relying on exemptions in Part 8 of NI 31-103 to conduct activities their registration permits. We expect registrants to conduct their activities under their category of registration, in full compliance with securities legislation, including the requirements in NI 31-103.

When registrants conduct certain activities in reliance on exemptions, there are concerns relating to client confusion and the firm applying different conduct and oversight rules to the activities. For example, certain jurisdictions currently do not allow firms registered in the exempt market dealer category to concurrently rely on the international dealer exemption because this activity may present concerns with respect to client confusion, oversight issues, maintenance of books and records, or know-your-client obligations.

**Issue for comment:**

We invite comments on whether these amendments will result in registered representatives needing relief from proficiency requirements in certain circumstances.

We specifically invite comments on whether this proposed amendment should apply to all of the referenced exemptions and how it may impact the current business models of registrants.

We also specifically invite comments from registrants on whether, in the case of any specific exemptions, they will face difficulty in complying with the proposed amendment and why.

**Issue for comment – Ontario only:**

Some of the exemptions in Part 8 of NI 31-103 do not apply in Ontario because: (i) there is a similar exemption contained in the *Securities Act* (Ontario) -- as in the case of the exemptions set out in sections 8.12, 8.13, 8.21, 8.22.1, 8.25 and 8.29 of NI 31-103, or (ii) the security described in the exemptions is excluded from the definition of "security" -- as in the case of the exemptions set out in section 8.15 of NI 31-103.

In Ontario, we would specifically invite comment on whether the proposed restrictions on the availability of the corresponding exemptions in NI 31-103 should also be extended to the Ontario similar exemptions, through amendments to the Ontario Act (and section 4.1(1) of OSC Rule *Ontario Prospectus and Registration Exemptions* where it also provides a similar exemption). We also specifically invite comments from registrants on whether, in the case of any specific similar Ontario exemptions, they would face difficulty in complying with such restrictions.

*(j)* *Section 8.5 [Trades through or to a registered dealer]*

We propose changes to section 8.5 [*Trades through or to a registered dealer*] of NI 31-103 in relation to the exemption for trades made through a registered dealer. To achieve a harmonized interpretation of section 8.5, we have removed the word "solely" which we considered to be ambiguous and propose this amendment to clarify which acts in furtherance of the trades contemplated under this exemption are permitted. We have added a condition to confirm that this exemption is not available if the person relying on the exemption solicits or contacts any person or company that is a purchaser in relation to the trade. We have revised the Companion Policy to reflect these changes and to include examples relating to the use of the exemption.

*(k)* *Proposed section 8.5.1 [Trades through a registered dealer by registered adviser]*

We also propose to add a new section 8.5.1 [*Trades through a registered dealer by registered adviser*] which provides an exemption from the dealer registration requirement for registered advisers. This clarifies that incidental trading activities by advisers do not require registration as a dealer, provided the trades are executed through a registered dealer. We have revised the Companion Policy to reflect this change.

*(l)* *Section 8.15 [Schedule III banks and cooperative associations – evidence of deposit]*

We propose to amend subsection 8.15(2) to clarify the exemption does not apply in Alberta, as an equivalent exemption is contained in the *Securities Act* (Alberta).

*(m)* *Sections 8.18 [International dealer] and 8.26 [International adviser]*

We propose amendments to sections 8.18 [*International dealer*] and 8.26 [*International adviser*] of NI 31-103. We propose to remove the definition of "Canadian permitted client" in these sections and revert to the use of the term "permitted client", as defined in section 1.1 of NI 31-103.

Effective July 11, 2011, amendments to NI 31-103 came into effect that incorporated a new definition of "Canadian permitted client" in sections 8.18 [*International dealer*] and 8.26 [*International adviser*] of NI 31-103 and imposed conditions on the use of these exemptions related to this new restrictive definition. Prior to these amendments, the conditions in these exemptions related to the less restrictive definition of "permitted client". After we published the amendments, it was brought to CSA staff's attention that the new definition of "Canadian permitted client" may be more restrictive than we intended.

As a result, all CSA members, other than the OSC, issued parallel orders that allow a person to rely on these exemptions as if the term "Canadian permitted client" read "permitted client". Although the OSC did not issue an order, they confirmed that there was no public interest in pursuing an enforcement action for failure to comply with the "Canadian permitted client" condition where the international dealer or adviser complied with the "permitted client" condition.

We have reviewed this issue and are now proposing to revise sections 8.18 [*International dealer*] and 8.26 [*International adviser*] of NI 31-103 to revert back to the less restrictive "permitted client" conditions in these exemptions that were in force prior to July 11, 2011.

**Issue for comment:**

We are considering revisions to other conditions in section 8.18 [*International dealer*] of NI 31-103. We specifically invite comments on whether or not the condition in paragraph 8.18(3)(d) of NI 31-103 should be removed or revised to only apply when the international dealer is dealing with an investment dealer under paragraph 8.18(2)(e) or (f).

**Issue for comment – Ontario only:**

Ontario invites specific comment from stakeholders on whether these exemptions could be used for purposes that were not intended. These exemptions are intended to be used to provide sophisticated Canadian investors with access to foreign securities and advisory services that might otherwise be unavailable to these investors if the international dealer or adviser were required to obtain registration.

In terms of unintended use of these exemptions, Ontario seeks specific comment on whether these exemptions are being used by foreign entities located in Canada (either a permanent or temporary presence) to provide services to investors outside of Canada (e.g. a firm and advising representatives that work out of an office in Toronto, Ontario and provide investment advising services to permitted clients located in Europe)? If they are, we would be concerned about these activities potentially bringing disrepute to Canadian capital markets. If these concerns exist, what are your views on how we should restrict these exemptions to address these concerns? Should conditions be imposed in the exemptions and, if so, what conditions? For example, should there be a condition that the permitted client have a real and substantial connection to the Canadian jurisdiction in order for the exemption to be available for the activities.

*(n)* *Section 8.20 [Exchange contract – Alberta, British Columbia, New Brunswick and Saskatchewan*

The section 8.20 [*Exchange contract – Alberta, British Columbia, New Brunswick and Saskatchewan*] exemption applies in Alberta, British Columbia, New Brunswick and Saskatchewan. The regulators in these jurisdictions are proposing changes to section 8.20 in order to harmonize its application with proposed changes to section 8.5 [*Trades through or to a registered dealer*] and to clarify the drafting to limit its general application.

*(o) Proposed section 8.22.1 [Short-term debt]*

All CSA members except Ontario have issued parallel orders that provided the dealer registration requirement does not apply to trades in short-term debt by specified financial institutions. We propose a new exemption in NI 31-103 that contains the same conditions as these blanket orders, including that the short-term debt instruments have a designated rating. In addition, we have added a new condition, limiting the use of the exemption to trades with permitted clients. We examined the use of the current orders and determined that generally the trading occurs with persons that meet the definition of a permitted client.

We believe that permitted clients generally have sufficient investment knowledge or resources to obtain expert advice, and accordingly may not need or wish to have the same level of protection as other investors. Finally, we have used new definitions in the exemption that correspond to amendments made to other National Instruments as a result of the implementation of National Instrument 25-101 *Designated Rating Organizations*.

We propose to retain the condition relating to the securities traded under this exemption having prescribed credit ratings. However, prior to adoption, we may amend or remove this condition based on the outcome of work in this area by other CSA committees.

Although the exemption is only available when all of the conditions are met, when the conditions cannot be met, the trade can likely be conducted through a registered dealer. Most financial institutions have affiliations or relationships with registered dealers.

We plan to repeal the existing orders when this new exemption comes into force.

In Ontario, there are alternate exemptions from the dealer registration requirement that are available for trading in short-term debt instruments, such as the exemptions in section 35.1 of the *Securities Act* (Ontario) and section 4.1 of Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions*.

*(p) Section 8.24 [IIROC members with discretionary authority]*

We propose to add guidance in NI 31-103CP on the adviser registration exemption that is available to members of IIROC (or dealing representatives acting on their behalf) that act as advisers to a client's managed account. The guidance clarifies that this exemption is available for all managed accounts, including where the client is a pooled fund or investment fund.

*(q) Proposed section 8.26.1 [International adviser]*

Currently, relief from the adviser registration requirement for certain non-resident sub-advisers is available in Ontario under Ontario Securities Commission Rule 35-502 [*Non-Resident Advisers*], in Québec under decision N° 2009-PDG-0191 and in other jurisdictions on a discretionary basis. We propose to harmonize our approach to this relief by including a new exemption in proposed section 8.26.1 [*International sub-adviser*] of NI 31-103.

*(r) Section 8.28 [Capital accumulation plan exemption]*

In the July 17, 2009 CSA Notice announcing our intention to adopt NI 31-103, we indicated that we were including the exemption in section 8.28 from the investment fund manager registration requirement on a temporary basis while we monitored the situation. We now propose to include this exemption on a permanent basis. We propose to clarify our intent that the exemption is only available to plan sponsors and plan service providers in respect of activities relating to a capital accumulation plan.

We have removed a condition in the exemption that the person does not act as an investment fund manager other than for an investment fund that is an investment option in a capital accumulation plan. The intention of this condition was to prohibit the exemption from being used if the person was otherwise required to be registered as an investment fund manager. We are proposing a new section 8.26.2 [*General condition to investment fund manager registration requirement exemptions*] which will prohibit the use of this exemption where the person is registered as an investment fund manager. If the activities of a plan sponsor or service provider that require investment fund manager registration are not solely related to capital accumulation plans, they will be required to register.

**Part 11 Internal controls and systems**

*(s) Sections 11.9 [Registrant acquiring a registered firm's securities or assets] and 11.10 [Registered firm whose securities are acquired]*

We propose amendments to NI 31-103 and NI 31-103CP in order to streamline and clarify the process for reviewing the notices required under sections 11.9 and 11.10 of the Rule. The proposed amendments would allow for the acquisition notices to be

filed with the principal regulator of the registered firm. Notices must be filed with the principal regulator of the acquirer and the target registered firm (where the principal regulator is the same for both the acquirer and the target firms, then only one notice needs to be filed with the principal regulator). We propose that the principal regulator will share the notice with the other regulators, and will coordinate the review with them. Although all of the regulators having received the notice retain the power to object to the acquisition, we believe that the proposed amendments will facilitate both the filing and the review process.

We propose to clarify which share acquisitions are subject to the notice requirement, namely an initial acquisition of a direct or indirect ownership interest, beneficial or otherwise, in 10% or more of the voting securities of a firm registered in Canada or in any foreign jurisdiction. We therefore propose to repeal certain exceptions to the notice requirement, in both sections 11.9 and 11.10 of the Rule, considering that these exceptions would no longer be relevant or required.

We propose to add guidance in NI 31-103CP to guide acquirers or acquired firms in the preparation of the acquisition notices, with suggestions on the information that should be included in these notices. We also remind IIROC dealer members that they are subject to sections 11.9 and 11.10 and therefore are required to file these notices with the applicable CSA regulators, despite the fact that IIROC has its own review and approval process.

**Part 12 Financial condition**

*(t)* *Section 12.2 [Notifying the regulator or the securities regulatory authority of a subordination agreement]*

We have noticed that a number of firms are not delivering subordination agreements to their principal regulator as required. We have also noticed that a number of firms are excluding current related party debt, which has been subordinated, from line 5 of the Form 31-103F1 [*Calculation of Excess Working Capital*], which we find to be unacceptable. We want to clarify our requirements for the delivery of subordination agreements to the principal regulator before the debt can be excluded in the firm's working capital calculation. We also want to clarify that only subordinated long term (and not current) related party debt can be excluded from the working capital calculation.

We propose amendments to section 12.2 [*Notifying the regulator or the securities regulatory authority of a subordination agreement*] of NI 31-103 to clarify the requirements relating to subordination agreements and the exclusion of non-current related party debt subordinated under these agreements from the calculation of excess working capital on Form NI 31-103F1. We have revised the Companion Policy and Form NI 31-103F1 to reflect these changes and the reasons for them.

*(u)* *Section 12.12 [Delivering financial information – dealer]*

In response to inquiries relating to the obligations of exempt market dealers to deliver financial information, we propose to amend subsection 12.12(3) of NI 31-103 to clarify when an exempt market dealer is exempt from subsection 12.12(2).

*(v)* *Section 12.14 [Delivering financial information – investment fund manager]*

We propose a new form, Form NI 31-103F4 *Net Asset Value Adjustments* on which an investment fund manager will report net asset value (NAV) adjustments as required by section 12.14 of NI 31-103. With this proposed new form requirement, we seek to harmonize and streamline the information provided by investment fund managers about NAV errors and adjustments by specifying which items of disclosure must be covered and the level of detail to be provided to regulators.

**Part 13 Dealing with clients – individuals and firms**

*(w)* *Section 13.4 [Identifying and responding to conflicts of interest]*

We propose additional guidance in NI 31-103CP relating to conflicts of interest in relation to registered representatives that serve on the boards of reporting issuers or have outside business activities. If we adopt this guidance, we plan to repeal previous guidance issued on these subjects, specifically:

- CSA Staff Notice 31-326 *Outside Business Activities* issued on July 15, 2011
- Multilateral Policy 34-202 *Registrants Acting as Corporate Directors*, amended effective September 28, 2009

*(x) Proposed section 13.17 [Exemption from certain requirements for registered sub-advisers]*

We also propose a new section 13.17 [*Exemptions from certain requirements for registered sub-*adviser] to NI 31-103 that exempts a registered adviser who is acting as a sub-adviser to a registered adviser or registered dealer from certain client obligations which may not be required in a sub-advisory arrangement, or if required, are customized to the relevant business needs and agreed to contractually (including, for example, requirements related to identifying and responding to conflicts of interest, referral arrangements, complaints, disclosure to clients about the fair allocation of investment opportunities, notice to clients by non-resident registrants, and account statements).

**Issue for comment:**

We invite specific comment on whether the registered sub-adviser should be exempted from each of the requirements listed in subsection 13.17(1), which we believe are not relevant to this type of business-to-business relationship where an individual investor is not involved, and whether there are other requirements that should also be listed. And if so, why.

**2. Summary and purpose of the proposed amendments to NI 33-109, NI 33-109CP and the Forms**

*Drafting changes*

We propose various drafting changes to NI 33-109 and the Forms and clarifications to the guidance in NI 33-109CP. This will also codify staff administrative practice that is in keeping with the original intent of NI 33-109, the Forms and NI 33-109CP.

*Business locations*

We propose to add a definition of "business location" in section 1.1 [*Definitions*] of NI 33-109 that confirms a business location includes a registered individual's residence if regular and ongoing activity that requires registration is carried out from the residence or if records relating to an activity that requires registration are kept at the residence. We propose amendments throughout NI 33-109, NI 33-109CP and the Forms relating to the use of this new defined term.

Specifically, we propose amendments to the certifications provided by registered individuals and their firms in the Forms. The certifications now require confirmation that if a business location is a residence, the individual consents to regulators entering the residence for the administration of securities legislation and derivatives legislation, including commodity futures legislation.

*Reinstatement*

Currently, individual registrants changing sponsoring firms may be required to file a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* if there have been changes to certain disclosures previously given. We propose changes to section 2.3 [*Reinstatement*] of NI 33-109 and Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* to allow the filing of this form even when certain regulatory disclosures have changed.

*Reporting changes for individuals*

We propose to add a new paragraph 4.1(4)(d) to NI 31-109 and guidance in NI 33-109CP that Form 33-109F2 *Change or Surrender of Individual Categories* be used to report a change to any information in Schedule C of Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*.

*Criminal disclosure*

We propose to amend Item 14 of Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* to clarify what disclosures are required. The amendments are intended to give clearer instructions on the requirements.

*Principal regulator for foreign firms*

We propose amendments to Item 2.2(b) of Form NI 33-109F6 *Firm Registration* that will, in conjunction with subsection 4A.1(2) of Multilateral Instrument 11-102 *Passport System*, provide that the selection of a principal regulator for firms that do not have a head office or are not already registered in Canada is the jurisdiction in which the firm expects to conduct most of its activities that require registration as at the end of its current financial year or conducted most of its activities that require registration as at the end of its most recently completed financial year. We also propose new guidance in NI 33-109CP relating to this amendment.

**Issue for comment:**

We invite specific comment on whether the proposed new test (including related NI 33-109CP guidance) is sufficiently clear and workable for determining the principal jurisdiction for firms that do not have a head office in Canada? The new test is being proposed because the current test may not have been easily applied in the case of all registrants. We would like to know if the new test would be difficult to apply in your specific circumstance and if so what concerns you may have.

**Other proposed amendments**

We also propose certain technical changes to the Forms to add clarity.

**3. Other consequential amendments**

**Consequential amendments to NI 52-107 and NI 52-107CP**

We are proposing consequential amendments to NI 52-107 and NI 52-107CP to clarify that all registrants are subject to NI 52-107. We have added guidance in NI 52-107CP to indicate that where a registrant is also an investment fund that is subject to National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106), the requirements in both NI 52-107 and NI 81-106 apply to the entity.

**4. Alternatives considered and on-going work**

The alternative to many of the proposed amendments is to not change the Instrument but continue to issue exemptive relief, whether on an omnibus / blanket basis or on a case-by-case basis, and to issue answers to frequently asked questions (FAQs). We think this alternative would be inappropriate considering the cost of exemptive relief and the immediate need to update the Instrument. Further, this alternative would not address all changes required.

As stated in this Notice, we are continuing to work on the framework for registrant regulation, and anticipate making further proposals to amend the Instrument. Specifically:

- *Section 13.5 [Restrictions on certain managed account transactions]*

  We considered amendments to section 13.5 [*Restrictions on certain managed account transactions*] of NI 31-103 to expand the provision to apply to IIROC members that conduct advising activities (IIROC advisers). We are not proceeding with these amendments because we are mindful that there may be significant unintended consequences in respect of trades made from IIROC members' inventory accounts. IIROC members that conduct advisory activities are not necessarily registered in the adviser category; however we are of the view that they should be held to similar standards and restrictions on managed account transactions as portfolio managers.

  We anticipate that IIROC will be examining these issues in a consultation and review process to allow all interested stakeholders an opportunity to comment. We expect this will result in changes to IIROC rules. We continue to expect IIROC members that conduct advisory activities to have policies and procedures that sufficiently mitigate the conflicts of interest inherent in trades made from inventory accounts to managed accounts.

- *Consideration by the CSA of proficiencies*

  Part 3 of NI 31-103 establishes general and specific education and experience requirements for individuals who perform an activity that requires registration. Proficiency requirements for registered individuals remain an area of active interest for the CSA, beyond the specific amendments to Part 3 that have been proposed in this Notice. As we continue to monitor and assess the adequacy of current requirements, we may identify further improvements/enhancements that should be pursued.

  Since implementation of the Instrument, we have not been actively working on the recognition of additional examinations or inclusion of alternative proficiency requirements in Part 3 [*Registration requirements – individuals*] of NI 31-103. In the near term, we will be developing a process to recognize additional examinations and other proficiency requirements as alternatives to the proficiency requirements. We may consider publishing guidance on the minimum standards and other requirements to be met by educational providers that are interested in developing and administering an alternative examination.

  We will expect that examinations focus and test the skills and knowledge necessary for the category of registration considering the CSA's examination-based model as the baseline level of knowledge necessary for an individual seeking registration. The recognition of any new examinations by the CSA would require the publication for comment of proposed amendments to NI 31-103.

- Custody of client assets

  We are considering whether to propose additional regulatory requirements (in Division 3 *Client assets* of Part 14 *Handling client accounts – firms* of NI 31-103) to enhance the existing regulatory framework for safeguarding client assets. NI 31-103 requirements currently focus mostly on the segregation of client assets and do not establish a detailed custodial regime. In contrast, portfolio assets of mutual funds that are subject to National Instrument 81-102 *Mutual Funds* must be held by a custodian that satisfies the requirements of Part 6 [*Custodianship of portfolio assets*] of that Instrument. Other institutional investors (e.g., pension funds) are subject to similar "qualified" custodian requirements under other federal or provincial legislation. While NI

31-103 does not specify that client assets must be held with an external custodian (except for foreign registered firms), it appears that most registered firms use an external custodian to custody their clients' assets.

We are reviewing Canadian client asset protection practices, identifying risks to client assets in light of the current industry practices and legal requirements and exploring how to mitigate such risks. We are also considering recent international developments, including changes to custody rules for broker-dealers and investment advisers made by the U.S. Securities and Exchange Commission. We are engaging in preliminary discussions with stakeholders to gather more information and will consider a number of options, which may include proposing amendments in the future.

**5. Request for comments**

We would like your input on the Instrument and related amendments. We need to continue our open dialogue with all stakeholders if we are to achieve our regulatory objectives to promote strong investor protection while fostering confidence in capital markets and registrants.

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. 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.

Thank you in advance for your comments.

**Deadline for comments**

Your comments must be submitted in writing by **March 5, 2014**.

Please send your comments electronically in Word, Windows format.

**Where to send your comments**

Please address your comments to all CSA members, as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
The Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Superintendent 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 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:

Sophie Jean
Directrice de l'encadrement des intermédiaires
Surintendance de l'assistance aux clientèles et de l'encadrement de la distribution
Autorité des marchés financiers
Tel: 514-395-0337, ext. 4801
Toll-free: 1-877-525-0337
sophie.jean@lautorite.qc.ca

Gérard Chagnon
Analyste expert en réglementation
Surintendance de l'assistance aux clientèles et de l'encadrement de la distribution
Autorité des marchés financiers
Tel: 418-525-0337, ext. 4815
Toll-free: 1-877-525-0337
gerard.chagnon@lautorite.qc.ca

Lindy Bremner
Senior Legal Counsel
Capital Markets Regulation
British Columbia Securities Commission
Tel: 604-899-6678
1-800-373-6393
lbremner@bcsc.bc.ca

Navdeep Gill
Manager, Registration
Alberta Securities Commission
Tel: 403-355-9043
navdeep.gill@asc.ca

Liz Kutarna
Deputy Director, Capital Markets, Securities Division
Financial and Consumer Affairs Authority of Saskatchewan
Tel: 306-787-5871
liz.kutarna@gov.sk.ca

Dean Murrison
Director, Securities Division
Financial and Consumer Affairs Authority of Saskatchewan
Tel: 306-787- 5842
dean.murrison@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

Kat Szybiak
Legal Counsel
Compliance and Registrant Regulation
Ontario Securities Commission
Tel: 416-204-8988
kszybiak@osc.gov.on.ca

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

Jason Alcorn
Legal Counsel, Securities
Financial and Consumer Services Commission of New Brunswick / Commission des services financiers et des services aux consommateurs du Nouveau Brunswick

Tel: 506-643-7857
jason.alcorn@fcnb.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
Financial Services Regulation Division, Service NL
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
PO Box 1320
Yellowknife, NT X1A 2L9
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

**6. Where to find more information**

We are publishing the proposed amendments with this Notice, as well as a blackline version of the Instrument. The proposed amendments are also available on websites of CSA members, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.msc.gov.mb.ca
www.osc.gov.on.ca
www.gov.ns.ca/nssc
www.nbsc-cvmnb.ca
www.fcaa.gov.sk.ca

**ANNEX A**

**PROPOSED AMENDMENTS TO *NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS***

**ANNEX B**

***NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS*, BLACKLINED TO SHOW CHANGES TO THE CURRENT NI 31-103**

**ANNEX C**

***COMPANION POLICY 31-103CP REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS,* BLACKLINED TO SHOW CHANGES TO THE CURRENT COMPANION POLICY 31-103CP**

**ANNEX D**

**PROPOSED AMENDMENTS TO *NATIONAL INSTRUMENT 33-109 REGISTRATION INFORMATION***

**ANNEX E**

***NATIONAL INSTRUMENT 33-109 REGISTRATION INFORMATION*, BLACKLINED TO SHOW CHANGES TO THE CURRENT NI 33-109**

**ANNEX F**

***COMPANION POLICY 33-109CP REGISTRATION INFORMATION*, BLACKLINED TO SHOW CHANGES TO THE CURRENT COMPANION POLICY 33-109CP**

**ANNEX G**

**PROPOSED CONSEQUENTIAL AMENDMENTS TO *NATIONAL INSTRUMENT 52-107 ACCEPTABLE ACCOUNTING PRINCIPLES AND AUDITING STANDARDS***

**ANNEX H**

***NATIONAL INSTRUMENT 52-107 ACCEPTABLE ACCOUNTING PRINCIPLES AND AUDITING STANDARDS*, BLACKLINED TO SHOW CHANGES TO THE CURRENT *NATIONAL INSTRUMENT 52-107 ACCEPTABLE ACCOUNTING PRINCIPLES AND AUDITING STANDARDS***

**ANNEX I**

***COMPANION POLICY 52-107CP ACCEPTABLE ACCOUNTING PRINCIPLES AND AUDITING STANDARDS*, BLACKLINED TO SHOW CHANGES TO THE CURRENT COMPANION POLICY 52-107CP**

## ANNEX J

## ONTARIO RULE-MAKING AUTHORITY

## AUTHORITY FOR THE PROPOSED AMENDMENTS

In Ontario, the rule making authority for the proposed amendments is in paragraphs 1, 1.3, 2 and 8 of subsection 143(1) of the *Securities Act*.

### Alternatives considered

Many of the amendments result from inquiries, deficiencies noted on compliance reviews, and registration or exemptive relief applications. The alternative is to maintain the status quo and address these matters on a case-by-case basis. Since we are amending the instruments for other reasons, we are capitalizing on this opportunity to clarify our requirements and expectations.

The alternative to the exemptions related amendments is to not change the instruments but continue to issue exemptive relief, whether on an omnibus / blanket basis or on a case-by-case basis, and to issue FAQs. However, we think this alternative would be inappropriate considering the cost of exemptive relief and the immediate need to update NI 31-103 and the related instruments.

The proposed exempt market dealer related amendments achieve our goal to ensure a consistent regulatory framework in Canada. The firms in question will have to conduct brokerage activities through a firm registered as an investment dealer and member of IIROC. Alternatively, they may limit their activities to those activities permitted for exempt market dealers, or they may scale back their activities so as to be able to rely on the international dealer exemption. Furthermore, the proposed amendments make it clear that exempt market dealers cannot trade freely tradeable exchange-traded securities on or off exchange. This prohibition is necessary to ensure consistency with IIROC marketplace rules which prohibit an investment dealer from trading freely tradeable exchange-traded securities off-exchange.

### Unpublished materials

In proposing the amendments, the Ontario Securities Commission has not relied on any significant unpublished study, report, or other written materials.

### Anticipated costs and benefits

The proposed amendments will make the instruments and related companion policies and the ongoing requirements more targeted, to the benefit of registrants and the investors they serve.

## Annex A

# PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 31-103 *REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS*

***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 definitions*:**

"designated rating" has the same meaning as in National Instrument 81-102 *Mutual Funds*;

"designated rating organization" has the same meaning as in National Instrument 81-102 *Mutual Funds*;

"DRO affiliate" means an affiliate of a designated rating organization that issues credit ratings in a foreign jurisdiction and that has been designated as such under the terms of the designated rating organization's designation; "***,***

"principal regulator" has the same meaning as in section 4A.1 of Multilateral Instrument 11-102 Passport System; "***,***

"sub-adviser" means an adviser to

(a) a registered adviser, or

(b) a registered dealer acting as a portfolio manager as permitted by section 8.24 [*IIROC members with discretionary authority*];"

***(b) replacing "***IIROC Provision***" with "***IIROC provision***", "***IIROC Provisions***" with "***IIROC provisions***", "***MFDA Provision***" with "***MFDA provision***" and "***MFDA Provisions***" with "***MFDA provisions***" wherever these terms occur in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, and***

***(c) amending the definition of "***sponsoring firm***" by replacing "***the registered firm***" with "***the firm registered in a jurisdiction of Canada***".***

***3. Section 1.3 is amended by***

***(a) repealing subsection (1)*,**

***(b) replacing subsection (2) with the following:***

For the purpose of a requirement in this Instrument to notify or to deliver or submit a document to the regulator or the securities regulatory authority, the person or company may notify or deliver or submit the document to the person or company's principal regulator:***,***

***(c) repealing subsection (3), and***

***(d) adding the following subsections:***

**(4)** Despite subsection (2), for the purpose of the notice and delivery requirements in section 11.9 [*registrant acquiring a registered firm's securities or assets*], if the principal regulator of the registrant and the principal regulator of the firm identified in paragraph 11.9(1)(a) or 11.9(1)(b), if registered in any jurisdiction of Canada is not the same, the registrant must deliver the written notice to the following:

(a) the registrant's principal regulator, and

(b) the principal regulator of the firm identified in paragraph 11.9(1)(a) or 11.9(1)(b) as applicable, if registered in any jurisdiction of Canada identified in paragraph 11.9(1)(a) or 11.9(1)(b)***, and***

**(5)** Subsection (2) does not apply to

(a) section 8.18 [*international dealer*];

(b) section 8.26 [*international adviser*].

***4. Section 3.3 is amended by adding the following subsection:***

**(4)** Subsection (1) does not apply to the examination requirements in:

(a) section 3.7 if the individual was registered in a jurisdiction of Canada as a dealing representative of a scholarship plan dealer on and since September 28, 2009;

(b) section 3.9 if the individual was registered as a dealing representative of an exempt market dealer in Ontario or Newfoundland and Labrador on and since September 28, 2009.

***5. Section 3.6 is amended by replacing paragraph (a) with the following:***

(a) the individual has

(i) passed the Canadian Investment Funds Course Exam, the Canadian Securities Course Exam or the Investment Funds in Canada Course Exam,

(ii) passed the PDO Exam, the Mutual Fund Dealers Compliance Exam or the Chief Compliance Officers Qualifying Exam, and

(iii) gained 12 months of relevant securities industry experience in the 36-month period before applying for registration.

***6. Section 3.8 is replaced with the following:***

**3.8 Scholarship plan dealer – chief compliance officer**

A scholarship plan dealer must not designate an individual as its chief compliance officer under subsection 11.3(1) [*designating a chief compliance officer*] unless the individual has:

(a) passed the Sales Representative Proficiency Exam;

(b) passed the Branch Manager Proficiency Exam;

(c) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam, and

(d) gained 12 months of relevant securities industry experience in the 36-month period before applying for registration.

***7. Section 3.9 is amended by replacing "***section 7.1(2)(d)***" with "***paragraph 7.1(2)(d)***".***

***8. Section 3.10 is amending by replacing paragraph (a) with the following:***

(a) the individual has

(i) passed the Exempt Market Products Exam or the Canadian Securities Course Exam,

(ii) passed the PDO Exam or the Chief Compliance Officers Qualifying Exam, and

(iii) gained 12 months of relevant securities industry experience in the 36-month period before applying for registration.

***9. Subsection 3.16(2.1) is amended by replacing "***paragraphs (2)(a) or (b)***" with "***paragraph (2)(a) or (b)***".***

***10. Section 4.1 is amended by***

***(a) replacing subsection 4.1(1) with the following:***

**(1)** A firm registered in any jurisdiction of Canada must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if either of the following apply:

(a) the individual acts as an officer, partner or director of another firm registered in any jurisdiction of Canada that is not an affiliate of the first-mentioned registered firm,

(b) the individual is registered as a dealing, advising or associate advising representative of another firm registered in any jurisdiction of Canada***, and***

***(b) replacing, in subsection 4.2(3), "***No later than the 7th day***" with "***No later than 7 days***".***

***11. Section 6.7 is replaced with the following:***

Despite section 6.6, if a hearing or proceeding concerning a suspended individual is commenced under securities legislation or under the rules of an SRO, the individual's registration remains suspended.

***12. Section 7.1(2) is amended by***

***(a) replacing paragraph (d) with the following:***

(d) exempt market dealer may

(i) act as a dealer by trading a security that is distributed under an exemption from the prospectus requirement;

(ii) subject to subsection (5), act as a dealer by trading a security that, if the trade were a distribution, would be exempt from the prospectus requirement;

(iii) act as an underwriter in respect of a distribution of securities that is made under an exemption from the prospectus requirement***, and***

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

**(5)** An exempt market dealer must not trade a security if:

(a) the security is listed, quoted or traded on a marketplace; and

(b) the trade in the security does not require reliance on a further exemption from the prospectus requirement.

***13. Part 8 is amended by adding the following section after the title of Division 1:***

**8.0.1 General condition to dealer registration requirement exemptions**

The exemptions in this Division are not available to a person or company if the person or company is registered in any jurisdiction of Canada and if their category of registration permits the person or company to act as a dealer or trade in a security for which the exemption is provided.

***14. Section 8.5 is amended by***

***(a) replacing "***by the person or company if one of the following applies***" by "***in a security if either of the following applies***"; and***

***(b) replacing paragraph (a) with the following:***

(a) the trade is made through a registered dealer, if the dealer is registered in a category that permits the trade unless, in furtherance of the trade, the person or company seeking the exemption solicits or contacts directly any purchaser or prospective purchaser in relation to the trade.

***15. Division 1 of Part 8 is amended by adding the following section:***

**8.5.1 Trades through a registered dealer by registered adviser**

The dealer registration requirement does not apply to a registered adviser, or an advising representative or associate advising representative acting on behalf of an adviser, in respect of trading activities that are incidental to its providing advice to a client, if the trade is made through a registered dealer registered in a category that permits the trade.

***16. Paragraph (a) of section 8.9 is amended by***

***(a) replacing, in clause (i), "***sections 86(e)***" with "***section 86(e)" ***and adding "***paragraph***" before*** "131(1)(d)" ***,***

***(b) replacing, in clause (iii), "***sections 19(3)***" with "***section 19(3)" ***and adding "***paragraph***" before "***58.(1)(a) of the *Securities Act* (Manitoba)***",***

***(c) replacing, in clause (v), "***sections 36(1)(e)***" with "***paragraphs 36(1)(e)***",***

***(d) replacing, in clause (vi), "***sections 41(1)(e)***" with "***paragraphs 41(1)(e)***",***

***(e) replacing, in clause (vii), and (viii), "***section***" with "***sections***",***

***(f) replacing, in clause (ix), "***sections***" with "***section***" and adding "***paragraph***" before "***72(1)(d) of the *Securities Act* (Ontario)***",***

***(g) replacing, in clause (x), "***section 2(3)(d)***" with "***paragraph 2(3)(d)***" and***

***(h) replacing, in clause (xii), "***sections***" with "***paragraphs***".***

***17. Subsection 8.15(2) is amended by adding "***or Alberta***" after "***Ontario***".***

***18. Subsection 8.17(2) is amended by replacing "***subsection***" with "***paragraph***".***

***19. Section 8.18 is amended by***

***(a) deleting, in subsection (1), the definition of "***Canadian permitted client***",***

***(b) deleting, in subsections (2) and (4), "***Canadian***" before "***permitted client***",***

***(c) replacing, in paragraph (f) of subsection (2), "***acting***" with "***purchasing***", and***

***(e) replacing, in paragraph (d) of subsection (3), "***acting as principal or as agent***" with "***trading as principal or agent***".***

***20. Paragraph 8.19(2)(a) is amended by replacing, in clause (i), "***section***" with "***paragraph***".***

***21. Section 8.20 is amended by***

***(a) replacing subsection (1) with the following:***

**(1)** In Alberta, British Columbia, New Brunswick and Saskatchewan, the dealer registration requirement does not apply to a person or company in respect of a trade in an exchange contract by the person or company if one of the following applies:

(a) the trade is made through a registered dealer, if the dealer is registered in a category that permits the trade unless, in furtherance of the trade, the person or company seeking the exemption solicits or contacts directly any purchaser or prospective purchaser in relation to the trade;

(b) the trade is made to a registered dealer who is purchasing as principal, if the dealer is registered in a category that permits the trade***, and***

***(b) repealing subsections (2) and (3).***

***22. Section 8.21 is amended by deleting the definitions of "***designated credit rating***", "***designated credit rating organization***" and "***DRO affiliate***",***

***23. Subsection 8.22(3) is amended by replacing "***subsection***" with "***paragraph***".***

***24. Part 8 is amended by adding the following section:***

**8.22.1 Short-term debt**

**(1)** In this section

"minimum rating" means, for a short-term debt instrument, a rating issued by a designated rating organization, or its DRO affiliate, that is at or above one of the following ratings or that is at or above a rating that replaces one of the following:

| **Designated Rating Organization** | **Rating** |
|---|---|
| DBRS Limited | R-1 (low) |
| Fitch, Inc. | F2 |
| Moody's Canada Inc. | P-2 |
| Standard & Poor's Rating Service (Canada) | A-2 |

"short-term debt instrument" means a negotiable promissory note or commercial paper maturing not more than one year from the date of issue.

**(2)** Except in Ontario, the dealer registration requirement does not apply to any of the following in respect of a trade in a short-term debt instrument with a permitted client

(a) a bank listed in Schedule I, II or III to the *Bank Act* (Canada);

(b) an association to which the *Cooperative Credit Associations Act* (Canada) applies or a central cooperative credit society for which an order has been made under subsection 473 (1) of that Act;

(c) a loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative or credit union league or federation that is authorized by a statute of Canada or of a jurisdiction in Canada to carry on business in Canada or in any jurisdiction in Canada, as the case may be;

(d) the Business Development Bank of Canada;

**(3)** The exemption under subsection (2) is not available to a person or company unless the short-term debt instrument

(a) is not convertible or exchangeable into, or accompanied by a right to purchase, another security other than another short-term debt instrument; and

(b) has a minimum rating from a designated rating organization or its DRO affiliate.

***25. Part 8 is amended by adding the following section after the title of Division 2:***

**8.22.2 General condition to adviser registration requirement exemptions**

The exemptions in this Division are not available to a person or company if the person or company is registered in any jurisdiction of Canada in a category of registration that permits the person or company to act as an adviser in respect of the activities for which the exemption is provided.

***26. Section 8.26 is amended by***

***(a) deleting, in subsection (2), the definition of "***Canadian permitted client***", and***

***(b) by replacing subsection (3) with the following:***

**(3)** The adviser registration requirement does not apply to a person or company in respect of its acting as an adviser to a permitted client, other than a permitted client that is person or company registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer, if the adviser does not advise that client on securities of Canadian issuers, unless providing that advice is incidental to its providing advice on a foreign security.

***27. Part 8 is amended by adding the following section:***

**8.26.1 International sub-adviser**

**(1)** The adviser registration requirement does not apply to a sub-adviser if all of the following apply:

(a) the obligations and duties of the sub-adviser are set out in a written agreement with the registered adviser or registered dealer;

(b) the registered adviser or registered dealer has entered into a written agreement with its clients on whose behalf investment advice is or portfolio management services are to be provided, agreeing to be responsible for any loss that arises out of the failure of the sub-adviser

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the registrant and each client of the registrant for whose benefit the advice is or portfolio management services are to be provided, or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;

(c) the sub-adviser has no direct contact with the registered adviser's clients or registered dealer's clients unless the registered adviser or registered dealer is present either in person or by telephone

or other real-time communications technology, in which there is an opportunity for a live discussion between all parties.

**(2)** The exemption under subsection (1) is not available unless all of the following apply

(a) the sub-adviser's head office or principal place of business is in a foreign jurisdiction;

(b) the sub-adviser is registered or operates under an exemption from registration, under the securities legislation of the foreign jurisdiction in which its head office or principal place of business is located, that permits it to carry on the activities in that jurisdiction that registration as an adviser would permit it to carry on in the local jurisdiction;

(c) the sub-adviser engages in the business of an adviser in the foreign jurisdiction in which its head office or principal place of business is located.

***28. Part 8 is amended by adding the following section after the title of Division 3:***

**8.26.2 General condition to investment fund manager registration requirement exemptions**

The exemptions in this Division are not available to a person or company if the person or company is registered in any jurisdiction of Canada as an investment fund manager***.***

***29. Part 8 is amended by replacing section 8.28 with the following:***

**8.28 Capital accumulation plan exemption**

**(1)** In this section

"capital accumulation plan" means a tax assisted investment or savings plan, including a defined contribution registered pension plan, a group registered retirement savings plan, a group registered education savings plan, or a deferred profit-sharing plan, that permits a plan member to make investment decisions among two or more investment options offered within the plan, and in Québec and Manitoba, includes a simplified pension plan;

"plan member" means a person that has assets in a capital accumulation plan;

"plan sponsor" means an employer, trustee, trade union or association or a combination of them that establishes a capital accumulation plan, and includes a plan service provider to the extent that the plan sponsor has delegated its responsibilities to the plan service provider; and

"plan service provider" means, a person that provides services to a plan sponsor to design, establish, or operate a capital accumulation plan.

**(2)** The investment fund manager registration requirement does not apply to a plan sponsor or their plan service provider in respect of activities related to a capital accumulation plan.

***30. Section 9.1 is amended by replacing "***Dealer Member***" with "***dealer member***".***

***31. Part 11 is amended by***

***(a) replacing section 11.9 with the following:***

**11.9 Registrant acquiring a registered firm's securities or assets**

**(1)** A registrant must give the regulator or, in Québec, the securities regulatory authority written notice in accordance with subsection (2) if it proposes to acquire any of the following:

(a) for the first time, direct or indirect ownership, beneficial or otherwise, of 10% or more of the voting securities or other securities convertible into voting securities of

(i) a firm registered in any jurisdiction of Canada or any foreign jurisdiction; and

(ii) a person or company of which a firm registered in any jurisdiction of Canada or any foreign jurisdiction is a subsidiary;

(b) all or a substantial part of the assets of a firm registered in any jurisdiction of Canada or any foreign jurisdiction.

**(2)** The notice required under subsection (1) must be delivered to the regulator or, in Québec, the securities regulatory authority at least 30 days before the proposed acquisition and must include all relevant facts regarding the acquisition sufficient to enable the regulator or the securities regulatory authority to determine if the acquisition is

(a) likely to give rise to a conflict of interest,

(b) likely to hinder the registered firm in complying with securities legislation,

(c) inconsistent with an adequate level of investor protection, or

(d) otherwise prejudicial to the public interest.

**(3)** [*repealed* (insert date)]

**(4)** Except in Ontario and British Columbia, if, within 30 days of the receipt of a notice under subsection (1), the regulator or, in Québec, the securities regulatory authority notifies the registrant making the acquisition that the regulator or, in Québec, the securities regulatory authority objects to the acquisition, the acquisition must not occur until the regulator or the securities regulatory authority approves it.

**(5)** In Ontario, if, within 30 days of the receipt of a notice under subparagraph (1)(a)(i) or paragraph (1)(b), the regulator notifies the registrant making the acquisition that the regulator objects to the acquisition, the acquisition must not occur until the regulator approves it.

**(6)** Following receipt of a notice of objection under subsection (4) or (5), the person or company who submitted the notice under subsection (1) may request an opportunity to be heard on the matter by the regulator or, in Québec, the securities regulatory authority objecting to the acquisition***, and***

***(b) replacing section 11.10 with the following:***

**11.10 Registered firm whose securities are acquired**

**(1)** A registered firm must give the regulator or, in Québec, the securities regulatory authority written notice in accordance with subsection (2) if it knows or has reason to believe that any person or company, alone or in combination with any other person or company, is about to acquire, or has acquired, for the first time, direct or indirect ownership, beneficial or otherwise, of 10% or more of the voting securities or other securities convertible into voting securities of any of the following:

(a) the registered firm;

(b) a person or company of which the registered firm is a subsidiary.

**(2)** The notice required under subsection (1) must,

(a) be delivered to the regulator or, in Québec, the securities regulatory authority as soon as possible,

(b) include the name of each person or company involved in the acquisition, and

(c) include all facts, to the best of the registered firm's knowledge after reasonable inquiry, regarding the acquisition that are sufficient to enable the regulator or the securities regulatory authority to determine if the acquisition is

(i) likely to give rise to a conflict of interest,

(ii) likely to hinder the registered firm in complying with securities legislation,

(iii) inconsistent with an adequate level of investor protection, or

(iv) otherwise prejudicial to the public interest.

**(3)** [*repealed* (insert date)]

**(4)** This section does not apply if notice of the acquisition was provided under section 11.9 [*registrant acquiring a registered firm's securities or assets*].

**(5)** Except in British Columbia and Ontario, if, within 30 days of the receipt of a notice under subsection (1), the regulator or the securities regulatory authority notifies the person or company making the acquisition

that the regulator or, in Québec, the securities regulatory authority objects to the acquisition, the acquisition must not occur until the regulator or the securities regulatory authority approves it.

**(6)** In Ontario, if, within 30 days of the receipt of a notice under paragraph (1)(a), the regulator notifies the person or company making the acquisition that the regulator objects to the acquisition, the acquisition must not occur until the regulator approves it.

**(7)** Following receipt of a notice of objection under subsection (5) or (6), the person or company proposing to make the acquisition may request an opportunity to be heard on the matter by the regulator or, in Québec, the securities regulatory authority objecting to the acquisition.

***32. Section 12.2 is replaced with the following:***

**12.2 Subordination agreement**

**(1)** If a registered firm has entered into a subordination agreement in the form set out in Appendix B, it may exclude the amount of non-current related party debt subordinated under that agreement from the calculation of its excess working capital on Form 31-103F1 *Calculation of Excess Working Capital*.

**(2)** The registered firm must deliver an executed copy of the subordination agreement referred to subsection (1) to the regulator or, in Québec, the securities regulatory authority on the earliest of the following dates:

(a) 10 days after the date on which the subordination agreement is executed;

(b) on the date on which the amount of the subordinated debt is excluded from the registered firm's non-current related party debt as calculated on Form 31-103F1 *Calculation of Excess Working Capital.*

**(3)** The registered firm must notify the regulator or, in Québec, the securities regulatory authority 10 days before it

(a) repays the loan or any part of the loan, or

(b) terminates the agreement.

***33. Paragraph (b) of section 12.6 is amended by replacing "***may***" with "***must***".***

***34. Subsection (3) of section 12.12 is replaced with the following:***

**(3)** Subsection (2) does not apply to an exempt market dealer unless it is also registered in another category, other than the portfolio manager or restricted portfolio manager category.

***35. Section 12.14 is amended by***

***(a) replacing paragraph (c) of subsection (1) with the following:***

(c) a completed Form 31-103F4 *Net Asset Value Adjustments* if any net asset value adjustment has been made in respect of an investment fund managed by the investment fund manager during the financial year.

***(b) replacing paragraph (c) of subsection (2) with the following:***

(c) a completed Form 31-103F4 *Net Asset Value Adjustments* if any net asset value adjustment has been made in respect of an investment fund managed by the investment fund manager during the interim period***, and***

***(c) repealing subsection (3).***

***36. Part 12 is amended by repealing section 12.15.***

***37. Section 13.2 is amended by adding, in paragraph (2)(c), "***[*suitability*]***" after "***section 13.3***".***

***38. Subsection 13.10(1) is amended by replacing "***subsection 13.8(c)***" with "***paragraph 13.8(c)***".***

***39. Part 13 is amended by adding the following division:***

**Division 6 – Registered sub-advisers**

**13.17 Exemption from certain requirements for registered sub-advisers**

**(1)** A registered sub-adviser is exempt from the following requirements in respect of its activities as a sub-adviser:

(a) section 13.4 [*identifying and responding to conflicts of interest*];

(b) division 3 [*referral arrangements*] of Part 13;

(c) division 5 [*complaints*] of Part 13;

(d) section 14.3 [*disclosure to clients about the fair allocation of investment opportunities*];

(e) section 14.5 [*notice to clients by non-resident registrants*];

(f) section 14.14 [*account statements*].

**(2)** The exemption under subsection (1) is not available unless all of the following apply:

(a) the obligations and duties of the sub-adviser are set out in a written agreement with the sub-adviser's registered adviser or registered dealer;

(b) the other registered adviser or registered dealer has entered into a written agreement with its clients on whose behalf investment advice is or portfolio management services are to be provided agreeing to be responsible for any loss that arises out of the failure of the sub-adviser:

(i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the registrant and each client of the registrant for whose benefit the advice is or portfolio management services are to be provided, or

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;

(c) the sub-adviser has no direct contact with the registered adviser's or registered dealer's clients unless the registered adviser or registered dealer is present either in person or by telephone or other real-time communications technology, in which there is an opportunity for a live discussion between all parties.

***40. Part 14 is amended by***

***(a) amending subsection 14.1.1 as that subsection is scheduled to come into force on July 15, 2015, by replacing "***An investment fund manager***" with "***A registered investment fund manager***",***

***(b) amending clause (iii) of subsection 14.11.1(1) by replacing "***subparagraphs***" with "***subparagraph***",***

***(c) amending subsection 14.14 (2.1) by replacing "***section***" with "***paragraph***",***

***(d) amending subsections 14.14(4) and 14.14(5), as these subsections are scheduled to come into force on July 15, 2015, by replacing "***subsections***" with "***subsection***", and***

***(f) amending subsection 14.19(1), as that subsection is scheduled to come into force on July 15, 2016, by replacing "***subsections***" with "***subsection***".***

***41. Subsection 15.1 is amended by deleting "***in Québec***".***

***42. Part 16 is amended by***

***(a) repealing sections 16.1, 16.2, 16.3, 16.4, 16.5, 16.6, 16.7, 16.8 and subsections 16.9(1), 16.(3) and 16.9(4), and***

***(b) replacing section 16.10 with the following:***

**16.10 Proficiency for dealing and advising representatives**

**(1)** If an individual is registered in a jurisdiction of Canada as a dealing or advising representative in a

category referred to in a section of Division 2 of Part 3 [*education and experience requirements*] on the day this Instrument comes into force, that section does not apply to the individual so long as the individual remains registered in the category***, and***

***(c) deleting sections 16.11, 16.13, 16.14, 16.15, 16.16, 16.17, 16.18, 16.19 and 16.20.***

***43. Form 31-103F1 Calculation of Excess Working Capital is amended by***

***(a) replacing Line 5 with the following:***

| |
|---|
| Add 100% of non-current related party debt unless the firm and the lender have executed a subordination agreement in the form set out in Appendix B of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and the firm has delivered a copy of the agreement to the regulator or, in Québec, the securities regulatory authority. See section 12.2 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. |

***(b) replacing the introduction to the notes by the following:***

**Notes:**

Form 31-103F1 *Calculation of Excess Working Capital* must be prepared using the accounting principles that you use to prepare your financial statements in accordance with National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*. Section 12.1 of Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* provides further guidance in respect of these accounting principles.

***(c) replacing the notes to Lines 5, 8 and 9 by the following:***

**Line 5. Related-party debt** – Refer to the CICA Handbook for the definition of "related party" for publicly accountable enterprises. The firm is required to deliver a copy of the executed subordination agreement to the regulator or, in Québec, the securities regulatory authority on the earlier of a) 10 days after the date the agreement is executed or b) the date an amount subordinated by the agreement is excluded from its calculation of excess working capital on Form 31-103F1 *Calculation of Excess Working Capital*. The firm must notify the regulator or, in Québec, the securities regulatory authority, 10 days before it repays the loan (in whole or in part), or terminates the subordination agreement. See section 12.2 of National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

**Line 8. Minimum Capital** – The amount on this line must be not less than (a) $25,000 for an adviser and (b) $50,000 for a dealer. For an investment fund manager, the amount must be not less than $100,000 unless subsection 12.1(4) of National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations* applies.

**Line 9. Market Risk** – The amount on this line must be calculated according to the instructions set out in Schedule 1 to Form 31-103F1 *Calculation of Excess Working Capital*. A schedule supporting the calculation of any amounts included in Line 9 as market risk should be provided to the regulator or, in Québec, the securities regulatory authority in conjunction with the submission of Form 31-103F1 *Calculation of Excess Working Capital*.

***(d) in the last line of Line 12, replacing "***this form***" with "***Form 31-103 *Calculation of Excess Working Capital****".***

***(e) adding, immediately before paragraph (e) of Schedule 1 of Form 31-103 Calculation of Excess Working Capital, the following:***

Securities of mutual funds qualified by prospectus for sale in the United States of America: 5% of the net asset value per security if the fund is registered as an investment company under the *Investment Companies Act of 1940*, as amended from time to time, and complies with Rule 2a-7 thereof.

***(f) by replacing paragraph (l) of clause (ii) of paragraph (e) of Schedule 1 of Form 31-103 Calculation of Excess Working Capital with the following:***

(l) SIX Swiss Exchange

***(g) by deleting, in paragraph (b) of clause (i) of paragraph (f) of Schedule 1 of Form 31-103 Calculation of Excess Working Capital, "***of the loan or the rates set by Canadian financial institutions or Schedule III Banks, whichever is greater***", and***

***(h) by deleting, in paragraph (b) of clause (ii) of paragraph (f) of Schedule 1 of Form 31-103 Calculation of***

***Excess Working Capital, "***of the loan or the rates set by Canadian financial institutions or Schedule III Banks, whichever is greater***".***

***44. The following form is added:***

**FORM 31-103F4 NET ASSET VALUE ADJUSTMENTS**
**(Section 12.14 [d*elivering financial information – investment fund manager*])**

This is to notify the regulator or, in Québec, the securities regulatory authority, of a net asset value (NAV) adjustment made in respect of an investment fund managed by the investment fund manager in accordance with paragraph 12.14(1)(c) or paragraph 12.14(2)(c). Please attach a schedule if you are completing this form for several investment funds.

Name of the investment fund manager: _____

Name of each of the investment funds for which a NAV adjustment occurred (attach a schedule if necessary):

_____

_____

_____

Date(s) of the NAV error: _____

Date of the NAV adjustment: _____

Total dollar amount of the NAV adjustment for each of the investment funds affected (attach a schedule if necessary):

_____

Percentage change in NAV for each of the investment funds affected due to the NAV adjustment (attach a schedule if necessary):_____

Was the NAV adjustment a result of a material error under the investment fund manager's policies and procedures?:

Yes ☐ No ☐

NAV of each of the investment funds affected at the end of the interim period or financial year end (attach a schedule if necessary): _____

Date of the reimbursement: _____

Total amount reimbursed to each of the investment funds, if any (attach a schedule if necessary):
_____

Total amount reimbursed to the security holders of each of the investment funds, if any (attach a schedule if necessary): _____

Effect (if any) of the NAV adjustment on the NAV per unit or share of each of the investment funds (attach a schedule if necessary): _____

Description and date of any corrections made to purchase and redemption transactions affecting either the investment funds or security holders of each of the investment funds (attach a schedule if necessary):

_____

_____

_____

Description of the cause of the NAV adjustment:

_____

_____

_____

How long before the NAV error was discovered?

_____

How long after the NAV error was discovered was the NAV adjustment made?

_____

Was the NAV error discovered by the investment fund manager?

Yes ☐ No ☐

If “no”, who discovered the NAV error?

_____

Have the policies and procedures of the investment fund manager been changed following the NAV adjustment?

Yes ☐ No ☐

If “yes”, describe the changes:

_____

_____

_____

Has the NAV adjustment been communicated to security holders of each of the investment funds affected?

Yes ☐ No ☐

If “yes”, describe the communications (attach a schedule if necessary):

_____

_____

_____

***45.*** **Appendix G is amended, under the caption “IIROC provision” with regard to “subsection 14.2(2) [*relationship disclosure information*]”, by**

***(a)*** ***deleting the following:***

IIROC has not yet 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***, and***

***(b)*** ***adding*** “9. Dealer Member Rule 3500 [Relationship Disclosure]” ***at the end of the list of IIROC provisions.***

***46.*** ***Appendices C, D, E and F are deleted.***

**Coming into force**

***47.*** ***This Instrument comes into force on •, 2014.***

**Annex B**

**Companion Policy 31-103 CP**
***Registration Requirements, Exemptions and Ongoing Registrant Obligations***

## Part 1 Definitions and fundamental concepts

### 1.1 Introduction

**Purpose of this Companion Policy**

This Companion Policy sets out how the Canadian Securities Administrators (the CSA or we) interpret or apply the provisions of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (*NI 31-103) and related securities legislation.

**Numbering system**

Except for Part 1, the numbering of Parts, Divisions and sections in this Companion Policy ~~correspond~~corresponds to the numbering in NI 31-103. Any general guidance for a Part or a Division appears immediately after the Part or Division name. Any specific guidance on sections in NI 31-103 follows any general guidance. If there is no guidance for a Part, Division or section, the numbering in this Companion Policy will skip to the next provision that does have guidance.

All references in this Companion Policy to sections, Parts and Divisions are to NI 31-103, unless otherwise noted.

**Additional requirements applicable to registrants**

For additional requirements that may apply to them, registrants should refer to:

- National Instrument 31-102 *National Registration Database* (NI 31-102) and the Companion Policy to NI 31-102
- National Instrument 33-109 *Registration Information* (NI 33-109) and the Companion Policy to NI 33-109
- National Policy 11-204 *Process for Registration in Multiple Jurisdictions* (NP 11-204), and
- securities and derivatives legislation in their jurisdiction

Registrants that are members of a self-regulatory organization (SRO) must also comply with their SRO's requirements.

**Disclosure and notices**

***Delivering disclosure and notices to the principal regulator***

Under section 1.3, registrants must deliver all disclosure and notices required under NI 31-103 to the registrant's principal regulator. This does not apply to notices under sections~~:~~

- ~~8.18 *International dealer*~~
- ~~and~~ 8.26 *International adviser*
- ~~11.9 *Registrant acquiring a registered firm's securities or assets*, and~~
- ~~11.10 *Registered firm whose securities are acquired*~~

. Registrants must deliver these notices to the regulator in each jurisdiction where they are registered or relying on an exemption from registration.

***Electronic delivery of documents***

These documents may be delivered electronically. Registrants should refer to National Policy 11-201 *Electronic Delivery of Documents by Electronic Means* and, in Québec, Notice 11-201 *Delivery of Documents by Electronic Means*.

See Appendix A for contact information for each regulator.

**Clear and meaningful disclosure to clients**

We expect registrants to present disclosure information to clients in a clear and meaningful manner in order to ensure clients understand the information presented. Registrants should ensure that investors can readily understand the information. These requirements are consistent with the obligation to deal fairly, honestly and in good faith with clients.

**1.2 Definitions**

Unless defined in NI 31-103, terms used in NI 31-103 and in this Companion Policy have the meaning given to them in the securities legislation of each jurisdiction or in National Instrument 14-101 *Definitions*. See Appendix B for a list of some terms that are not defined in NI 31-103 or this Companion Policy but are defined in other securities legislation.

In this Companion Policy "regulator" means the regulator or securities regulatory authority in a jurisdiction.

**Permitted client**

The following discussion provides guidance on the term "permitted client", which is defined in section 1.1.

"Permitted client" is used in the following sections:

- 8.18 *International dealer*
- 8.22.1 *Short-term debt*
- 8.26 *International adviser*
- 13.2 *Know your client*
- 13.3 *Suitability*
- 13.13 *Disclosure when recommending the use of borrowed money*
- 14.2 *Relationship disclosure information*, and
- 14.2.1 *Pre-trade disclosure of charges*
- 14.4 *When the firm has a relationship with a financial institution*
- 14.14.1 *Additional statements*
- 14.14.2 *Position cost information*
- 14.17 *Report on charges and other compensation*
- 14.18 *Investment performance report*

***Exemptions from registration when dealing with permitted clients***

~~NI 31-103 exempts~~Sections 8.18 and 8.26 exempt international dealers and international advisers from the registration requirement if they deal with certain permitted clients and meet certain other conditions.

Section 8.22.1 exempts certain financial institutions from the dealer registration requirement when dealing in a short-term debt instrument with permitted clients.

***Exemptions from other requirements when dealing with permitted clients***

Under section 13.3, permitted clients may waive their right to have a registrant determine that a trade is suitable. In order to rely on this exemption, the registrant must determine that a client is a permitted client at the time the client waives their right to suitability.

Under sections 13.13~~, 14.2~~ and 14.4, registrants do not have to provide certain disclosures to permitted clients. In order to rely on these exemptions, registrants must determine that a client is a permitted client at the time the client opens an account.

Under sections 14.2, 14.2.1, 14.14.1, 14.14.2, 14.17 and 14.18, registrants do not have to provide certain disclosures or reports to a permitted client that is not an individual.

***Determining assets***

The definition of permitted client includes monetary thresholds based on the value of the client's assets. The monetary thresholds in paragraphs (o) and (q) of the definition are intended to create "bright-line" standards. Investors who do not satisfy these thresholds do not qualify as permitted clients under the applicable paragraph.

***Paragraph (o) of the definition***

Paragraph (o) refers to an individual who beneficially owns financial assets with an aggregate realizable value that exceeds $5 million, before taxes but net of any related liabilities.

In general, determining whether financial assets are beneficially owned by an individual should be straightforward. However, this determination may be more difficult if financial assets are held in a trust or in other types of investment vehicles for the benefit of an individual.

Factors indicating beneficial ownership of financial assets include:

- possession of evidence of ownership of the financial asset
- entitlement to receive any income generated by the financial asset
- risk of loss of the value of the financial asset, and
- the ability to dispose of the financial asset or otherwise deal with it as the individual sees fit

For example, securities held in a self-directed RRSP for the sole benefit of an individual are beneficially owned by that individual. Securities held in a group RRSP are not beneficially owned if the individual cannot acquire and deal with the securities directly.

"Financial assets" is defined in section 1.1 of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106).

Realizable value is typically the amount that would be received by selling an asset.

***Paragraph (q) of the definition***

Paragraph (q) refers to a person or company that has net assets of at least $25 million, as shown on its last financial statements. "Net assets" under this paragraph is total assets minus total liabilities.

**1.3 Fundamental concepts**

This section describes the fundamental concepts that form the basis of the registration regime:

- requirement to register
- business trigger for trading and advising, and
- fitness for registration

A registered firm is responsible for the conduct of the individuals whose registration it sponsors. A registered firm

- must undertake due diligence before sponsoring an individual to be registered to act on its behalf (see further guidance in Part 4 *Due diligence by firms* of the Companion Policy to NI 33-109)
- has an ongoing obligation to monitor and supervise its registered individuals in an effective manner (see further guidance in section 11.1 of this Companion Policy)

Failure of a registered firm to take reasonable steps to discharge these responsibilities may be relevant to the firm's own continued fitness for registration.

***Requirement to register***

The requirement to register is found in securities legislation. Firms must register if they are:

- in the business of trading
- in the business of advising
- holding themselves out as being in the business of trading or advising
- acting as an underwriter, or
- acting as an investment fund manager

Individuals must register if they trade, underwrite or advise on behalf of a registered dealer or adviser, or act as the ultimate designated person (UDP) or chief compliance officer (CCO) of a registered firm. Except for the UDP and the CCO, individuals who act on behalf of a registered investment fund manager do not have to register.

However, all permitted individuals of any registrant must file Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* (Form 33-109F4).

There is no renewal requirement for registration, but fees must be paid every year to maintain registration.

***Multiple categories***

Registration in more than one category may be necessary. For example, an adviser that also manages an investment fund may have to register as a portfolio manager and an investment fund manager. An adviser that manages a portfolio and distributes units of an investment fund may have to register as a portfolio manager and as a dealer.

***Registration exemptions***

NI 31-103 provides exemptions from the registration requirement. There may be additional exemptions in securities legislation. Some exemptions do not need to be applied for if the conditions of the exemption are met. In other cases, on receipt of an application, the regulator has discretion to grant exemptions for specified dealers, advisers or investment fund managers, or activities carried out by them if registration is required but specific circumstances indicate that it is not otherwise necessary for investor protection or market integrity.

**Business trigger for trading and advising**

We refer to trading or advising in securities for a business purpose as the “business trigger” for registration.

We look at the type of activity and whether it is carried out for a business purpose to determine if an individual or firm must register. We consider the factors set out below, among others, to determine if the activity is for a business purpose. For the most part, these factors are from case law and regulatory decisions that have interpreted the business purpose test for securities matters.

***Factors in determining business purpose***

This section describes factors that we consider relevant in determining whether an individual or firm is trading or advising in securities for a business purpose and, therefore, subject to the dealer or adviser registration requirement.

This is not a complete list. We do not automatically assume that any one of these factors on its own will determine whether an individual or firm is in the business of trading or advising in securities.

***(a) Engaging in activities similar to a registrant***

We usually consider an individual or firm engaging in activities similar to those of a registrant to be trading or advising for a business purpose. Examples include promoting securities or stating in any way that the individual or firm will buy or sell securities. If an individual or firm sets up a business to carry out any of these activities, we may consider them to be trading or advising for a business purpose.

***(b) Intermediating trades or acting as a market maker***

In general, we consider intermediating a trade between a seller and a buyer of securities to be trading for a business purpose. This typically takes the form of the business commonly referred to as a broker. Making a market in securities is also generally considered to be trading for a business purpose.

***(c) Directly or indirectly carrying on the activity with repetition, regularity or continuity***

Frequent or regular transactions are a common indicator that an individual or firm may be engaged in trading or advising for a business purpose. The activity does not have to be their sole or even primary endeavour for them to be in the business.

We consider regularly trading or advising in any way that produces, or is intended to produce, profits to be for a business purpose. We also consider any other sources of income and how much time an individual or firm spends on all activities associated with the trading or advising.

***(d) Being, or expecting to be, remunerated or compensated***

Receiving, or expecting to receive, any form of compensation for carrying on the activity, including whether the compensation is transaction or value based, indicates a business purpose. It does not matter if the individual or firm actually receives compensation or in what form. Having the capacity or the ability to carry on the activity to produce profit is also a relevant factor.

***(e) Directly or indirectly soliciting***

Contacting anyone to solicit securities transactions or to offer advice may reflect a business purpose. Solicitation includes contacting someone by any means, including advertising that proposes buying or selling securities or participating in a securities transaction, or that offers services or advice for these purposes.

***Business trigger examples***

This section explains how the business trigger might apply to some common situations.

***(a) Securities issuers***

A securities issuer is an entity that issues or trades in its own securities. In general, securities issuers with an active non-securities business do not have to register as a dealer if they:

- do not hold themselves out as being in the business of trading in securities
- trade in securities infrequently
- are not, or do not expect to be, compensated for trading in securities
- do not act as intermediaries, and
- do not produce, or intend to produce, a profit from trading in securities

We consider a start-up to have an "active non-securities business", if the entity is raising capital to start a non-securities business. We would expect the entity to have a business plan. Although the entity does not need to be producing a product or delivering a service, they must have a bona fide plan to do so, hopefully within a specified period. For example, technology companies may raise money with only a business plan for many years before they start producing a product or delivering a service, but generally the business plan will include milestones and the time anticipated to reach those milestones. In our view, to consider that an entity only has an "active business" if it is producing a product would mean many junior mineral exploration companies (even listed ones) do not have an "active business".

However, securities issuers may have to register as a dealer if they:

- frequently trade in securities. We recognize that trading and soliciting may be more frequent during the start-up stage, as the issuer needs to raise capital to launch the business. If the trading and soliciting is for the purpose of advancing the business, then the frequency of the activities alone should not result in the issuer being in the business of trading in securities.

However, the capital raising must be primarily to support advancement of the business plan, not to simply sustain the issuer. During the start-up period, the use of the proceeds must support the business plan. If the capital raising and use of that capital is not advancing the business, the issuer may need to register as a dealer.

Although at the start-up stage of a business, many issuers actively solicit through officers, directors or other employees, we would likely find the issuer and these individuals to be in the business of trading if:

- the principal purpose of their employment is raising capital,
- they spend the majority of their time raising capital, or
- any of their remuneration is tied to their capital raising activities.

Securities issuers may also have to register as a dealer if they

- employ or otherwise contract individuals to perform activities on their behalf that are similar to those performed by a registrant (other than underwriting in the normal course of a distribution or trading for their own account)
- solicit investors actively, or
- act as an intermediary by investing client money in securities

For example, an investment fund manager that carries out the activities described above may have to register as a dealer.

Securities issuers that are in the business of trading should consider whether they qualify for the exemption from the registration requirement for trades through a registered dealer in section 8.5.

In most cases, securities issuers are subject to the prospectus requirements in securities legislation. Regulators have the discretionary authority to require an underwriter for a prospectus distribution.

***(b) Venture capital and private equity***

This guidance does not apply to labour sponsored or venture capital funds as defined in National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106).

Venture capital and private equity investing are distinguished from other forms of investing by the role played by venture capital and private equity management companies (collectively, VCs). This type of investing includes a range of activities that may require registration.

VCs typically raise money under one of the prospectus exemptions in NI 45-106, including for trades to "accredited investors". The investors typically agree that their money will remain invested for a period of time. The VC uses this money to invest in securities of companies that are usually not publicly traded. The VC usually becomes actively involved in the management of the company, often over several years.

Examples of active management in a company include the VC having:

- representation on the board of directors
- direct involvement in the appointment of managers
- a say in material management decisions

The VC looks to realize on the investment either through a public offering of the company's securities, or a sale of the business. At this point, the investors' money can be returned to them, along with any profit.

Investors rely on the VC's expertise in selecting and managing the companies it invests in. In return, the VC receives a management fee or "carried interest" in the profits generated from these investments. They do not receive compensation for raising capital or trading in securities.

Applying the business trigger factors to the VC activities as described above, there would be no requirement for the VC to register as:

- a portfolio manager, if the advice provided in connection with the purchase and sale of companies is incidental to the VC's active management of these companies, or
- a dealer, if both the raising of money from investors and the investing of that money by the VC (in securities of companies that are usually not publicly traded) are occasional and uncompensated activities

If the VC is actively involved in the management of the companies it invests in, the investment portfolio would generally not be considered an investment fund. As a result, the VC would not need to register as an investment fund manager.

The business trigger factors and investment fund manager analysis may apply differently if the VC engages in activities other than those described above.

***(c) One-time activities***

In general, we do not require registration for one-time trading or advising activities. This includes trading or advising that:

- is carried out by an individual or firm acting as a trustee, executor, administrator, personal or other legal representative, or
- relates to the sale of a business

***(d) Incidental activities***

If trading or advising activity is incidental to a firm's primary business, we may not consider it to be for a business purpose.

For example, merger and acquisition specialists that advise the parties to a transaction between companies are not normally required to register as dealers or advisers in connection with that activity, even though the transaction may result in trades in securities and they will be compensated for the advice. If the transaction

results in trades in the securities of the company to an acquirer, this is considered incidental to the acquisition transaction. However, if the merger and acquisition specialists also engage in capital raising from prospective investors (including private placements), they will need to consider whether such activity would be in the business of trading and require registration.

Another example is professionals, such as lawyers, accountants, engineers, geologists and teachers, who may provide advice on securities in the normal course of their professional activities. We do not consider them to be advising on securities for a business purpose. For the most part, any advice on securities will be incidental to their professional activities. This is because they:

- do not regularly advise on securities
- are not compensated separately for advising on securities
- do not solicit clients on the basis of their securities advice, and
- do not hold themselves out as being in the business of advising on securities

***Registration trigger for investment fund managers***

Investment fund managers are subject to a registration trigger. This means that if a firm carries on the activities of an investment fund manager, it must register. However, investment fund managers are not subject to the business trigger.

**Fitness for registration**

The regulator will only register an applicant if they appear to be fit for registration. Following registration, individuals and firms must maintain their fitness in order to remain registered. If the regulator determines that a registrant has become unfit for registration, the regulator may suspend or revoke the registration. See Part 6 of this Companion Policy for guidance on suspension and revocation of individual registration. See Part 10 of this Companion Policy for guidance on suspension and revocation of firm registration.

***Terms and conditions***

The regulator may impose terms and conditions on a registration at the time of registration or at any time after registration. Terms and conditions imposed at the time of registration are generally permanent, for example, in the case of a restricted dealer who is limited to specific activities. Terms and conditions imposed after registration are generally temporary. For example, if a registrant does not maintain the required capital, it may have to file monthly financial statements and capital calculations until the regulator's concerns are addressed.

***Opportunity to be heard***

Applicants and registrants have an opportunity to be heard by the regulator before their application for registration is denied. They also have an opportunity to be heard before the regulator imposes terms and conditions on their registration if they disagree with the terms and conditions.

***Assessing fitness for registration – firms***

We assess whether a firm is or remains fit for registration through the information it is required to provide on registration application forms and as a registrant, and through compliance reviews. Based on this information, we consider whether the firm is able to carry out its obligations under securities legislation. For example, registered firms must be financially viable. A firm that is insolvent or has a history of bankruptcy may not be fit for registration.

In addition, when determining whether a firm whose head office is outside Canada is, and remains, fit for registration, we will consider whether the firm maintains registration or regulatory organization membership in the foreign jurisdiction that is appropriate for the securities business it carries out there.

***Assessing fitness for registration – individuals***

We use three fundamental criteria to assess whether an individual is or remains fit for registration:

- proficiency
- integrity, and
- solvency

***(a) Proficiency***

Individual applicants must meet the applicable education, training and experience requirements prescribed by securities legislation and demonstrate knowledge of securities legislation and the securities they recommend.

Registered individuals should continually update their knowledge and training to keep pace with new securities, services and developments in the industry that are relevant to their business. See Part 3 of this Companion Policy for more specific guidance on proficiency.

***(b) Integrity***

Registered individuals must conduct themselves with integrity and have an honest character. The regulator will assess the integrity of individuals through the information they are required to provide on registration application forms and as registrants, and through compliance reviews. For example, applicants are required to disclose information about conflicts of interest, such as other employment or partnerships, service as a member of a board of directors, or relationships with affiliates, and about any regulatory or legal actions against them.

***(c) Solvency***

The regulator will assess the overall financial condition of an individual applicant or registrant. An individual that is insolvent or has a history of bankruptcy may not be fit for registration. Depending on the circumstances, the regulator may consider the individual's contingent liabilities. The regulator may take into account an individual's bankruptcy or insolvency when assessing their continuing fitness for registration.

## Part 2 Categories of registration for individuals

### 2.1 Individual categories

**Multiple individual categories**

Individuals who carry on more than one activity requiring registration on behalf of a registered firm must:

- register in all applicable categories, and
- meet the proficiency requirements of each category

For example, an advising representative of a portfolio manager who is also the firm's CCO must register in the categories of advising representative and CCO. They must meet the proficiency requirements of both of these categories.

**Individual registered in a firm category**

An individual can be registered in both a firm and individual category. For example, a sole proprietor who is registered in the firm category of portfolio manager must also be registered in the individual category of advising representative.

### 2.2 Client mobility exemption – individuals

**Conditions of the exemption**

The mobility exemption in section 2.2 allows registered individuals to continue dealing with and advising clients who move to another jurisdiction, without registering in that other jurisdiction. Section 8.30 *Client mobility exemption – firms* contains a similar exemption for registered firms.

The exemption becomes available when the client (not the registrant) moves to another jurisdiction. An individual may deal with up to five "eligible" clients in each other jurisdiction. Each of the client, their spouse and any children are an eligible client.

An individual may only rely on the exemption if:

- they and their sponsoring firm are registered in their principal jurisdiction
- they and their sponsoring firm only act as a dealer, underwriter or adviser in the other jurisdiction as permitted under their registration in their principal jurisdiction
- they comply with Part 13 *Dealing with clients – individuals and firms*
- they act fairly, honestly and in good faith in their dealings with the eligible client, and
- their sponsoring firm has disclosed to the eligible client that the individual and if applicable, their sponsoring firm, are exempt from registration in the other jurisdiction and are not subject to the requirements of securities legislation in that jurisdiction

As soon as possible after an individual first relies on this exemption, their sponsoring firm must complete and file Form 31-103F3 *Use of mobility exemption* (Form 31-103F3) with the other jurisdiction.

**Limits on the number of clients**

Sections 2.2 and 8.30 are independent of each other: individuals may rely on the exemption from registration in section 2.2 even though their sponsoring firm is registered in the local jurisdiction (and is not relying on the exemption from registration in section 8.30). The limits in sections 2.2 and 8.30 are per jurisdiction.

For example a firm using the exemption in section 8.30 could have 10 clients in each of several local jurisdictions where it is not registered. An individual may also use the exemption in section 2.2 to have 5 clients in each of several jurisdictions where the individual is not registered.

The individual limits are per individual. For example several individuals working for the same firm could each have 5 clients in the same local jurisdiction and each individual could still rely on the exemption in section 2.2. However, the firm may not exceed its 10 client limit if it wants to rely on the exemption in section 8.30. If the firm exceeds the 10 client limit, the firm must be registered in the local jurisdiction.

## Part 3 Registration requirements – individuals

*Division 1 General proficiency requirements*

**Application of proficiency requirements**

Part 3 sets out the initial and ongoing proficiency requirements for

- dealing representatives and chief compliance officers of mutual fund dealers, scholarship plan dealers and exempt-market dealers respectively
- advising representatives, associate advising representatives and chief compliance officers of portfolio managers
- chief compliance officers of investment fund managers

The regulator is required to determine the individual's fitness for registration and may exercise discretion in doing so.

Section 3.3 does not provide proficiency requirements for dealing representatives of investment dealers since the IIROC Rules provide those requirements for the individuals who are approved persons of IIROC member firms.

**Exam based requirements**

Individuals must pass exams – not courses – to meet the education requirements in Part 3. For example, an individual must pass the Canadian Securities Course Exam, but does not have to complete the Canadian Securities Course. Individuals are responsible for completing the necessary preparation to pass an exam and for proficiency in all areas covered by the exam.

**3.3 Time limits on examination requirements**

Under section 3.3, there is a time limit on the validity of exams prescribed in Part 3. Individuals must pass an exam within 36 months before they apply for registration. However, this time limit does not apply if the individual:

- was registered in an active capacity (i.e., not suspended), in the same category in a jurisdiction of Canada at any time during the 36-month period before the date of their application; or
- has gained relevant securities industry experience for a total of 12 months during the 36-month period before the date of their application: these months do not have to be consecutive, or with the same firm or organization

These time limits do not apply to the CFA Charter or the CIM designation, since we do not expect the holders of these designations to have to retake the courses forming part of the requirements applicable to these designations. However, if the individual no longer has the right to use the CFA Charter or the CIM designation, by reason of revocation of the designation or otherwise, we may consider the reasons for such a revocation to be relevant in determining an individual's fitness for registration. Registered individuals are required to notify the regulator of any change in the status of their CFA Charter or ~~the~~ CIM designation within 10 days of the change, by submitting Form 33-109F5 *Change of Registration Information* in accordance with National Instrument 31-102 *National Registration Database.*

When assessing an individual's fitness for registration, the regulator may consider

- the date on which the relevant examination was passed, and
- the length of time between any suspension and reinstatement of registration during the 36 month period

See Part 6 of this Companion Policy for guidance on the meaning of "suspension" and "reinstatement".

**Relevant securities industry experience**

The securities industry experience under ~~subsection~~paragraph 3.3(2)(b) should be relevant to the category applied for. It may include experience acquired:

- during employment at a registered dealer, a registered adviser or an investment fund manager

~~(1)~~

- in related investment fields, such as investment banking, securities trading on behalf of a financial institution, securities research, portfolio management, investment advisory services or supervision of those activities
- in legal, accounting or consulting practices related to the securities industry
- in other professional service fields that relate to the securities industry, or
- in a securities-related business in a foreign jurisdiction

*Division 2 Education and experience requirements*

See Appendix C for a chart that sets out the proficiency requirements for each individual category of registration.

**Granting exemptions**

The regulator may grant an exemption from any of the education and experience requirements in Division 2 if it is satisfied that an individual has qualifications or relevant experience that is equivalent to, or more appropriate in the circumstances than, the prescribed requirements.

**Proficiency for representatives of restricted dealers and restricted portfolio managers**

The regulator will decide on a case-by-case basis what education and experience are required for registration as:

- a dealing representative or CCO of a restricted dealer, and
- an advising representative or CCO of a restricted portfolio manager

The regulator will determine these requirements when it assesses the individual's fitness for registration.

### 3.4 Proficiency – initial and ongoing

**Proficiency principle**

Under section 3.4, registered individuals must not perform an activity that requires registration unless they have the education, training and experience that a reasonable person would consider necessary to perform the activity competently, including understanding the structure, features and risks of each security they recommend to a client (also referred to as know-your-product or KYP).

The requirement to understand the structure, features and risks of each security recommended to a client is a proficiency requirement. This requirement is in addition to the suitability obligation in section 13.3 and applies even where there is an exemption from the suitability obligation such as, for example, the exemption in subsection 13.3(4) in respect of permitted clients.

CCOs must also not perform an activity that requires registration unless they have the education, training and experience that a reasonable person would consider necessary to perform the activity competently. CCOs must have a good understanding of the regulatory requirements applicable to the firm and individuals acting on its behalf. CCOs must also have the knowledge and ability to design and implement an effective compliance system.

**Responsibility of the firm**

The responsibility of registered firms to oversee the compliance of registered individuals acting on their behalf extends to ensuring that they are proficient at all times. A registered firm must not permit an individual they sponsor to perform an activity if the proficiency requirements are not met.

Firms should perform their own analysis of all securities they recommend to clients and provide product training to ensure their registered representatives have a sufficient understanding of the securities and their risks to meet their suitability obligations under section 13.3. Similarly, registered individuals should have a thorough understanding of a security before they recommend it to a client (also referred to as know-your-product or KYP).

**3.11 Portfolio manager – advising representative**
**3.12 Portfolio manager – associate advising representative**

The 12 months of relevant investment management experience referred to in section 3.11 and 24 months of relevant investment management experience referred to in section 3.12 do not have to be consecutive, or with the same firm or organization. ~~The individual must obtain a total of this experience within the 36-month period before the date they apply for registration.~~

For individuals with a CFA charter, the regulator will decide on a case-by-case basis whether the experience they gained to earn the charter qualifies as relevant investment management experience.

**Relevant investment management experience**

The relevant investment management experience requirement is in addition to the specific course or designation requirements for each category of registration. We will assess whether an individual has acquired relevant investment management experience on a case-by-case basis. This section describes factors we may consider in assessing certain types of experience.

Relevant investment management experience under sections 3.11 and 3.12 may vary according to the level of specialization of the individual. It may include:

- securities research and analysis experience, demonstrating an ability in, and understanding of, portfolio analysis or portfolio security selection, or
- management of investment portfolios on a discretionary basis, including investment decision making, rebalancing and evaluating performance

***Advising representatives***

~~Advising representatives~~An advising representative may ~~acquire~~have discretionary authority over investments of others. Accordingly, this category of registration involves the most onerous proficiency requirements. We expect an individual who seeks registration as an advising representative to demonstrate a high quality of experience that is clearly relevant to discretionary portfolio management. This section sets out specific examples of experience that may satisfy the relevant investment management experience ~~during employment~~requirement for advising representatives.

***(a) Discretionary portfolio management***

We may consider experience performing discretionary portfolio management in a ~~portfolio management~~professional capacity ~~with a registered~~ to be sufficient to meet the relevant investment ~~dealer or~~management experience requirement for registration as an advising representative. Such experience may include working at:

- an adviser registered or operating under an exemption from registration in a foreign jurisdiction
- an insurance company
- a pension fund
- a government, corporate, bank or trust company treasury
- an IIROC member firm~~.~~

***(b) Assistant or associate portfolio management***

We may consider experience supporting registered portfolio managers or other professional discretionary asset managers to be sufficient to meet the relevant investment management experience requirement for registration as an advising representative. This may include:

- working with portfolio managers to formulate, draft and implement written investment policy statements for clients, and
- researching and analysing individual securities for potential inclusion in investment portfolios

***(c) Research analyst with an IIROC member firm or registered adviser***

We may consider experience performing research and analysis of individual securities with recommendations for the purpose of determining their suitability for inclusion in investment portfolios to be sufficient to meet the relevant investment management experience requirement for registration as an advising representative.

***Associate advising representatives***

This category may be appropriate for individuals who meet the minimum education and experience requirements in section 3.12 but do not meet the more onerous requirements for registration as an advising representative under section 3.11. In evaluating the experience required to obtain registration as an associate advising representative, we take into account that the advice provided by an associate advising representative must be approved by an advising representative in accordance with section 4.2. Experience gained as an associate advising representative does not automatically qualify an individual to be registered as an advising representative.

We will assess on a case-by-case basis whether such experience meets the more stringent quality of experience required for registration as an advising representative. This section sets out specific examples of experience that may satisfy the relevant investment management experience requirement for associate advising representatives ~~may include working at:~~.

- ~~an unregistered portfolio manager of a Canadian financial institution~~
- ~~an adviser that is registered in another jurisdiction of Canada, or~~

~~an adviser in a foreign jurisdiction~~ ***(a) Client relationship management***

We may consider client relationship management experience with a registered portfolio manager firm to be sufficient to meet the relevant investment management experience requirement for registration as an associate advising representative where the applicant has assisted portfolio managers in tailoring strategies for specific clients. This may include experience assisting the portfolio managers in assessing suitability, creating investment policy statements, determining asset allocation, monitoring client portfolios and performing research and analysis on the economy or asset classes generally.

We recognize that many individuals who perform client relationship management services may not provide specific advice and therefore may not trigger the registration requirement. For example, some client services representatives conduct activities such as marketing the services of the firm by providing general information about the registrant firm and its services that do not include a strategy tailored to any specific client. While some client service representatives may accompany advising representatives or associate advising representatives to meetings with clients and provide assistance with the completion of know-your-client forms, without registration they may not themselves develop an investment policy statement for the client, provide specific information such as recommending a particular model portfolio for the client or explain the implications of discretionary portfolio decisions that were made by the client's advising representative.

***(b) Corporate finance***

We may consider corporate finance experience involving valuing and analysing securities for initial public offerings, debt and equity financings, takeover bids and mergers to be sufficient to meet the relevant investment management experience requirement for registration as an associate advising representative

where this experience demonstrates an ability in, and understanding of, portfolio analysis or portfolio securities selection.

**Some types of experience remain highly case-specific**

While the quality and nature of the experience discussed above may differ from individual to individual and we assess experience on a case-by-case basis, there are some types of experience that are even more highly case-specific. This section sets out specific examples of case specific experience that may satisfy the relevant investment management experience requirement for advising representatives and associate advising representatives.

***(a) IIROC registered representatives***

Some registered representatives may offer a broad range of products involving security-specific research and analysis of their own, in addition to meeting with clients to review and discuss know-your-client and investment suitability. We may consider this to be sufficient experience to meet the relevant investment management experience requirement for registration as an advising representative. Other registered representatives may sell mostly or exclusively a limited number of model portfolios or "portfolio solutions" to clients based on their investment objectives, risk profile or other factors unique to the individual client. We may consider this sufficient experience to meet the relevant investment management experience requirement for registration as an associate advising representative.

However, where an individual is restricted to the sale of mutual funds, we may not consider such experience to be sufficient to meet the relevant investment management experience requirement for registration as an advising representative or associate advising representative.

***(b) Consultants***

Consulting services relating to portfolio manager selection and monitoring may be highly specific to the individual or firm providing the services and may vary greatly among consultants in the sophistication of research and analysis and specificity of advice. Some may be responsible for hiring and ongoing monitoring of sub-advisers, while others may simply provide a desired asset allocation and list of recommended advisers based on the investment objectives of the client. We would generally expect to see a very high degree of sophistication and specificity in the analysis provided by the consultant and a high degree of investor reliance on the consultant in order for the individual to meet the relevant investment management experience requirement for registration as an advising representative.

Research and analysis to review and monitor the performance of registered portfolio managers, and referring clients for discretionary money management based on that review and monitoring, may meet the relevant investment management experience requirement for registration as an associate advising representative. We would not expect that general financial planning advice and referrals to portfolio managers alone would meet the threshold for relevant investment management experience required for registration as an advising representative or associate advising representative.

In some situations, the activities submitted as relevant investment management experience involve or may involve providing specific advice to clients and therefore may require registration. We also recognize that many individuals who provide portfolio manager selection and monitoring do not provide specific advice and therefore may not trigger the registration requirement. We may consider the following factors in determining whether a consultant is required to register:

- the client contracts directly with the consultant, rather than with the portfolio managers
- the consultant manages the hiring and evaluation of the portfolio managers
- there is reliance by the client on the consultant
- there are client expectations about the services to be provided by the consultant.

### 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 corresponding 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.

For these purposes, an individual that has an exemption from an SRO provision and complies with the terms of that exemption would be considered to have complied with that SRO provision.

## Part 4 Restrictions on registered individuals

### 4.1 Restriction~~s~~ on acting for another registered firm

We will consider exemption applications on a case by case basis. When reviewing a registered firm's application for relief from this restriction, we will consider if:

- there are valid business reasons for the individual to be registered with both firms
- the individual will have sufficient time to adequately serve both firms
- the applicant's sponsoring firms have demonstrated that they have policies and procedures addressing any conflicts of interest that may arise as a result of the dual registration, and
- the sponsoring firms will be able to deal with these conflicts, including supervising how the individual will deal with these conflicts.

In the case of paragraph 4.1(1)(b), namely a dealing, advising or associate advising representative acting for another registered firm, affiliation of the firms may be one of the factors that we would consider in respect of an exemption application.

We note that the prohibitions in section 4.1 are in addition to the conflicts of interest provisions set out in section 13.4 [*Identifying and responding to conflicts of interest*]. See section 13.4 for further guidance on individuals who serve on boards of directors.

### 4.2 Associate advising representatives – pre-approval of advice

The associate advising representative category ~~is primarily meant to be an apprentice category for individuals who intend to become an advising representative but who do not meet the education or experience requirements for that category when they apply for registration. It~~ allows an individual to work at a registered adviser while completing the proficiency requirements for an advising representative. For example, a previously registered advising representative could work in an advising capacity while acquiring the relevant work experience required for an advising representative under section 3.11.

~~However,~~ Associate advising representatives are not required to subsequently register as a full advising representative~~. They can remain as an associate advising representative indefinitely.~~ since this category also accommodates~~, for example,~~ individuals who provide specific advice to clients, but do not manage client portfolios without supervision.

As required by section 4.2, registered firms must designate an advising representative to approve the advice provided by an associate advising representative. The designated advising representative must approve the advice before the associate advising representative gives ~~it to~~ the ~~client~~advice. The appropriate processes for approving the advice will depend on the circumstances, including the associate advising representative's level of experience.

Registered firms that have associate advising representatives must:

- document their policies and procedures for meeting the supervision and approval obligations as required under section 11.1
- implement controls as required under section 11.1
- maintain records as required under section 11.5, and
- notify the regulator of the names of the advising representative and the associate advising representative whose advice they are approving no later than the seventh day after the advising representative is designated

## Part 5 Ultimate designated person and chief compliance officer

Sections 11.2 and 11.3 require registered firms to designate a UDP and a CCO. The UDP and CCO must be registered and perform the compliance functions set out in sections 5.1 and 5.2. While the UDP and CCO have specific compliance functions, they are not solely responsible for compliance – it is the responsibility of the firm as a whole.

### The same person as UDP and CCO

The UDP and the CCO can be the same person if they meet the requirements for both registration categories. We prefer firms to separate these functions, but we recognize that it might not be practical for some registered firms.

### UDP or CCO as advising or dealing representative

The UDP or CCO may also be registered in trading or advising categories. For example, a small registered firm might conclude that one individual can adequately function as UDP and CCO, while also carrying on advising and trading activities. We may have concerns about the ability of a UDP or CCO of a large firm to conduct these additional activities and carry out their UDP, CCO and advising responsibilities at the same time.

### 5.1 Responsibilities of the ultimate designated person

The UDP is responsible for promoting a culture of compliance and overseeing the effectiveness of the firm's compliance system. They do not have to be involved in the day to day management of the compliance group. There are no specific education or experience requirements for the UDP. However, they are subject to the proficiency principle in section 3.4.

### 5.2 Responsibilities of the chief compliance officer

The CCO is an operating officer who is responsible for the monitoring and oversight of the firm's compliance system. This includes:

- establishing or updating policies and procedures for the firm's compliance system, and
- managing the firm's compliance monitoring and reporting according to the policies and procedures

At the firm's discretion, the CCO may also have authority to take supervisory or other action to resolve compliance issues.

The CCO must meet the proficiency requirements set out in Part 3. No other compliance staff have to be registered unless they are also advising or trading. The CCO may set the knowledge and skills necessary or desirable for individuals who report to them.

If a firm is registered in multiple categories, the CCO must meet the most stringent of the proficiency requirements of the firm's categories of registration.

Firms must designate one CCO. However, in large firms, the scale and kind of activities carried out by different operating divisions may warrant the designation of more than one CCO. We will consider applications, on a case-by-case basis, for different individuals to act as the CCO of a firm's operating divisions.

We will not usually register the same person as CCO of more than one firm unless the firms are affiliated, and the scale and kind of activities carried out make it reasonable for the same person to act as CCO of more than one firm. We will consider applications, on a case-by-case basis, for the CCO of one registered firm to act as the CCO of another registered firm.

~~Subsection~~Paragraph 5.2(c) requires the CCO to report to the UDP any instances of non-compliance with securities legislation that:

- create a reasonable risk of harm to a client or to the market, or
- are part of a pattern of non-compliance

The CCO should report non-compliance to the UDP even if it has been corrected.

~~Subsection~~Paragraph 5.2(d) requires the CCO to submit an annual report to the board of directors.

## Part 6 Suspension and revocation of registration – individuals

The requirements for surrendering registration and additional requirements for suspending and revoking registration are found in the securities legislation of each jurisdiction. The guidance for Part 6 relates to requirements under both securities legislation and NI 31-103.

There is no renewal requirement for registration. A registered individual may carry on the activities for which they are registered until their registration is:

- suspended automatically under NI 31-103
- suspended by the regulator under certain circumstances, or
- surrendered by the individual

### 6.1 If individual ceases to have authority to act for firm

Under section 6.1, if a registered individual ceases to have authority to act on behalf of their sponsoring firm because their working relationship with the firm ends or changes, the individual's registration with the registered firm is suspended until reinstated or revoked under securities legislation. This applies whether the individual or the firm ends the relationship.

If a registered firm terminates its working relationship with a registered individual for any reason, the firm must complete and file a notice of termination on Form 33-109F1 *Notice of Termination of Registered Individuals and Permitted Individuals* (Form 33-109F1) no later than ten days after the effective date of the individual's termination. This includes when an individual resigns, is dismissed or retires.

The firm must file additional information about the individual's termination prescribed in Part 5 of Form 33-109F1 (except where the individual is deceased), no later than 30 days after the date of termination. The regulator uses this information to determine if there are any concerns about the individual's conduct that may be relevant to their ongoing fitness for registration. Under NI 33-109, the firm must provide this information to the individual on request.

**Suspension**

An individual whose registration is suspended must not carry on the activity they are registered for. The individual otherwise remains a registrant and is subject to the jurisdiction of the regulator. A suspension remains in effect until the regulator reinstates or revokes the individual's registration.

If an individual who is registered in more than one category is suspended in one of the categories, the regulator will consider whether to suspend the individual's registration in other categories or to impose terms and conditions, subject to an opportunity to be heard.

***Automatic suspension***

An individual's registration will automatically be suspended if:

- they cease to have a working relationship with their sponsoring firm
- the registration of their sponsoring firm is suspended or revoked, or
- they cease to be an approved person of an SRO

An individual must have a sponsoring firm to be registered. If an individual leaves their sponsoring firm for any reason, their registration is automatically suspended. Automatic suspension is effective on the day that an individual no longer has authority to act on behalf of their sponsoring firm.

Individuals do not have an opportunity to be heard by the regulator in the case of any automatic suspension.

***Suspension in the public interest***

An individual's registration may be suspended if the regulator exercises its power under securities legislation and determines that it is no longer in the public interest for the individual to be registered. The regulator may do this if it has serious concerns about the ongoing fitness of the individual. For example, this may be the case if an individual is charged with a crime, in particular fraud or theft.

**Reinstatement**

"Reinstatement" means that a suspension on a registration has been lifted. Once reinstated, an individual may resume carrying on the activity they are registered for. If a suspended individual joins a new sponsoring firm, they will have to apply for reinstatement under the process set out in NI 33-109. In certain cases, the reinstatement or transfer to the new firm will be automatic.

***Automatic transfers***

Subject to certain conditions set out in NI 33-109, an individual's registration may be automatically reinstated if they:

- transfer directly from one sponsoring firm to another registered firm in the same jurisdiction
- join the new sponsoring firm within 90 days of leaving their former sponsoring firm
- seek registration in the same category as the one previously held, and
- complete and file Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* (Form 33-109F7)

This allows individuals to engage in activities requiring registration from their first day with the new sponsoring firm.

Individuals are not eligible for an automatic reinstatement if they:

- have new information to disclose regarding regulatory, criminal, civil or financial matters as described in Item 9 of Form 33-109F7, or

- as a result of allegations of criminal activity, breach of securities legislation or breach of SRO rules:
    - were dismissed by their former sponsoring firm, or
    - were asked by their former sponsoring firm to resign

In these cases, the individual must apply to have their registration reinstated under NI 33-109 using Form 33-109F4.

**6.2 If IIROC approval is revoked or suspended**
**6.3 If MFDA approval is revoked or suspended**

Registered individuals acting on behalf of member firms of an SRO are required to be an approved person of the SRO.

If an SRO suspends or revokes its approval of an individual, the individual's registration in the category requiring SRO approval will be automatically suspended. This automatic suspension of individuals does not apply to mutual fund dealers registered only in Québec.

If an SRO suspends an individual for reasons that do not involve significant regulatory concerns and subsequently reinstates the individual's approval, the individual's registration will usually be reinstated by the regulator as soon as possible.

**Revocation**

**6.6 Revocation of a suspended registration – individual**

If an individual's registration has been suspended under Part 6 but not reinstated, it will be automatically revoked on the second anniversary of the suspension.

"Revocation" means that the regulator has terminated the individual's registration. An individual whose registration has been revoked must submit a new application if they want to be registered again.

**Surrender or termination of registration**

If an individual wants to terminate their registration in one or more of the non-principal jurisdictions where the individual is registered, the individual may apply to surrender their registration at any time by completing Form 33-109F2 *Change or Surrender of Individual Categories* (Form 33-109F2) and having their sponsoring firm file it.

If an individual wants to terminate their registration in their principal jurisdiction, Form 33-109F1 must be filed by the individual's sponsoring firm. Once Form 33-109F1 is filed, the individual's termination of registration will be reflected in all jurisdictions.

## Part 7 Categories of registration for firms

The categories of registration for firms have two main purposes:

- to specify the type of business that the firm may conduct, and
- to provide a framework for the requirements the registrant must meet

**Firms registered in more than one category**

A firm may be required to register in more than one category. For example, a portfolio manager that manages an investment fund must register both as a portfolio manager and as an investment fund manager.

**Individual registered in a firm category**

An individual can be registered in both a firm and individual category. For example, a sole proprietor who is registered in the firm category of portfolio manager must also be registered in the individual category of advising representative.

### 7.1 Dealer categories

Underwriting is a subset of dealing activity for specified categories. Investment dealers may underwrite any securities. Exempt market dealers may underwrite securities in limited circumstances. For example, exempt market dealers may participate in a private placement of securities. Exempt market dealers may not act as an underwriter in a prospectus offering without exemptive relief.

**Exempt market dealer**

Under ~~subsection~~paragraph 7.1(2)(d), exempt market dealers may only act as a dealer in the "exempt market". The permitted activities of an exempt market dealer are determined with reference to the prospectus exemptions in NI 45-106 and include trades to "accredited investors" and purchasers of at least $150,000 of a security and trades to anyone under the offering memorandum exemption.

Exempt market dealers ~~can sell~~are permitted to participate in

- a distribution of securities, including investment funds ~~(whether or not they are~~, made under an exemption from the prospectus~~-qualified) under these exemptions without registering as a mutual fund~~ requirement. The securities may be securities of a reporting issuer, and may be listed or unlisted
- a resale of securities that are subject to resale restrictions
- a resale of securities that are freely tradeable, if the securities are not traded on a marketplace. For example, the securities are traded on an over-the-counter basis

These activities may be conducted with accredited investors or other investors who are eligible to purchase the securities on a prospectus-exempt basis.

Exempt market dealers are not permitted to

- participate in a distribution of securities offered under a prospectus
- directly or indirectly, participate in a resale of securities traded on a domestic or foreign marketplace whether the transaction is on-exchange or off-exchange. This includes establishing an omnibus account with an investment dealer ~~or being a member of the MFDA~~and trading securities for clients through that account.

These activities should be conducted by investment dealers.

**Restricted dealer**

The restricted dealer category in ~~subsection~~paragraph 7.1(2)(e) permits specialized dealers that may not qualify under another dealer category, to carry on a limited trading business. It is intended to be used only if there is a compelling case for the proposed trading to take place outside the other registration categories.

The regulator will impose terms and conditions that restrict the dealer's activities. The CSA will co-ordinate terms and conditions for restricted dealers.

### 7.2 Adviser categories

The registration requirement in section 7.2 applies to advisers who give "specific advice". Advice is specific when it is tailored to the needs and circumstances of a client or potential client. For example, an adviser who recommends a security to a client is giving specific advice.

**Restricted portfolio manager**

The restricted portfolio manager category in ~~subsection~~paragraph 7.2(2)(b) permits individuals or firms to advise in specific securities, classes of securities or securities of a class of issuers.

The regulator will impose terms and conditions on a restricted portfolio manager's registration that limit the manager's activities. For example, a restricted portfolio manager might be limited to advising in respect of a specific sector, such as securities of oil and gas issuers.

**7.3 Investment fund manager category**

Investment fund managers direct the business, operations or affairs of an investment fund. They organize the fund and are responsible for its management and administration. If an entity is uncertain about whether it must register as an investment fund manager, it should consider whether the fund is an "investment fund" for the purposes of securities legislation. See section 1.2 of the Companion Policy to NI 81-106 for guidance on the general nature of investment funds.

For additional guidance on the investment fund manager registration requirement in Alberta, British Columbia, Manitoba, Nova Scotia, New Brunswick, Northwest Territories, Nunavut, Prince Edward Island, Saskatchewan and Yukon see Multilateral Policy 31-202 *Registration Requirement for Investment Fund Managers* ~~and in~~. Newfoundland and Labrador, Ontario and Québec ~~see~~have adopted Multilateral Instrument 32-102 *Registration Exemptions for Non-Resident Investment Fund Managers* and Companion Policy 32-102CP *Registration Exemptions for Non-Resident Investment Fund Managers*, which provide limited exemptions from, and guidance on, the investment fund manager registration requirement for non-resident investment fund managers.

An investment fund manager may:

- advertise to the general public a fund it manages without being registered as an adviser, and
- promote the fund to registered dealers without being registered as a dealer

If an investment fund manager acts as portfolio manager for a fund it manages, it should consider whether it may have to be registered as an adviser. If it distributes units of the fund directly to investors, it should consider whether it may have to be registered as a dealer.

In most fund structures, the investment fund manager is a separate legal entity from the fund itself. However, in situations where the board of directors or the trustee(s) of an investment fund direct the business, operations or affairs of the investment fund, the fund itself may be required to register in the investment fund manager category. To address the investor protection concerns that may arise from the investment fund manager and the fund being the same legal entity, and the practical issues of applying the ongoing requirements of a registrant on the fund, terms and conditions may be imposed.

An investment fund manager may delegate or outsource certain functions to other service providers. However, the investment fund manager is responsible for these functions and must supervise the service provider. See Part 11 of this Companion Policy for more guidance on outsourcing.

**Investment fund complexes or groups with more than one investment fund manager**

Some investment fund complexes or groups may have more than one entity within the fund complex that can be considered as directing the business, operations or affairs of an investment fund. For example, structures where investment funds are organized as limited partnerships may have multiple entities within the fund complex that could require investment fund manager registration. Although the investment fund manager functions are often delegated to one entity within the fund complex, there may be more than one entity in the group subject to investment fund manager registration, absent an exemption from registration.

We will consider exemption applications on a case-by-case basis to allow only one investment fund manager within the fund complex to be registered. We will typically consider the following factors when reviewing such applications:

- there is a management agreement in place delegating all or substantially all of the investment fund management function from the investment fund manager seeking the

relief to an affiliate (or to an entity whose mind and management is the same) that is registered as an investment fund manager

- the majority of the investment fund management functions are performed by the registered affiliate (or entity whose mind and management is the same)

- the investment fund manager seeking the relief and the registered affiliate have directors and officers in common

**Part 8 Exemptions from the requirement to register**

NI 31-103 provides several exemptions from the registration requirement. There may be additional exemptions in securities legislation. If a firm is exempt from registration, the individuals acting on its behalf are also exempt from registration. The exemptions in Divisions 1, 2 and 3 of this Part are not available if the person or company is registered to conduct the activities covered by the exemption. We expect registrants to conduct activities under their category of registration, in full compliance with securities legislation, including the requirements of NI 31-103.

*Division 1 Exemptions from dealer and underwriter registration*

We provide no specific guidance for the following exemptions because there is guidance on them in the Companion Policy to NI 45-106:

- 8.12 *Mortgages*

- 8.17 *Reinvestment plan*

- ~~8.20 *Exchange contract – Alberta, British Columbia, New Brunswick and Saskatchewan*~~

**8.5 Trades through or to a registered dealer**

**No solicitation or contact**

Section 8.5 provides an exemption from the dealer registration requirement for trades~~-~~:

made

- ~~solely~~ through an ~~agent who is an~~ appropriately registered dealer, or

- made to an appropriately registered dealer that is purchasing for that dealer's account.

Thi~~s~~e exemption ~~is available~~ in ~~respect of~~ paragraph 8.5(1)(a ~~trade~~) for trades made ~~by a person~~ through a registered dealer ~~so long as there is no intervening trading activity by that person for which that person~~ is not ~~appropriately registered or otherwise exempt from~~ available if the ~~dealer registration requirement. This would typically be~~ person relying on it solicits or contacts purchasers of the ~~case where an individual trades through their account with an investment dealer or a company issues its own~~ securities ~~through an investment dealer.~~

~~This exemption is, however, not available where a person or company conducts trading activities for which they are not registered or exempt from registration and then directs the execution of that trade through a registered dealer. Such trading activities could involve~~ directly ~~contacting persons in the local jurisdiction to solicit their purchase of securities or marketing the securities in the local jurisdiction.~~. For example~~:~~

- , if an individual acts in furtherance of a ~~sale of securities~~trade by soliciting or contacting potential purchasers of securities (sometimes referred to as a finder) and then the sale to the purchaser is executed through a registered dealer, the individual would not qualify for this exemption.

- ~~if~~ A person ~~who is registered in~~ may utilize the ~~local jurisdiction, or operates under an~~ exemption for ~~their trading activities~~acts in furtherance of a trade in ~~that local jurisdiction, proposes~~relation to ~~rely on this~~

~~exemption for their trading activities in another jurisdiction of Canada, the person would need to utilize an~~ working with issuers or appropriately registered ~~dealer to solicit purchases in the other jurisdiction, since that person could~~dealers, provided they do not ~~interact~~ directly ~~with~~ solicit or contact purchasers ~~in the other jurisdiction (without being appropriately registered or exempt from registration in that other jurisdiction).~~.

**Cross-border ~~*transactions*~~ (~~"~~trades (jitneys~~")~~)**

~~All trading activity in reliance upon this~~Section 8.5 provides an exemption ~~that occurs within~~from the ~~local jurisdiction should be done~~dealer registration requirement if the trade is made through ~~or to~~ a registered dealer ~~in that jurisdiction~~, provided the person relying on the exemption has no direct contact with the purchaser of the security. On that basis, the execution of a trade through or to an appropriately registered dealer by a dealer located in another jurisdiction would qualify under this exemption. ~~However, if the dealer in the other jurisdiction engages in other trading activities in the local jurisdiction in connection with the transaction, the trade is no longer a trade made solely through or to a registered dealer and this exemption would not be available.~~

~~A trade is not considered to be solely through a registered dealer if the dealer in the other jurisdiction interacts directly with the purchaser in the local jurisdiction. For example, if~~However, if for example a dealer in the United States that is not registered in Alberta contacts a potential purchaser in Alberta to solicit the purchase of securities, this trade does not qualify for this exemption. The dealer in the United States must instead ~~solicit the purchase by contacting~~contact a dealer registered in Alberta, and have that dealer contact potential purchasers in Alberta.

**Plan administrators**

A plan administrator can rely on this exemption to place sell orders with dealers in respect of shares of issuers held by plan participants. Section 8.16 [*Plan administrator*] covers the activity of the plan administrator receiving sell orders from plan participants.

**8.5.1 Trades through a registered dealer by registered adviser**

Section 8.5.1 provides that the dealer registration requirement does not apply to a registered adviser for incidental trading activities. The exemption is only available if the trade is made through a registered dealer. For example, a portfolio manager may not use the exemption to trade units of a pooled fund it manages, without involving a registered dealer or having another exemption available, including the exemption in section 8.6.

**8.6 Investment fund trades by adviser to managed account**

Registered advisers often create and use investment funds as a way to efficiently invest their clients' money. In issuing units of those funds to managed account clients, they are in the business of trading in securities. Under the exemption in section 8.6, a registered adviser does not have to register as a dealer does for a trade in a security of an investment fund if they:

- act as the fund's adviser and investment fund manager, and
- distribute units of the fund only into their clients' managed accounts

The exemption is also available to those who qualify for the international adviser exemption under section 8.26.

Subsection 8.6(2) limits the availability of this exemption to legitimate managed accounts. We do not intend for the exemption to be used to distribute the adviser's investment funds on a retail basis.

**8.18 International dealer**

**General principle**

This exemption allows international dealers to provide limited services to ~~Canadian~~ permitted clients~~, as defined in section 8.18,~~ without having to register in Canada. The term "permitted client" is defined in section 1.1. International dealers that seek wider access to Canadian investors must register in an appropriate category. ~~Both the terms *Canadian permitted client* and *permitted client* are used in this section. As~~

~~mentioned above, the term Canadian permitted client is defined in section 8.18. The term permitted client is defined in section 1.1.~~

**Notice requirement**

If a firm is relying on the exemption in more than one jurisdiction, it must provide an initial notice by filing a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* (Form 31-103F2) with the regulator in each jurisdiction where it relies on the exemption. If there is any change to the information in the firm's Form 31-103F2, it must update it by filing a replacement Form 31-103F2 with them.

So long as the firm continues to rely on the exemption, it must file an annual notice with each regulator. Subsection 8.18(5) does not prescribe a form of annual notice. An email or letter will therefore be acceptable.

In Ontario, compliance with the filing and fee payment requirements applicable to an unregistered exempt international dealer under Ontario Securities Commission Rule 13-502 *Fees* satisfies the annual notification requirement in subsection (5).

**8.19 Self-directed registered education savings plan**

We consider the creation of a self-directed registered education savings plan, as defined in section 8.19, to be a trade in a security, whether or not the assets held in the plan are securities. This is because the definition of "security" in securities legislation of most jurisdictions includes "any document constituting evidence of an interest in a scholarship or educational plan or trust".

Section 8.19 provides an exemption from the dealer registration requirement for the trade when the plan is created but only under the conditions described in subsection 8.19(2).

**8.22.1 Short-term debt**

This exemption allows specified financial institutions to trade short-term debt instruments that have a designated rating with permitted clients, without having to register. The exemption is available in all jurisdictions of Canada, except Ontario. In Ontario, there are alternate exemptions that may be available for trading in short-term debt instruments, including the exemptions in section 35.1 of the *Securities Act* (Ontario) and section 4.1 of the Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions*.

*Division 2 Exemptions from adviser registration*

**8.24 IIROC members with discretionary authority**

Section 8.24 contains an exemption from the requirement to register as an adviser for registered dealers that are members of IIROC and their dealing representatives. The exemption is available when they act as an adviser in respect of a client's managed account. The term "managed account" is defined in section 1.1 of NI 31-103. This exemption is available for all managed accounts, including where the client is a pooled fund or investment fund.

**8.25 Advising generally**

Section 8.25 contains an exemption from the requirement to register as an adviser if the advice is not tailored to the needs of the recipient.

In general, we would not consider advice about specific securities to be tailored to the needs of the recipient if it:

- is a general discussion of the merits and risks of the security
- is delivered through investment newsletters, articles in general circulation newspapers or magazines, websites, e-mail, Internet chat rooms, bulletin boards, television or radio, and
- does not claim to be tailored to the needs and circumstances of any recipient

This type of general advice can also be given at conferences. However, if a purpose of the conference is to solicit the audience and generate specific trades in specific securities, we may consider the advice to be tailored or we may consider the individual or firm giving the advice to be engaged in trading activity.

Under subsection 8.25(3), if an individual or firm relying on the exemption has a financial or other interest in the securities they recommend, they must disclose the interest to the recipient when they make the recommendation.

**8.26 International adviser**

This exemption allows international advisers to provide limited services to ~~Canadian~~certain permitted clients~~, as defined in section 8.26,~~ without having to register in Canada. The term "permitted client" is defined in section 1.1 and, for the purposes of section 8.26, excludes registered dealers and advisers. International advisers that seek wider access to Canadian investors must register in an appropriate category~~. Unlike the exemption for international dealers in section 8.18, this exemption is not available where the client is registered under securities legislation of Canada as an adviser or dealer.~~

**Incidental advice on Canadian securities**

An international adviser relying on the exemption in section 8.26 may advise in Canada on foreign securities without having to register. It may also advise in Canada on securities of Canadian issuers, but only to the extent that the advice is incidental to its acting as an adviser for foreign securities.

However, this is not an exception or a "carve-out" that allows some portion of a permitted client's portfolio to be made up of Canadian securities chosen by the international adviser without restriction. Any advice with respect to Canadian securities must be directly related to the activity of advising on foreign securities. Permissible incidental advice would include, for example:

- an international adviser, when advising on a portfolio with a particular investment objective, such as gold mining companies, could advise on securities of a Canadian gold mining company within that portfolio, provided that the portfolio is otherwise made up of foreign securities

- an international adviser, having a mandate to advise on equities traded on European exchanges could advise with respect to the securities of a Canadian corporation traded on a European exchange, to the extent that Canadian corporation forms part of the mandate

**Revenue derived in Canada**

An international adviser is only permitted to undertake a prescribed amount of business in Canada. In making the calculation required under paragraph 8.26(4)(d), it is necessary to include all revenues derived from portfolio management activities in Canada, which would include any sub-adviser arrangements. However, the calculation of aggregate consolidated gross revenue derived in Canada does not include the gross revenue of affiliates that are registered in a jurisdiction of Canada.

An international adviser is not required to monitor Canadian revenue on an ongoing basis. Eligibility for the exemption is assessed with reference to revenues as of the end of the adviser's last financial year. The 10% threshold in paragraph 8.26(4)(d) is determined by looking back at the revenue of the firm and its affiliates "during its most recently completed financial year".

**Notice requirement**

If a firm is relying on the exemption in more than one jurisdiction, it must provide an initial notice by filing a Form 31-103F2 with the regulator in each jurisdiction where it relies on the exemption. If there is any change to the information in the firm's Form 31-103F2, it must update it by filing a replacement Form 31-103F2 with them.

So long as the firm continues to rely on the exemption, it must file an annual notice with each regulator. Subsection 8.26(5) does not prescribe a form of annual notice. An email or letter will therefore be acceptable.

In Ontario, compliance with the filing and fee payment requirements applicable to an unregistered exempt international firm under Ontario Securities Commission Rule 13-502 *Fees* satisfies the annual notification requirement in subsection (5).

~~*Division 3 Exemptions from investment fund manager registration*~~

## ~~8.~~28 Capital accumulation plan**26.1 International sub-adviser**

This exemption permits a foreign sub-adviser to provide advice to certain registrants, without having to register as an adviser in Canada. In these arrangements, the registrant is the foreign sub-adviser's client, and it receives the advice, either for its own benefit or for the benefit of its clients. One of the conditions of this exemption is that the registrant has entered into an agreement with its client that it is responsible for losses that arises out of certain failures by the sub-adviser.

~~Section 8.28 provides an exemption from the investment fund manager registration requirement to an individual or firm that administers a capital accumulation plan. If an investment fund manager is also required to register as a dealer or adviser, this exemption only applies to their activities as an investment fund manager.~~ We expect that a registrant taking on this liability will conduct appropriate due diligence on the sub-adviser and ensure the investments are suitable for the registrant's client. We also expect that the registrant will maintain records of the due diligence conducted.

Another condition is that the sub-adviser cannot have contact with the registrant's clients, unless the registrant is present. This condition requires the registrant be present in person or by telephone or other real-time communications technology, in which there is an opportunity for a live discussion. The sub-adviser copying the registrant in written communications sent to the registrant's client (whether through e-mail or another medium) would not meet this condition.

*Division 4 Mobility exemption – firms*

### 8.30 Client mobility exemption – firms

The mobility exemption in section 8.30 allows registered firms to continue dealing with and advising clients who move to another jurisdiction, without registering in that other jurisdiction. Section 2.2 *Client mobility exemption – individuals* contains a similar exemption for registered individuals.

The exemption becomes available when the client (not the registrant) moves to another jurisdiction. A registered firm may deal with up to 10 "eligible" clients in each other jurisdiction. Each of the client, their spouse and any children are an eligible client.

A firm may only rely on the exemption if:

- it is registered in its principal jurisdiction
- it only acts as a dealer, underwriter or adviser in the other jurisdiction as permitted under its registration in its principal jurisdiction
- the individual acting on its behalf is eligible for the exemption in section 2.2
- it complies with Parts 13 [*Dealing with clients – individuals and firms*] and 14 [*Handling client accounts – firms*], and
- it acts fairly, honestly and in good faith in its dealings with the eligible client

**Firm's responsibilities for individuals relying on the exemption**

In order for a registered individual to rely on the exemption in section 2.2, their sponsoring firm must disclose to the eligible client that the individual and if applicable, the firm, are exempt from registration in the other jurisdiction and are not subject to the requirements of securities legislation in that jurisdiction.

As soon as possible after an individual first relies on the exemption in section 2.2, their sponsoring firm must complete and file Form 31-103F3 in the other jurisdiction.

The registered firm must have appropriate policies and procedures for supervising individuals who rely on a mobility exemption. Registered firms must also keep appropriate records to demonstrate they are complying with the conditions of the mobility exemption.

See the guidance in section 2.2 of this Companion Policy on the client mobility exemption available to individuals.

## 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<u>s</u> 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 corresponding 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.

For these purposes, a firm that has an exemption from an SRO provision and complies with the terms of that exemption would be considered to have complied with that SRO provision.

## Part 10 Suspension and revocation of registration – firms

The requirements for surrendering registration and additional requirements for suspending and revoking registration are found in the securities legislation of each jurisdiction. The guidance for Part 10 relates to requirements under both securities legislation and NI 31-103.

There is no renewal requirement for registration but firms must pay fees every year to maintain their registration and the registration of individuals acting on their behalf. A registered firm may carry on the activities for which it is registered until its registration is:

- suspended automatically under NI 31-103
- suspended by the regulator under certain circumstances, or
- surrendered by the firm

*Division 1 When a firm's registration is suspended*

**Suspension**

A firm whose registration has been suspended must not carry on the activity it is registered for. The firm otherwise remains a registrant and is subject to the jurisdiction of the regulator. A suspension remains in effect until the regulator reinstates or revokes the firm's registration.

If a firm that is registered in more than one category is suspended in one of the categories, the regulator will consider whether to suspend the firm's registration in other categories or to impose terms and conditions, subject to an opportunity to be heard.

***Automatic suspension***

A firm's registration will automatically be suspended if:

- it fails to pay its annual fees within 30 days of the due date
- it ceases to be a member of IIROC, or
- except in Québec, it ceases to be a member of the MFDA

Firms do not have an opportunity to be heard by the regulator in the case of any automatic suspension.

**10.1 Failure to pay fees**

Under section 10.1, a firm's registration will be automatically suspended if it has not paid its annual fees within 30 days of the due date.

**10.2 If IIROC membership is revoked or suspended**

Under section 10.2, if IIROC suspends or revokes a firm's membership, the firm's registration as an investment dealer is suspended until reinstated or revoked.

**10.3 If MFDA membership is revoked or suspended**

Under section 10.3, if the MFDA suspends or revokes a firm's membership, the firm's registration as a mutual fund dealer is suspended until reinstated or revoked. Section 10.3 does not apply in Québec.

***Suspension in the public interest***

A firm's registration may be suspended if the regulator exercises its power under securities legislation and determines that it is no longer in the public interest for the firm to be registered. The regulator may do this if it has serious concerns about the ongoing fitness of the firm or any of its registered individuals. For example, this may be the case if a firm or one or more of its registered or permitted individuals is charged with a crime, in particular fraud or theft.

***Reinstatement***

"Reinstatement" means that a suspension on a registration has been lifted. Once reinstated, a firm may resume carrying on the activity it is registered for.

*Division 2 Revoking a firm's registration*

**Revocation**

**10.5 Revocation of a suspended registration – firm**
**10.6 Exception for firms involved in a hearing or proceeding**

Under sections 10.5 and 10.6, if a firm's registration has been suspended under Part 10 and has not been reinstated, it is revoked on the second anniversary of the suspension, except if a hearing or proceeding concerning the suspended registrant has commenced. In this case the registration remains suspended.

"Revocation" means that the regulator has terminated the firm's registration. A firm whose registration has been revoked must submit a new application if it wants to be registered again.

**Surrender**

A firm may apply to surrender its registration in one or more categories at any time. There is no prescribed form for an application to surrender. A firm should file an application to surrender registration with its principal regulator. If Ontario is a non-principal jurisdiction, it should also file the application with the regulator in Ontario. See the Companion Policy to Multilateral Instrument 11-102 *Passport System* for more details on filing an application to surrender.

Before the regulator accepts a firm's application to surrender registration, the firm must provide the regulator with evidence that the firm's clients have been dealt with appropriately. This evidence does not have to be provided when a registered individual applies to surrender registration. This is because the sponsoring firm will continue to be responsible for meeting obligations to clients who may have been served by the individual.

The regulator does not have to accept a firm's application to surrender its registration. Instead, the regulator can act in the public interest by suspending, or imposing terms and conditions on, the firm's registration.

When considering a registered firm's application to surrender its registration, the regulator typically considers the firm's actions, the completeness of the application and the supporting documentation.

***The firm's actions***

The regulator may consider whether the firm:

- has stopped carrying on activity requiring registration
- proposes an effective date to stop carrying on activity requiring registration that is within six months of the date of the application to surrender, and
- has paid any outstanding fees and submitted any outstanding filings at the time of filing the application to surrender

***Completeness of the application***

Among other things, the regulator may look for:

- the firm's reasons for ceasing to carry on activity requiring registration
- satisfactory evidence that the firm has given all of its clients reasonable notice of its intention to stop carrying on activity requiring registration, including an explanation of how it will affect them in practical terms, and
- satisfactory evidence that the firm has given appropriate notice to the SRO, if applicable

***Supporting documentation***

The regulator may look for:

- evidence that the firm has resolved all outstanding client complaints, settled all litigation, satisfied all judgments or made reasonable arrangements to deal with and fund any payments relating to them, and any subsequent client complaints, settlements or liabilities
- confirmation that all money or securities owed to clients has been returned or transferred to another registrant, where possible, according to client instructions
- up-to-date audited financial statements with an auditor's comfort letter
- evidence that the firm has satisfied any SRO requirements for withdrawing membership, and

- an officer's or partner's certificate supporting these documents

## Part 11 Internal controls and systems

### General business practices – outsourcing

Registered firms are responsible and accountable for all functions that they outsource to a service provider. Firms should have a written, legally binding contract that includes the expectations of the parties to the outsourcing arrangement.

Registered firms should follow prudent business practices and conduct a due diligence analysis of prospective third-party service providers. This includes third-party service providers that are affiliates of the firm. Due diligence should include an assessment of the service provider's reputation, financial stability, relevant internal controls and ability to deliver the services.

Firms should also:

- ensure that third-party service providers have adequate safeguards for keeping information confidential and, where appropriate, disaster recovery capabilities
- conduct ongoing reviews of the quality of outsourced services
- develop and test a business continuity plan to minimize disruption to the firm's business and its clients if the third-party service provider does not deliver its services satisfactorily, and
- note that other legal requirements, such as privacy laws, may apply when entering into outsourcing arrangements

The regulator, the registered firm and the firm's auditors should have the same access to the work product of a third-party service provider as they would if the firm itself performed the activities. Firms should ensure this access is provided and include a provision requiring it in the contract with the service provider, if necessary.

*Division 1 Compliance*

### 11.1 Compliance system

### General principles

Section 11.1 requires registered firms to establish, maintain and apply policies and procedures that establish a system of controls and supervision (a compliance system) that:

- provides assurance that the firm and individuals acting on its behalf comply with securities legislation, and
- manages the risks associated with the firm's business in accordance with prudent business practices

Operating an effective compliance system is essential to a registered firm's continuing fitness for registration. It provides reasonable assurance that the firm is meeting, and will continue to meet, all requirements of applicable securities laws and SRO rules and is managing risk in accordance with prudent business practices. A compliance system should include internal controls and monitoring systems that are reasonably likely to identify non-compliance at an early stage and supervisory systems that allow the firm to correct non-compliant conduct in a timely manner.

The responsibilities of the UDP are set out in section 5.1 and those of the CCO in section 5.2–. However, compliance is not only a responsibility of a specific individual or a compliance department of the firm, but rather is a firm-wide responsibility and an integral part of the firm's activities. Everyone in the firm should

understand the standards of conduct for their role. This includes the board of directors, partners, management, employees and agents, whether or not they are registered.

Having a UDP and CCO, and in larger firms, a compliance group and other supervisory staff, does not relieve anyone else in the firm of the obligation to report and act on compliance issues. A compliance system should identify those who will act as alternates in the absence of the UDP or CCO.

**Elements of an effective compliance system**

While policies and procedures are essential, they do not make an acceptable compliance system on their own. An effective compliance system also includes internal controls, day to day and systemic monitoring, and supervision elements.

***Internal controls***

Internal controls are an important part of a firm's compliance system. They should mitigate risk and protect firm and client assets. They should be designed to assist firms in monitoring compliance with securities legislation and managing the risks that affect their business, including risks that may relate to:

- safeguarding of client and firm assets
- accuracy of books and records
- trading, including personal and proprietary trading
- conflicts of interest
- money laundering
- business interruption
- hedging strategies
- marketing and sales practices, and
- the firm's overall financial viability

***Monitoring and supervision***

Monitoring and supervision are essential elements of a firm's compliance system. They consist of day to day monitoring and supervision, and overall systemic monitoring.

***(a) Day to day monitoring and supervision***

In our view, an effective monitoring and supervision system includes:

- monitoring to identify specific cases of non-compliance or internal control weaknesses that might lead to non-compliance
- referring non-compliance or internal control weaknesses to management or other individuals with authority to take supervisory action to correct them
- taking supervisory action to correct them, and
- minimizing the compliance risk in key areas of a firm's operations

In our view, effective day to day monitoring should include, among other things

- approving new account documents
- reviewing and, in some cases, approving transactions

- approving marketing materials, and
- preventing inappropriate use or disclosure of non-public information.

Firms can use a risk-based approach to monitoring, such as reviewing an appropriate sample of transactions.

The firm's management is responsible for the supervisory element of correcting non-compliance or internal control weaknesses. However, at a firm's discretion, its CCO may be given supervisory authority, but this is not a necessary component of the CCO's role.

Anyone who supervises registered individuals has a responsibility on behalf of the firm to take all reasonable measures to ensure that each of these individuals:

- deals fairly, honestly and in good faith with their clients
- complies with securities legislation
- complies with the firm's policies and procedures, and
- maintains an appropriate level of proficiency

***(b) Systemic monitoring***

Systemic monitoring involves assessing, and advising and reporting on the effectiveness of the firm's compliance system. This includes ensuring that:

- the firm's day to day supervision is reasonably effective in identifying and promptly correcting cases of non-compliance and internal control weaknesses
- policies and procedures are enforced and kept up to date, and
- everyone at the firm generally understands and complies with the policies and procedures, and with securities legislation

***Specific elements***

More specific elements of an effective compliance system include:

***(a) Visible commitment***

Senior management and the board of directors or partners should demonstrate a visible commitment to compliance.

***(b) Sufficient resources and training***

The firm should have sufficient resources to operate an effective compliance system. Qualified individuals (including anyone acting as an alternate during absences) should have the responsibility and authority to monitor the firm's compliance, identify any instances of non-compliance and take supervisory action to correct them.

The firm should provide training to ensure that everyone at the firm understands the standards of conduct and their role in the compliance system, including ongoing communication and training on changes in regulatory requirements or the firm's policies and procedures.

***(c) Detailed policies and procedures***

The firm should have detailed written policies and procedures that:

- identify the internal controls the firm will use to ensure compliance with legislation and manage risk

- set out the firm's standards of conduct for compliance with securities and other applicable legislation and the systems for monitoring and enforcing compliance with those standards
- clearly outline who is expected to do what, when and how
- are readily accessible by everyone who is expected to know and follow them
- are updated when regulatory requirements and the firm's business practices change, and
- take into consideration the firm's obligation under securities legislation to deal fairly, honestly and in good faith with its clients

***(d) Detailed records***

The firm should keep records of activities conducted to identify compliance deficiencies and the action taken to correct them.

**Setting up a compliance system**

It is up to each registered firm to determine the most appropriate compliance system for its operations. Registered firms should consider the size and scope of their operations, including products, types of clients or counterparties, risks and compensating controls, and any other relevant factors.

For example, a large registered firm with diverse operations may require a large team of compliance professionals with several divisional heads of compliance reporting to a CCO dedicated entirely to a compliance role.

All firms must have policies, procedures and systems to demonstrate compliance. However, some of the elements noted above may be unnecessary or impractical for smaller registered firms.

We encourage firms to meet or exceed industry best practices in complying with regulatory requirements.

**11.2 Designating an ultimate designated person**

Under subsection 11.2(1), registered firms must designate an individual to be the UDP. Firms should ensure that the individual understands and is able to perform the obligations of a UDP under section 5.1. The UDP must be:

- the chief executive officer (CEO) of the registered firm or the individual acting in a similar capacity, if the firm does not have a CEO. The person acting in a similar capacity to a CEO is the most senior decision maker in the firm, who might have the title of managing partner or president, for example
- the sole proprietor of the registered firm, or
- the officer in charge of a division of the firm that carries on all of the registerable activity if the firm also has significant other business activities, such as insurance, conducted in different divisions. This is not an option if the core business of the firm is trading or advising in securities and it only has some other minor operations conducted in other divisions. In this case, the UDP must be the CEO or equivalent.

To designate someone else as the UDP requires an exemptive relief order. Given that the intention of section 11.2 is to ensure that responsibility for its compliance system rests at the very top of a firm, we will only grant relief in rare cases.

We note that in larger organizations, the UDP is sometimes supported by an officer who has a compliance oversight role and title within the organization and who is more senior than the CCO. We have no objection to such arrangements, but it must be understood that they can in no way diminish the UDP's regulatory responsibilities.

If the person designated as the UDP no longer meets these requirements, and the registered firm is unable to designate another UDP, the firm should promptly advise the regulator of the actions it is taking to designate a new UDP who meets these requirements.

**11.3 Designating a chief compliance officer**

Under subsection 11.3(1), registered firms must designate an individual to be the CCO. Firms should ensure that the individual understands and is able to perform the obligations of a CCO under section 5.2.

The CCO must meet the applicable proficiency requirements in Part 3 and be:

- an officer or partner of the registered firm, or
- the sole proprietor of the registered firm

If the CCO no longer meets any of the above conditions and the registered firm is unable to designate another CCO, the firm should promptly advise the regulator of the actions it is taking to designate an appropriate CCO.

*Division 2 Books and records*

Under securities legislation, the regulator may access, examine and take copies of a registered firm's records. The regulator may also conduct regular and unscheduled compliance reviews of registered firms.

**11.5 General requirements for records**

Under subsection 11.5(1), registered firms must maintain records to accurately record their business activities, financial affairs and client transactions, and demonstrate compliance with securities legislation.

The following discussion provides guidance for the various elements of the records described in subsection 11.5(2).

**Financial affairs**

The records required under ~~subsections~~paragraphs 11.5(2)(a), (b) and (c) are records firms must maintain to help ensure they are able to prepare and file financial information, determine their capital position, including the calculation of excess working capital, and generally demonstrate compliance with the capital and insurance requirements.

**Client transactions**

The records required under ~~subsections~~paragraphs 11.5(2)(g), (h), (i), (l) and (n) are records firms must maintain to accurately and fully document transactions entered into on behalf of a client. We expect firms to maintain notes of communications that could have an impact on the client's account or the client's relationship with the firm. These communications include

- oral communications
- all e-mail, regular mail, fax and other written communications

While we do not expect registered firms to save every voicemail or e-mail, or to record all telephone conversations with clients, we do expect that registered firms maintain records of all communications relating to orders received from their clients.

The records required under ~~subsection~~paragraph 11.5(2)(g) should document buy and sell transactions, referrals, margin transactions and any other activities relating to a client's account. They include records of all actions leading to trade execution, settlement and clearance, such as trades on exchanges, alternative trading systems, over-the-counter markets, debt markets, and distributions and trades in the prospectus-exempt market.

Examples of these records are:

- trade confirmation statements
- summary information about account activity
- communications between a registrant and its client about particular transactions, and
- records of transactions resulting from securities a client holds, such as dividends or interest paid, or dividend reinvestment program activity

~~Subsection~~Paragraph 11.5(2)(l) requires firms to maintain records that demonstrate compliance with the know your client obligations in section 13.2 and the suitability obligations in section 13.3. This includes records for unsuitable trades in subsection 13.3(2).

**Client relationship**

The records required under ~~subsection~~paragraphs 11.5(2)(k) and (m) should document information about a registered firm's relationship with its client and relationships that any representatives have with that client.

These records include:

- communication between the firm and its clients, such as disclosure provided to clients and agreements between the registrant and its clients
- account opening information
- change of status information provided by the client
- disclosure and other relationship information provided by the firm
- margin account agreements
- communications regarding a complaint made by the client
- actions taken by the firm regarding a complaint
- communications that do not relate to a particular transaction, and
- conflicts records

Each record required under ~~subsection~~paragraph 11.5(2)(k) should clearly indicate the name of the accountholder and the account the record refers to. A record should include information only about the accounts of the same accountholder or group. For example, registrants should have separate records for an individual's personal accounts and for accounts of a legal entity that the individual owns or jointly holds with another party.

Where applicable, the financial details should note whether the information is for an individual or a family. This includes spousal income and net worth. The financial details for accounts of a legal entity should note whether the information refers to the entity or to the owner(s) of the entity.

If the registered firm permits clients to complete new account forms themselves, the forms should use language that is clear and avoids terminology that may be unfamiliar to unsophisticated clients.

**Internal controls**

The records required under ~~subsection~~paragraphs 11.5(2)(d), (e), (f), (j) and (o) are records firms must maintain to support the internal controls and supervision components of their compliance system.

### 11.6 Form, accessibility and retention of records

**Third party access to records**

~~Subsection~~Paragraph 11.6(1)(b) requires registered firms to keep their records in a safe location. This includes ensuring that no one has unauthorized access to information, particularly confidential client information. Registered firms should be particularly vigilant if they maintain books and records in a location that may be accessible by a third party. In this case, the firm should have a confidentiality agreement with the third party.

*Division 3 Certain business transactions*

**11.8 Tied selling**

Section 11.8 prohibits an individual or firm from engaging in abusive sales practices such as selling a security on the condition that the client purchase another product or service from the registrant or one of its affiliates. These types of practices are known as "tied selling". In our view, this section would be contravened if, for example, a financial institution agreed to lend money to a client only if the client acquired securities of mutual funds sponsored by the financial institution.

However, section 11.8 is not intended to prohibit relationship pricing or other beneficial selling arrangements similar to relationship pricing. Relationship pricing refers to the practice of industry participants offering financial incentives or advantages to certain clients.

**11.9 Registrant acquiring a registered firm's securities or assets**

**Notice requirement**

Under section 11.9, registrants must give the regulator notice if they propose to ~~purchase~~acquire an ownership interest in voting securities (or securities convertible into voting securities) or assets of ~~a~~another registered firm or the parent of ~~a~~another registered firm. This notice must be delivered to the principal regulator of the registrant proposing to make the acquisition and to the principal regulator of the registered firm they propose to acquire, if that firm is registered in Canada. If the principal regulator of both firms is the same, only one notice is required.

Registrants acquiring securities or assets of another registered firm for a client in nominee name do not need to provide notice under section 11.9. For purposes of this section, a ~~registered firm's book of business would be a~~ substantial part of the assets of the registered firm would include a registered firm's book of business, a business line or a division of the firm, among other things. This notice gives the regulator an opportunity to consider ownership issues that may affect a firm's fitness for registration.

**Filing of the notice with the principal regulator**

It is intended that the notice filed with the principal regulator(s) will be shared with other regulators with an interest in the proposed acquisition. Therefore, although only the principal regulator(s) will receive a notice, other jurisdictions may object to the proposed acquisition under subsections 11.9(4) and 11.9(5). The registrant will have an opportunity to be heard in any jurisdiction that has objected to the proposed acquisition. It is our intent, however, to coordinate the review of these notices and any decisions to object to these proposed acquisitions.

Subsection 11.9(4) does not apply in British Columbia. However, the regulator in British Columbia may exercise discretion under section 36 or 161 of the BC *Securities Act* (BCSA) to impose conditions, restrictions or requirements on the registrant's registration or to suspend or revoke the registration if it decides that an acquisition would affect the registrant's fitness for registration or be prejudicial to the public interest. In these circumstances, the registrant would be entitled to an opportunity to be heard, except if the regulator issues a temporary order under section 161 of the BCSA.

***Content of the notice***

When preparing the notice under section 11.9, registrants should consider including the following information to help the regulator assess the proposed transaction:

- the proposed closing date for the transaction
- the business reasons for the transaction

- the corporate structure, both before and after the closing of the proposed transaction, including all affiliated companies and subsidiaries of the acquirer and any registered firm involved in the proposed transaction whether interests in a company, partnership or trust are held directly or through a holding company, trust or other entity

- information on the operations and business plans of the acquirer and any registered firm involved in the proposed transaction, including any changes to Item 3.1 of Form 33-109F6 *Firm Registration* such as primary business activities, target market, and the products and services provided to clients of any registered firm involved in the proposed transaction

- any significant changes to the business operations of any registered firm involved in the proposed transaction, including changes to the CCO, the UDP, key management, directors, officers, permitted individuals or registered individuals

- whether the registered firms involved in the proposed transaction have written policies and procedures to address conflicts of interest that may arise following the transaction and information on how such conflicts of interest have been or will be addressed.

- whether the registered firms involved in the proposed transaction have adequate resources to ensure compliance with all applicable conditions of registration

- a confirmation that any registered firm involved in the proposed transaction will comply with section 4.1 following the transaction

- details of any client communications in connection with the transaction that have been made or are planned or an explanation of why no communications to clients are anticipated

- whether a press release will be issued in relation to the proposed transaction

**11.10 Registered firm whose securities are acquired**

***Notice requirement***

Under section 11.10, registered firms must notify ~~the~~their principal regulator if they know or have reason to believe that any individual or firm is about to ~~purchase~~acquire 10% or more ~~than 10% of~~ the voting securities (or securities convertible into voting securities) of the firm or the firm's parent. This notice gives the regulator an opportunity to consider ownership issues that may affect a firm's fitness for registration. We expect this notice to be sent as soon as the registered firm knows or has reason to believe such ~~a transaction~~an acquisition is going to take place.

***Filing of the notice with the principal regulator***

It is intended that the notice filed with the principal regulator(s) will be shared with other regulators with an interest in the proposed acquisition. Therefore, although only the principal regulator(s) will receive a notice, other jurisdictions may object to the proposed acquisition under subsections 11.10(5) and 11.10(6). The registered firm will have an opportunity to be heard in any jurisdiction that has objected to the proposed acquisition. It is our intent, however, to coordinate the review of these notices and any decisions to object to these proposed acquisitions.

***Application for registration***

We expect any individual or firm that ~~buys~~acquires assets of a registered firm and is not already a registrant will have to apply for registration. We will assess their fitness for registration when they apply.

Subsection 11.10(5) does not apply in British Columbia. However, the regulator in British Columbia may exercise discretion under section 36 or 161 of the BCSA to impose conditions, restrictions or requirements on the registrant's registration or to suspend or revoke the registration if it decides that an acquisition would affect the registrant's fitness for registration or be prejudicial to the public interest. In these circumstances, the registrant would be entitled to an opportunity to be heard, except if the regulator issues a temporary order under section 161 of the BCSA.

***Content of the notice***

Refer to the guidance in section 11.9.

**Part 12 Financial condition**

*Division 1 Working capital*

**12.1 Capital requirements**

**Frequency of working capital calculations**

Section 12.1 requires registered firms to notify the regulator as soon as possible if their excess working capital is less than zero.

Registered firms should know their working capital position at all times. This may require a firm to calculate its working capital every day. The frequency of working capital calculations depends on many factors, including the size of the firm, the nature of its business and the stability of the components of its working capital. For example, it may be sufficient for a sole proprietor firm with a dedicated and stable source of working capital to do the calculation on a monthly basis.

**Form 31-103F1 - *Calculation of excess working capital***

***Application of NI 52-107 Acceptable Accounting Principles and Auditing Standards***

Form 31-103F1 – *Calculation of Excess Working Capital* (Form 31-103F1) must be prepared using the accounting principles used to prepare financial statements in accordance with National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107). Refer to section 12.10 of this Companion Policy and Companion Policy 52-107 *Acceptable Accounting Principles and Auditing Standards* (52-107CP) for further guidance on audited financial statements.

**IIROC and MFDA member firms that are also registered in another category**

IIROC and MFDA member firms that are also registered in a category that does not require SRO membership must still comply with the financial filing requirements in Part 12 [*Financial condition*], even if they are relying on the exemptions in sections 9.3 and 9.4. Provided certain conditions are met, SRO members that are registered in other categories may be permitted to calculate their working capital in accordance with the SRO forms and file the SRO forms instead of Form 31-103F1-.

For example, if the SRO firm is also an investment fund manager, it will need to report any net asset value (NAV) adjustments quarterly in order to comply with the investment fund manager requirements, notwithstanding that its SRO has no such requirements. However, they may be permitted to calculate their working capital in accordance with the SRO forms and file the SRO forms instead of Form 31-103F1. See sections 12.1, 12.12 and 12.14 for the requirements on delivery of working capital calculations for SRO members that are registered in multiple categories.

**Working capital requirements are not cumulative**

The working capital requirements for registered firms set out in section 12.1 are not cumulative. If a firm is registered in more than one category, it must meet the highest capital requirement of its categories of registration, except for those investment fund managers who are also registered as portfolio managers and meet the requirements of the exemption in section 8.6. These investment fund managers need only meet the lower capital requirement for portfolio managers.

**If a registrant becomes insolvent or declares bankruptcy**

The regulator will review the circumstances of a registrant's insolvency or bankruptcy on a case-by-case basis. If the regulator has concerns, it may impose terms and conditions on the registrant's registration, such as close supervision and delivering progress reports to the regulator, or it may suspend the registrant's registration.

**12.2 Subordination agreements**

~~Long-term~~Non-current related party debt must be deducted from a firm's working capital on Form 31-103F1, unless the firm and the lender have executed a subordination agreement in the form set out in Appendix B of NI 31-103 and delivered a copy of that agreement ~~with~~to the regulator.

Related party debt due on demand or repayable by the firm at any time, including pursuant to a revolving line of credit, is an example of a current liability. These types of liabilities are not eligible to be subordinated for the purposes of calculating excess working capital. The amount of current related party debt must be included in line 4 – *Current liabilities* of Form 31-103F1.

Firms must deliver subordination agreements to the regulator on the earlier of 10 days after the execution of the agreement or the date on which the firm excludes the amount of the related party debt from its excess working capital calculation. A firm may not exclude the amount until the subordination agreement is executed and delivered to the regulator.

The firm's obligations under section 12.2 to notify the regulator 10 days before it repays the loan or terminates the subordination agreement apply regardless of the terms of any loan agreement. Firms should ensure the terms of their loan agreements do not conflict with their regulatory requirements.

If a subordinated related party debt is being increased and the incremental increase is to be subordinated, the subordination agreement submitted to the regulator should only report the incremental increase. Firms should not report the full balance of the related party debt, as noted on the statement of financial position, on the new subordination agreement unless the previous subordination agreement is terminated and notification of this termination is made in accordance with section 12.2.

In conjunction with the submission of a new subordination agreement, the regulator may request that the firm provide a schedule detailing the total outstanding subordinated debt.

The regulator may request that additional documentation be provided in conjunction with the firm's notice of repayment of a subordinated debt in order to assess whether the firm will have sufficient excess working capital following the repayment. This may include updated interim financial information and a completed Form 31-103F1.

At the time the firm submits a notice of repayment, the firm should provide an updated schedule to the regulator, detailing the total outstanding subordinated debt following the repayment.

*Division 2 Insurance*

**Insurance coverage limits**

Registrants must maintain bonding or insurance that provides for a "double aggregate limit" or a "full reinstatement of coverage" (also known as "no aggregate limit"). The insurance provisions state that the registered firm must "maintain" bonding or insurance in the amounts specified. We do not expect that the calculation would differ materially from day to day. If there is a material change in a firm's circumstances, it should consider the potential impact on its ability to meet its insurance requirements.

Most insurers offer aggregate limit policies that contain limits based on a single loss and on the number or value of losses that occur during the coverage period.

Double aggregate limit policies have a specified limit for each claim. The total amount that may be claimed during the coverage period is twice that limit. For example, if an adviser maintains a financial institution bond of $50,000 for each clause with a double aggregate limit, the adviser's coverage is $50,000 for any one claim and $100,000 for all claims during the coverage period.

Full reinstatement of coverage policies and no aggregate limit policies have a specified limit for each claim but no limit on the number of claims or losses during the coverage period. For example, if an adviser maintains a financial institution bond of $50,000 for each clause with a full reinstatement of coverage provision, the adviser's maximum coverage is $50,000 for any one claim, but there is no limit on the total amount that can be claimed under the bond during the coverage period.

**Insurance requirements are not cumulative**

Insurance requirements are not cumulative. For example, a firm registered in the categories of portfolio manager and investment fund manager need only maintain insurance coverage for the higher of the amounts required for each registration category. Despite being registered as both a portfolio manager and an investment fund manager, when calculating the investment fund manager insurance requirement under subsection 12.5(2), an investment fund manager should only include the total assets under management of its own investment funds. It is only with respect to its own funds that the registrant is acting as an investment fund manager.

**12.4 Insurance – adviser**

The insurance requirements for advisers depend in part on whether the adviser holds or has access to client assets.

An adviser will be considered to hold or have access to client assets if they do any of the following:

- hold client securities or cash for any period
- accept funds from clients, for example, a cheque made payable to the registrant
- accept client money from a custodian, for example, client money that is deposited in the registrant's bank or trust accounts before the registrant issues a cheque to the client
- have the ability to gain access to client assets
- have, in any capacity, legal ownership of, or access to, client funds or securities
- have the authority, such as under a power of attorney, to withdraw funds or securities from client accounts
- have authority to debit client accounts to pay bills other than investment management fees
- act as a trustee for clients, or
- act as fund manager or general partner for investment funds

**12.6 Global bonding or insurance**

Registered firms may be covered under a global insurance policy. Under this type of policy, the firm is insured under a parent company's policy that covers the parent and its subsidiaries or affiliates. Firms should ensure that the claims of other entities covered under a global insurance policy do not affect the limits or coverage applicable to the firm.

*Division 4 Financial reporting*

**12.10 Annual financial statements ~~and interim financial information~~**
**12.11 Interim financial information**

**Accounting Principles**

Registrants are required to deliver annual financial statements and interim financial information that comply with NI 52-107. Depending on the financial year, a registrant will look to different parts of NI 52-107 to determine which accounting principles and auditing standards apply:

- Part 3 of NI 52-107 applies for financial years beginning on or after January 1, 2011;
- Part 4 of NI 52-107 applies to financial years beginning before January 1, 2011.

Part 3 of NI 52-107 refers to Canadian GAAP applicable to publicly accountable enterprises, which is IFRS as incorporated into the Handbook. Under Part 3 of NI 52-107, annual financial statements and interim financial information delivered by a registrant must be prepared in accordance with Canadian GAAP

applicable to publicly accountable enterprises except that any investments in subsidiaries, jointly controlled entities and associates must be accounted for as specified for separate financial statements in International Accounting Standard 27 Consolidated and Separate Financial Statements. Separate financial statements are sometimes referred to as non-consolidated financial statements.

Subsection 3.2(3) of NI 52-107 requires annual financial statements to include a statement and description about this required financial reporting framework. Section 2.7 of 52-107CP provides guidance on subsection 3.2(3). We remind registrants to refer to these provisions in NI 52-107 and 52-107CP in preparing their annual financial statements and interim financial information.

Part 4 of NI 52-107 refers to Canadian GAAP for public enterprises, which is Canadian GAAP as it existed before the mandatory effective date for the adoption of IFRS, included in the Handbook as Part V. Under Part 4 of NI 52-107, annual financial statements and interim financial information delivered by a registrant must be prepared in accordance with Canadian GAAP for public enterprises except that the financial statements and interim financial information must be prepared on a non-consolidated basis.

**Changeover to International Financial Reporting Standards**

When preparing annual financial statements, interim financial information or Form 31-103F1 for a financial year beginning in 2011 or for interim periods relating to a financial year beginning in 2011, registrants may rely on the exemption in subsection 12.15(1) and exclude comparative information for the preceding financial year. Subsection 3.2(4) of NI 52-107 provides a corresponding exemption for the accounting principles used by registrants. If a registrant relies on these exemptions, its date of transition to IFRS will be the first day of its financial year beginning in 2011. Section 2.7 of 52-107CP provides further guidance on this topic. We remind registrants to refer to the provisions in NI 52-107 and 52-107CP in preparing their financial statements and interim financial information for a financial period beginning in 2011.

**12.14 Delivering financial information – investment fund manager**

**NAV errors and adjustments**

Section 12.14 requires investment fund managers to periodically deliver to the regulator, among other things, a ~~description of~~completed Form 31-103F4 Net Asset Value Adjustments if any NAV adjustment has been made. A NAV adjustment is necessary when there has been a material error and the NAV per unit does not accurately reflect the actual NAV per unit at the time of computation.

Some examples of the causes of NAV errors are:

- mispricing of a security
- corporate action recorded incorrectly
- incorrect numbers used for issued and outstanding units
- incorrect expenses and income used or accrued
- incorrect foreign exchange rates used in the valuation, and
- human error, such as inputting an incorrect value

We expect investment fund managers to have policies that clearly define what constitutes a material error that requires an adjustment, including threshold levels, and how to correct material errors. If an investment fund manager does not have a threshold in place, it may wish to consider the threshold in IFIC Bulletin Number 22 *Correcting Portfolio NAV Errors* or adopt a more stringent policy.

**Part 13 Dealing with clients – individuals and firms**

*Division 1 Know your client and suitability*

**13.2 Know your client**

**General principles**

Registrants act as gatekeepers of the integrity of the capital markets. They should not, by act or omission, facilitate conduct that brings the market into disrepute. As part of their gatekeeper role, registrants are required to establish the identity of, and conduct due diligence on, their clients under the know your client (KYC) obligation in section 13.2. Complying with the KYC obligation can help ensure that trades are completed in accordance with securities laws.

KYC information forms the basis for determining whether trades in securities are suitable for investors. This helps protect the client, the registrant and the integrity of the capital markets. The KYC obligation requires registrants to take reasonable steps to obtain and periodically update information about their clients.

**Verifying a client's reputation**

~~Subsection~~Paragraph 13.2(2)(a) requires registrants to make inquiries if they have cause for concern about a client's reputation. The registrant must make all reasonable inquiries necessary to resolve the concern. This includes making a reasonable effort to determine, for example, the nature of the client's business or the identity of beneficial owners where the client is a corporation, partnership or trust. See subsection 13.2(3) for additional guidance on identifying clients that are corporations, partnerships or trusts.

**Identifying insiders**

Under ~~subsection~~paragraph 13.2(2)(b), a registrant must take reasonable steps to establish whether the client is an insider of a reporting issuer or any other issuer whose securities are publicly traded.

We consider "reasonable steps" to include explaining to the client what an insider is and what it means for securities to be publicly traded.

For purposes of this paragraph, "reporting issuer" has the meaning given to it in securities legislation and "other issuer" means any issuer whose securities are traded in any public market. This includes domestic, foreign, exchange-listed and over-the-counter markets. This definition does not include issuers whose securities have been distributed through a private placement and are not freely tradeable.

A registrant need not ascertain whether the client is an insider if the only securities traded for the client are mutual fund securities and scholarship plan securities referred to in ~~sections~~paragraphs 7.1(2)(b) and 7.1(2)(c). However, we encourage firms, when selling highly concentrated pooled funds, to enquire as to whether a client is an insider of the issuer of any securities held by the fund, notwithstanding the exemption provided in subsection 13.2(7). In addition, we remind registrants that they remain subject to the requirement in ~~section~~paragraph 13.2(2)(b) when they trade any other securities than those listed in ~~sections~~paragraphs 7.1(2)(b) and 7.1(2)(c).

This exemption does not change an insider's reporting and conduct responsibilities.

**Clients that are corporations, partnerships or trusts**

Subsection 13.2(3) requires registrants to establish the identity of any person who owns or controls 25% or more of the shares of a client that is a corporation or exercises control over the affairs of a client that is a partnership or trust. We remind registrants that this is in addition to the requirement in ~~subsection~~paragraph 13.2(2)(a) which requires registrants to make inquiries if they have cause for concern about a client's reputation. If a registrant has cause for concern about a particular client that is a corporation, partnership or trust, they may need to identify all beneficial owners of such entity.

**Keeping KYC information current**

Under subsection 13.2(4), registrants are required to make reasonable efforts to keep their clients' KYC information current.

We consider information to be current if it is sufficiently up-to-date to support a suitability determination. For example, a portfolio manager with discretionary authority should update its clients' KYC information frequently. A dealer that only occasionally recommends trades to a client should ensure that the client's KYC information is up-to-date at the time a proposed trade or recommendation is made.

**13.3 Suitability**

**Suitability obligation**

Subsection 13.3(1) requires registrants to take reasonable steps to ensure that a proposed trade is suitable for a client before making a recommendation or accepting instructions from the client. To meet this suitability obligation, registrants should have in-depth knowledge of all securities that they buy and sell for, or recommend to, their clients. This is often referred to as the "know your product" or KYP obligation.

Registrants should know each security well enough to understand and explain to their clients the security's risks, key features, and initial and ongoing costs and fees. Having the registered firm's approval for representatives to sell a product does not mean that the product will be suitable for all clients. Individual registrants must still determine the suitability of each transaction for every client.

Registrants should also be aware of, and act in compliance with, the terms of any exemption being relied on for the trade or distribution of the security.

In all cases, we expect registrants to be able to demonstrate a process for making suitability determinations that are appropriate in the circumstances.

**Suitability obligations cannot be delegated**

Registrants may not:

- delegate their suitability obligations to anyone else, or
- satisfy the suitability obligation by simply disclosing the risks involved with a trade

Only permitted clients may waive their right to a suitability determination. Registrants must make a suitability determination for all other clients. If a client instructs a registrant to make a trade that is unsuitable, the registrant may not allow the trade to be completed until they warn the client as required under subsection 13.3(2).

**KYC information for suitability depends on circumstances**

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

- client's circumstances
- type of security
- client's relationship to the registrant, and
- registrant's business model

In some cases, the registrant will need extensive KYC information, for example, if the registrant is a portfolio manager with discretionary authority. In these cases, the registrant should have a comprehensive understanding of the client's:

- investment needs and objectives, including the client's time horizon for their investments
- overall financial circumstances, including net worth, income, current investment holdings and employment status, and
- risk tolerance for various types of securities and investment portfolios, taking into account the client's investment knowledge

In other cases, the registrant may need less KYC information, for example, if the registrant only occasionally deals with a client who makes small investments relative to their overall financial position.

If the registrant recommends securities traded under the prospectus exemption for accredited investors in NI 45-106, the registrant should determine whether the client qualifies as an accredited investor.

If a client is opening more than one account, the registrant should indicate whether the client's investment objectives and risk tolerance apply to a particular account or to the client's whole portfolio of accounts.

**Registered firm and financial institution clients**

Under subsection 13.3(3), there is no obligation to make a suitability determination for a client that is a registered firm, a Canadian financial institution or a Schedule III bank.

**Permitted clients**

Under subsection 13.3(4), registrants do not have to make a suitability determination for a permitted client if:

- the permitted client has waived their right to suitability in writing, and
- the registrant does not act as an adviser for a managed account of the permitted client

A permitted client may waive their right to suitability for all trades under a blanket waiver.

**SRO exemptions**

SRO rules may also provide conditional exemptions from the suitability obligation, for example, for dealers who offer order execution only services.

*Division 2 Conflicts of interest*

**13.4 Identifying and responding to conflicts of interest**

Section 13.4 covers a broad range of conflicts of interest. It requires registered firms to take reasonable steps to identify existing material conflicts of interest and material conflicts that the firm reasonably expects to arise between the firm and a client. As part of identifying these conflicts, a firm should collect information from the individuals acting on its behalf regarding the conflicts they expect to arise with their clients.

We consider a conflict of interest to be any circumstance where the interests of different parties, such as the interests of a client and those of a registrant, are inconsistent or divergent.

**Responding to conflicts of interest**

A registered firm's policies and procedures for managing conflicts should allow the firm and its staff to:

- identify conflicts of interest that should be avoided
- determine the level of risk that a conflict of interest raises, and
- respond appropriately to conflicts of interest

When responding to any conflict of interest, registrants should consider their standard of care for dealing with clients and apply consistent criteria to similar types of conflicts of interest.

In general, three methods are used to respond to conflicts of interest:

- avoidance
- control, and
- disclosure

If a registrant allows a serious conflict of interest to continue, there is a high risk of harm to clients or to the market. If the risk of harming a client or the integrity of the markets is too high, the conflict needs to be avoided. If a registered firm does not avoid a conflict of interest, it should take steps to control or disclose the conflict, or both. The firm should also consider what internal structures or policies and procedures it should use or have to reasonably respond to the conflict of interest.

***Avoiding conflicts of interest***

Registrants must avoid all conflicts of interest that are prohibited by law. If a conflict of interest is not prohibited by law, registrants should avoid the conflict if it is sufficiently contrary to the interests of a client that there can be no other reasonable response.

For example, some conflicts of interest are so contrary to another person's or company's interest that a registrant cannot use controls or disclosure to respond to them. In these cases, the registrant should avoid the conflict, stop providing the service or stop dealing with the client.

***Controlling conflicts of interest***

Registered firms should design their organizational structures, lines of reporting and physical locations to control conflicts of interest effectively. For example, the following situations would likely raise a conflict of interest:

- advisory staff reporting to marketing staff
- compliance or internal audit staff reporting to a business unit, and
- registered representatives and investment banking staff in the same physical location

Depending on the conflict of interest, registered firms may control the conflict by:

- assigning a different representative to provide a service to the particular client
- creating a group or committee to review, develop or approve responses
- monitoring trading activity, or
- using information barriers for certain internal communication

***Disclosing conflicts of interest***

***(a) When disclosure is appropriate***

Registered firms should ensure that their clients are adequately informed about any conflicts of interest that may affect the services the firm provides to them. This is in addition to any other methods the registered firm may use to manage the conflict.

***(b) Timing of disclosure***

Under subsection 13.4(3), if a reasonable investor would expect to be informed of a conflict, a registered firm must disclose the conflict in a timely manner. Registered firms and their representatives should disclose conflicts of interest to their clients before or at the time they recommend the transaction or provide the service that gives rise to the conflict. This is to give clients a reasonable amount of time to assess the conflict.

We note that where this disclosure is provided to a client before the transaction takes place, we expect the disclosure to be provided shortly before the transaction takes place. For example, if it was initially provided with the client's account opening documentation months or years previously we expect that a registered representative would also disclose this conflict to the client shortly before the transaction or at the time the transaction is recommended.

For example, if a registered individual recommends a security that they own, this may constitute a material conflict which should be disclosed to the client before or at the time of the recommendation.

***(c) When disclosure is not appropriate***

Disclosure may not be appropriate if a conflict of interest involves confidential or commercially sensitive information, or the information amounts to "inside information" under insider trading provisions in securities legislation.

In these situations, registered firms will need to assess whether there are other methods to adequately respond to the conflict of interest. If not, the firm may have to decline to provide the service to avoid the conflict of interest.

Registered firms should also have specific procedures for responding to conflicts of interest that involve inside information and for complying with insider trading provisions.

***(d) How to disclose a conflict of interest***

Registered firms should provide disclosure about material conflicts of interest to their clients if a reasonable investor would expect to be informed about them. When a registered firm provides this disclosure, it should:

- be prominent, specific, clear and meaningful to the client, and
- explain the conflict of interest and how it could affect the service the client is being offered

Registered firms should not:

- provide generic disclosure
- give partial disclosure that could mislead their clients, or
- obscure conflicts of interest in overly detailed disclosure

**Examples of conflicts of interest**

This section describes specific situations where a registrant could be in a conflict of interest and how to manage the conflict.

***Relationships with related or connected issuers***

When a registered firm trades in, or recommends securities of, a related or connected issuer, it should respond to the resulting conflict of interest by disclosing it to the client.

To provide disclosure about conflicts with related issuers, a registered firm may maintain a list of the related issuers for which it acts as a dealer or adviser. It may make the list available to clients by:

- posting the list on its website and keeping it updated
- providing the list to the client at the time of account opening, or
- explaining to the client at the time of account opening how to contact the firm to request a copy of the list free of charge

The list may include examples of the types of issuers that are related or connected and the nature of the firm's relationship with those issuers. For example, a firm could generally describe the nature of its relationship with an investment fund within a family of investment funds. This would mean that the firm may not have to update the list when a new fund is added to that fund family.

However, this type of disclosure may not meet the expectations of a reasonable investor when a specific conflict with a related or connected issuer arises, for example, when a registered individual recommends a trade in the securities of a related issuer. In these circumstances, a registered firm should provide the client with disclosure about the specific conflict with that issuer. This disclosure should include a description of the nature of the firm's relationship with the issuer.

Like all disclosure, information regarding a conflict with a related or connected issuer should be made available to clients before or at the time of the advice or trade giving rise to the conflict, so that clients have a reasonable amount of time to assess it. Registrants should use their judgment for the best way and time to inform clients about these conflicts. Previous disclosure may no longer be relevant to, or remembered by, a client, while disclosure of the same conflict more than once in a short time may be unnecessary and confusing.

Firms do not have to disclose to clients their relationship with a related or connected issuer that is a mutual fund managed by an affiliate of the firm if the names of the firm and the fund are similar enough that a reasonable person would conclude they are affiliated.

***Relationships with other issuers***

Firms should assess whether conflicts of interest may arise in relationships with issuers that do not fall within the definitions of related or connected issuers. Examples include non-corporate issuers such as a trust, partnership or special purpose entity or conduit issuing asset-backed commercial paper. This is especially important if a registered firm or its affiliates are involved in sponsoring, manufacturing, underwriting or distributing these securities.

The registered firm should disclose the relationship with these types of issuers if it may give rise to a conflict of interest that a reasonable client would expect to be informed about.

***Competing interests of clients***

If clients of a registered firm have competing interests, the firm should make reasonable efforts to be fair to all clients. Firms should have internal systems to evaluate the balance of these interests.

For example, a conflict of interest can arise between investment banking clients, who want the highest price, lowest interest rate or best terms in general for their issuances of securities, and retail clients who will buy the product. The firm should consider whether the product meets the needs of retail clients and is competitive with alternatives available in the market.

***Individuals who serve on a board of directors***

***(a) Board of directors of another registered firm***

Under section 4.1, a registered individual must not act as a director of another registered firm that is not an affiliate of the individual's sponsoring firm.

***(b) Board of directors of non registered persons or companies***

Section 4.1 does not apply to registered individuals who act as directors of unregistered firms. However, significant conflicts of interest can arise when a registered individual serves on a board of directors. Examples include conflicting fiduciary duties owed to the company and to a registered firm or client, possible receipt of inside information and conflicting demands on the representative's time.

Registered firms should consider controlling the conflict by:

- requiring their representatives to seek permission from the firm to serve on the board of directors of an issuer, and
- having policies for board participation that identify the circumstances where the activity would not be in the best interests of the firm or its clients

The regulator will take into account the potential conflicts of interest that may arise when an individual serves on a board of directors when assessing that individual's application for registration or continuing fitness for registration.

***(c) Board of directors of reporting issuers***

A representative of a registrant acting as a director of or adviser to a reporting issuer raises concerns with respect to conflicts of interest, particularly in relation to issues of insider information, trading and timely disclosure. All registrants should be conscious of their responsibilities in these situations and weigh the burden of dealing in an ethical manner with the conflicts of interest against the advantages of acting as a director of a reporting issuer, many shareholders of which may be clients of the registrant.

Directors of a reporting issuer have an obligation not to reveal any confidential information about the issuer until there is full public disclosure of the information, particularly when the information might have a bearing on the market price or value of the securities of the issuer.

Any director of a reporting issuer who is a partner, director, officer, employee or agent of a registrant should recognize that the director's first responsibility with respect to confidential information is to the reporting issuer. A director should meticulously avoid any disclosure of inside information to partners, directors, officers, employees or agents of the registrant or to its clients.

If a partner, director, officer, employee or agent of a registrant is not a director but is acting in an advisory capacity to a reporting issuer and discussing confidential matters, the same care should be taken as if that person were a director. Should the matter require consultation with other personnel of the registrant, adequate measures should be taken to guard the confidential nature.

***Individuals who have outside business activities***

Conflicts can arise when registered individuals are involved in outside business activities, for example, because of the compensation they receive for these activities or because of the nature of the relationship between the individual and the outside entity. Before approving any of these activities, registered firms should consider potential conflicts of interest. If the firm cannot properly control a potential conflict of interest, it should not permit the outside activity.

Registrants must disclose all outside business activities in Form 33-109F4 (or Form 33-109F5 for changes in outside business activities after registration). Required disclosure includes any employment and business activities outside the registrant's sponsoring firm and all officer or director positions and any other equivalent positions held, as well as positions of influence, whether the registrant receives compensation or not. The following are examples of outside business activities that we would expect to be disclosed:

- paid or unpaid roles with charitable, social or religious organizations where the individual is in a position of power or influence and where the activity places the registered individual in contact with clients or potential clients, including positions where the registrant handles investments or monies of the organization
- being an owner of a holding company

The regulator will take into account the potential conflicts of interest that may arise as a result of an individual's outside business activities when assessing that individual's application for registration or continuing fitness for registration~~.~~, including the following:

- whether the individual will have sufficient time to properly carry out their registerable activities, including remaining current on securities law and product knowledge
- whether the individual will be able to properly service clients
- what is the risk of client confusion and are there effective controls and supervision in place to manage the risk
- whether the outside business activity presents a conflict of interest for the individual, and whether that conflict of interest should be avoided or can be appropriately managed
- whether the outside business activity places the individual in a position of power or influence over clients or potential clients, in particular clients or potential clients that may be vulnerable
- whether the outside business activity provides the individual with access to privileged, confidential or insider information relevant to their registerable activities

A registered firm is responsible for monitoring and supervising the individuals whose registration it sponsors. In relation to outside business activities, this includes:

- having appropriate policies and procedures to deal with outside business activities, including ensuring outside business activities do not:

- involve activities that are inconsistent with securities legislation and IIROC and MFDA requirements; and

- interfere with the individual's ability to remain current on securities law and product knowledge

- requiring individual registrants to disclose to their firm, and requiring the firm to review and approve, all outside business activities prior to the activities commencing

- ensuring the firm's chief compliance officer is able to properly supervise and monitor the outside business activities

- maintaining records documenting its supervision of outside business activities and ensuring these records are available for review by regulators

- ensuring that potential conflicts of interest are identified and appropriate steps are taken to manage such conflicts

- ensuring outside business activities do not impair the ability to provide adequate client service, including, where necessary, having an alternate representative available for the client

- ensuring the outside business activity is consistent with the registrant's duty to deal fairly, honestly and in good faith with its clients

- implementing risk management, including proper separation of the outside business activity and registerable activity

- preventing exposure of the firm to complaints and litigation

- assessing whether the individual's lifestyle is commensurate with the firm's knowledge of the individual's business activities and staying alert to other indicators of possible fraudulent activity

Failure to discharge these responsibilities may be relevant to the firm's continued fitness for registration.

***Compensation practices***

Registered firms should consider whether any particular benefits, compensation or remuneration practices are inconsistent with their obligations to clients, especially if the firm relies heavily on commission-based remuneration. For example, if there is a complex product that carries a high commission, the firm may decide that it is not appropriate to offer that product.

**13.5 Restrictions on certain managed account transactions**

Section 13.5 prohibits a registered adviser from engaging in certain transactions in investment portfolios it manages for clients on a discretionary basis where the relationship may give rise to a conflict of interest or a perceived conflict of interest. The prohibited transactions include trades in securities in which a responsible person or an associate of a responsible person may have an interest or over which they may have influence or control.

**Disclosure when responsible person is partner, director or officer of issuer**

~~Subsection~~Paragraph 13.5(2)(a) prohibits a registered adviser from purchasing securities of an issuer in which a responsible person or an associate of a responsible person is a partner, officer or director for a client's managed account. The prohibition applies unless the conflict is disclosed to the client and the client's written consent is obtained prior to the purchase.

If the client is an investment fund, the disclosure should be provided to, and the consent obtained from, each security holder of the investment fund in order for it to be meaningful. This disclosure may be provided in the offering memorandum that is provided to security holders. Like all disclosure about conflicts, it should be prominent, specific, clear and meaningful to the client. Consent may be obtained in the investment management agreement signed by the clients of the adviser that are also security holders of the investment fund.

This approach may not be practical for prospectus qualified mutual funds. Investment fund managers and advisers of these funds should also consider the specific exemption from the prohibition under section 6.2 of National Instrument 81-107 *Independent Review Committee for Investment Funds* (NI 81-107) for prospectus-qualified investment funds.

**Restrictions on trades with certain investment portfolios**

~~Subsection~~Paragraph 13.5(2)(b) prohibits certain trades, including, for example, those between the managed account of a client and the managed account of:

- a spouse of the adviser
- a trust for which a responsible person is the trustee, or
- a corporation in which a responsible person beneficially owns 10% or more of the voting securities

It also prohibits inter-fund trades. An inter-fund trade occurs when the adviser for an investment fund knowingly directs a trade in portfolio securities to another investment fund that it acts for or instructs the dealer to execute the trade with the other investment fund. Investment fund managers and their advisers should also consider the exemption from the prohibition that exists for inter-fund trades by public investment funds under section 6.1 of NI 81-107.

~~Section~~Paragraph 13.5(2)(b) is not intended to prohibit a responsible person from purchasing units in the investment fund itself, nor is it intended to prohibit one investment fund from purchasing units of another fund in situations where they have the same adviser.

In instances where an IIROC dealer, who is also an adviser to a managed account, trades between its inventory account and the managed account, the dealer is expected to have policies and procedures that sufficiently mitigate the conflicts of interest inherent in such transactions. Generally, we expect these policies and procedures to ensure that:

- the trades achieve best execution as referenced in National Instrument 23-101 *Trading Rules*, while ensuring that the trades are consistent with the objectives of the managed account
- reasonable steps are taken to access information, including marketplace quotations or quotes provided by arms-length parties, to ensure that the trade is executed at a fair price
- there is appropriate oversight and a compliance mechanism to monitor this trading activity in order to ensure that it complies with applicable regulatory requirements, including the requirements referred to above.

**13.6 Disclosure when recommending related or connected securities**

Section 13.6 restricts the ability of a registered firm to recommend a trade in a security of a related or connected issuer. The restrictions apply to recommendations made in any medium of communication. This includes recommendations in newsletters, articles in general circulation newspapers or magazines, websites, e-mail, Internet chat rooms, bulletin boards, television and radio.

It does not apply to oral recommendations made by registered individuals to their clients. These recommendations are subject to the requirements of section 13.4.

*Division 3 Referral arrangements*

Division 3 sets out the requirements for permitted referral arrangements. Regulators want to ensure that under any referral arrangements:

- individuals and firms that engage in registerable activities are appropriately registered

- the roles and responsibilities of the parties to the written agreement are clear, including responsibility for compliance with securities legislation, and

- clients are provided with disclosure about the referral arrangement to help them evaluate the referral arrangement and the extent of any conflicts of interest

Registered firms have a responsibility to monitor and supervise all of their referral arrangements to ensure that they comply with the requirements of NI 31-103 and other applicable securities laws and continue to comply for so long as the arrangement remains in place.

**Obligations to clients**

A client who is referred to an individual or firm becomes the client of that individual or firm for the purposes of the services provided under the referral arrangement.

The registrant receiving a referral must meet all of its obligations as a registrant toward its referred clients, including know your client and suitability determinations.

Registrants involved in referral arrangements should manage any related conflicts of interest in accordance with the applicable provisions of Part 13 *Dealing with clients – individuals and firms*. For example, if the registered firm is not satisfied that the referral fee is reasonable, it should assess whether an unreasonably high fee may create a conflict that could motivate its representatives to act contrary to their duties toward their clients.

**13.7 Definitions – referral arrangements**

Section 13.7 defines "referral arrangement" in broad terms. Referral arrangement means an arrangement in which a registrant agrees to pay or receive a referral fee. The definition is not limited to referrals for providing investment products, financial services or services requiring registration. It also includes receiving a referral fee for providing a client name and contact information to an individual or firm. "Referral fee" is also broadly defined. It includes sharing or splitting any commission resulting from the purchase or sale of a security.

In situations where there is no expectation of reward or compensation, we would not consider the receipt of an unexpected gift of appreciation to fall within the scope of a referral arrangement. One of the key elements of the referral arrangement is that the registrant agrees to pay or receive a referral fee for the referral of a client. This agreement or understanding is absent in the case of unexpected gifts.

**13.8 Permitted referral arrangements**

Under section 13.8, parties to a referral arrangement are required to set out the terms of the arrangement in a written agreement. This is intended to ensure that each party's roles and responsibilities are made clear. This includes obligations for registered firms involved in referral arrangements to keep records of referral fees. Payments do not necessarily have to go through a registered firm, but a record of all payments related to a referral arrangement must be kept.

We expect referral agreements to include:

- the roles and responsibilities of each party

- limitations on any party that is not a registrant (to ensure that it is not engaging in any activities requiring registration)

- the disclosure to be provided to referred clients, and

- who provides the disclosure to referred clients

If the individual or firm receiving the referral is a registrant, they are responsible for:

- carrying out all activity requiring registration that results from the referral arrangement, and

- communicating with referred clients

Registered firms are required to be parties to referral agreements. This ensures that they are aware of these arrangements so they can adequately supervise their representatives and monitor compliance with the agreements. This does not preclude the individual registrant from also being a party to the agreement.

A party to a referral arrangement may need to be registered depending on the activities that the party carries out. Registrants cannot use a referral arrangement to assign, contract out of or otherwise avoid their regulatory obligations.

**13.9 Verifying the qualifications of the person or company receiving the referral**

Section 13.9 requires the registrant making a referral to satisfy itself that the party receiving the referral is appropriately qualified to perform the services, and if applicable, is appropriately registered. The registrant is responsible for determining the steps that are appropriate in the particular circumstances. For example, this may include an assessment of the types of clients that the referred services would be appropriate for.

**13.10 Disclosing referral arrangements to clients**

The disclosure of information to clients required under section 13.10 is intended to help clients make an informed decision about the referral arrangement and to assess any conflicts of interest. The disclosure should be provided to clients before or at the time the referred services are provided. A registered firm, and any registered individuals who are directly participating in the referral arrangement, should take reasonable steps to ensure that clients understand:

- which entity they are dealing with
- what they can expect that entity to provide to them
- the registrant's key responsibilities to them
- the limitations of the registrant's registration category
- any relevant terms and conditions imposed on the registrant's registration
- the extent of the referrer's financial interest in the referral arrangement, and
- the nature of any potential or actual conflict of interest that may arise from the referral arrangement

*Division 4 Loans and margin*

**13.12 Restriction on lending to clients**

The purpose of section 13.12 is intended to limit the financial exposure of a registered firm. To the extent that products sold to clients are structured in a way that would result in the registrant becoming a lender to the clients, including the registrant extending margin to the client, we would consider the registrant to not be in compliance with section 13.12.

Section 13.12 prohibits registrants from lending money, extending credit or providing margin to clients as we consider that this activity creates a conflict of interest which cannot be easily managed.

We note that SROs are exempt from section 13.12 as they have their own rules or prohibitions on lending, extending credit and providing margin to clients. Direct lending to clients (margin) is reserved for IIROC members. The MFDA has its own rules prohibiting margining and, except in specific limited circumstances, lending.

*Division 5 Complaints*

Registered firms in Québec must comply with sections 168.1.1 to 168.1.3 of the Québec *Securities Act*, which has provided a substantially similar regime since 2002. The guidance in Division 5 of this Companion Policy applies to firms registered in any jurisdiction, including Québec.

**13.15 Handling complaints**

**General duty to document and respond to complaints**

Section 13.15 requires registered firms to document complaints, and to effectively and fairly respond to them. We are of the view that registered firms should document and respond to all complaints received from a client, a former client or a prospective client who has dealt with the registered firm (complainant).

Firms are reminded that they are required to maintain records which demonstrate compliance with complaint handling requirements under ~~subsection~~paragraph 11.5(2)(m).

**Complaint handling policies**

An effective complaint system should deal with all formal and informal complaints or disputes in a timely and fair manner. To achieve the objective of handling complaints fairly, the firm's complaint system should include standards allowing for objective factual investigation and analysis of the matters specific to the complaint.

We take the view that registered firms should take a balanced approach to the gathering of facts that objectively considers the interests of

- the complainant
- the registered representative, and
- the firm

Registered firms should not limit their consideration and handling of complaints to those relating to possible violations of securities legislation.

**Complaint monitoring**

The firm's complaint handling policy should provide for specific procedures for reporting the complaints to superiors, in order to allow the detection of frequent and repetitive complaints made with respect to the same matter which may, on a cumulative basis, indicate a serious problem. Firms should take appropriate measures to deal with such problems as they arise.

**Responding to complaints**

***Types of complaints***

All complaints relating to one of the following matters should be responded to by the firm by providing an initial and substantive response, both in writing and within a reasonable time:

- a trading or advising activity
- a breach of client confidentiality
- theft, fraud, misappropriation or forgery
- misrepresentation
- an undisclosed or prohibited conflict of interest, or
- personal financial dealings with a client

Firms may determine that a complaint relating to matters other than the matters listed above is nevertheless of a sufficiently serious nature to be responded to in the manner described below. This determination should

be made, in all cases, by considering if an investor, acting reasonably, would expect a written response to their complaint.

***When complaints are not made in writing***

We would not expect that complaints relating to matters other than those listed above, when made verbally and when not otherwise considered serious based on an investor's reasonable expectation, would need to be responded to in writing. However, we do expect that verbal complaints be given as much attention as written complaints. If a complaint is made verbally and is not clearly expressed, the firm may request the complainant to put the complaint in writing and we expect firms to offer reasonable assistance to do so.

Firms are entitled to expect the complainant to put unclear verbal issues into written format in order to try to resolve confusion about the nature of the issue. If the verbal complaint is clearly frivolous, we do not expect firms to offer assistance to put the complaint in writing. The firm may nonetheless ask the complainant to put the complaint in writing on his or her own.

***Timeline for responding to complaints***

Firms should

- promptly send an initial written response to a complainant: we consider that an initial response should be provided to the complainant within five business days of receipt of the complaint

- provide a substantive response to all complaints relating to the matters listed under "Types of complaints" above, indicating the firm's decision on the complaint

We encourage firms to resolve complaints relating to the matters listed above within 90 days.

**13.16 Dispute resolution service**

A registered firm must ensure that the complainant is aware of the dispute resolution or mediation services that are available to them and that the firm will pay for the services. Registered firms should know all applicable mechanisms and processes for dealing with different types of complaints, including those prescribed by the applicable SRO.

In Québec, registrants must inform each complainant, in writing and without delay, that if the complainant is dissatisfied with how the complaint is handled or with the outcome, they may request the registrant to forward a copy of the complaint file to the Autorité des marchés financiers. The registrant must forward a copy of the complaint file to the Autorité des marchés financiers, which will examine the complaint. The Autorité des marchés financiers may act as a mediator if it considers it appropriate to do so and the parties agree.

**Registrants who do business in other sectors**

Some registrants are also registered or licensed to do business in other sectors, such as insurance. These registrants should inform their clients of the complaint mechanisms for each sector in which they do business and how to use them.

*Division 6 Registered sub-advisers*

**13.17 Exemption from certain requirements for registered sub-advisers**

Section 13.17 contains an exemption from certain client related requirements for registered sub-advisers. These requirements are not necessary because in a sub-adviser arrangement the sub-adviser's client is another registrant. We remind registrants that these exemptions do not apply if the client is not a registrant. One of the conditions of this exemption is that the other registrant has entered into an agreement with its client that it is responsible for losses that arises out of certain failures by the sub-adviser. We expect that a registrant taking on this liability will conduct appropriate due diligence on the sub-adviser and before making recommendations or investment decisions based on the sub-adviser's advice, ensure the investment is suitable for the registrant's client.

We also expect that the other registrant and the sub-adviser will maintain records of their transactions and that the other registrant will maintain records of the due diligence conducted on the sub-adviser.

Another condition is that the sub-adviser cannot have contact with the other registrant's clients, unless the registrant is present. This condition requires the other registrant to be present in person or by telephone or other real-time communications technology, in which there is an opportunity for a live discussion. The sub-adviser copying the other registrant in written communications sent to the other registrant's client (whether through e-mail or another medium) would not meet this condition.

## Part 14 Handling client accounts – firms

If a client consents, documents required in this Part can be delivered in electronic form. For further guidance, see National Policy 11-201 *Electronic Delivery of Documents* ~~by Electronic Means~~.

*Division 1 Investment fund managers*

Section 14.1 sets out the limited application of Part 14 to investment fund managers that are not also registered in other categories, including section 14.1.1 [*duty to provide information*], section 14.6 [*holding client assets in trust*], subsection 14.12(5) [*content and delivery of trade confirmation*] and section 14.15 [*security holder statements*].

Section 14.1.1 requires investment fund managers to provide, within a reasonable period of time, information concerning deferred sales charges and any other charges deducted from the net asset value of the securities, and trailing commissions to dealers and advisers in order that they may comply with their obligations under paragraphs 14.12(1)(c) [*content and delivery of trade confirmation*] and 14.17(1)(h) [*report on charges and other compensation*]. This is a principles-based requirement. An investment fund manager must work with the dealers and advisers who distribute fund products to determine what information they need from the investment fund manager in order to satisfy their client reporting obligations. The information and arrangements for its delivery may vary, reflecting different operating models and information systems.

*Division 2 Disclosure to clients*

### 14.2 Relationship disclosure information

Registrants should ensure that clients understand who they are dealing with. They should carry on all registerable activities in their full legal or registered trade name. Contracts, confirmation and account statements, among other documents, should contain the registrant's full legal name.

**Content of relationship disclosure information**

There is no prescribed form for the relationship disclosure information required under section 14.2 [*relationship disclosure information*]. A registered firm may provide this information in a single document, or in separate documents, which together give the client the prescribed information.

Relationship disclosure information should be communicated in a manner consistent with the guidance on client communications under section 1.1 of this Companion Policy. We encourage registrants to avoid the use of technical terms and acronyms when communicating with clients. To satisfy their obligations under section 14.2, registered individuals must spend sufficient time with clients as part of an in-person or telephone meeting, or other method that is consistent with their operations, to adequately explain the information that is delivered to them. We expect a firm to have policies and procedures requiring its registered individuals to demonstrate they have done so. What is considered "sufficient" will depend on the circumstances, including a client's understanding of the delivered documents.

Evidence of compliance with client disclosure requirements at account opening, prior to trades and at other times, can include detailed notes of meetings or discussions with clients, signed client acknowledgements and tape-recorded phone conversations.

**Promoting client participation**

Registered firms should help their clients understand the registrant-client relationship. They should encourage clients to actively participate in the relationship and provide them with clear, relevant and timely information and communications.

In particular, registered firms should help and encourage clients to:

- **Keep the firm up to date.** Clients should be encouraged to
  - provide full and accurate information to the firm and the registered individuals acting for the firm
  - promptly inform the firm of any change to their information that could result in a change to the types of investments appropriate for them, such as a change to their income, investment objectives, risk tolerance, time horizon or net worth
- **Be informed.** Clients should be
  - helped to understand the potential risks and returns on investments
  - encouraged to carefully review sales literature provided by the firm
  - encouraged to consult professionals, such as a lawyer or an accountant, for legal or tax advice where appropriate
- **Ask questions.** Clients should be encouraged to
  - request information from the firm to resolve concerns about their account, transactions or investments, or their relationship with the firm or a registered individual acting for the firm
- **Stay on top of their investments.** Clients should be encouraged to
  - review all account documentation provided by the firm
  - regularly review portfolio holdings and performance

**Disclosure of charges and other compensation**

Under paragraphs 14.2(2)(f), (g) and (h), registered firms must provide clients with information on the operating and transaction charges they might pay in making, holding and selling investments, and a general description of any compensation paid to the firm by any other party. We expect this disclosure to include all charges a client might pay during the course of holding a particular investment.

A registered firm's charges to a client and the compensation it may receive from third parties in respect of the client will vary depending on the type of relationship with the client and the nature of the services and investment products offered. At account opening, registered firms must provide clients with general information on the operating charges and transaction charges that the clients may be required to pay, as well as other compensation the firms may receive as a result of their business relationship. A firm is not expected to provide information on all the types of accounts that it offers and the fees related to these accounts if it is not relevant to the client's situation.

"Operating charge" is defined broadly in section 1.1 and examples include (but are not exclusive to) service charges, administration fees, safekeeping fees, management fees, transfer fees, account closing fees, annual registered plan fees and any other charges associated with maintaining and using an account that are paid to the registrant. For registered firms that charge an all-in fee for the operation of the account, such as a percentage of assets under management, that fee is the operating charge. We do not expect firms with an all-in operating charge to provide a breakdown of the items covered by the fee.

"Transaction charges" is also defined broadly in section 1.1 and examples include (but are not exclusive to) commissions, transaction fees, switch or change fees, performance fees, short-term trading fees, and sales charges or redemption fees that are paid to the registrant. Although we do not consider "foreign exchange spreads" to be a transaction charge, we encourage firms to include a general notification in trade

confirmations and reports on charges and other compensation that the firm may have incurred a gain or loss from a foreign exchange transaction as a best practice.

Operating charges and transaction charges include only charges paid to the registered firm by the client. Third-party charges, such as custodian fees that are not paid to the registered firm, are not included in operating charges or transaction charges. Operating and transaction charges include any sales taxes that are paid on the amounts charged to the client. Registrants may wish to inform clients where a charge includes sales tax, or separately disclose the components of the charge. Withholding taxes would not be considered a charge.

Providing general information on charges is appropriate at the time of account opening. However, section 14.2.1 [pre-trade disclosure of charges] requires that, before a registered firm accepts an instruction from a client to purchase or sell a security, the firm must provide more specific information as to the nature and amount of the actual charges that will apply. Registrants are encouraged to explain charges to their clients.

For example, if a client will be investing in a mutual fund security, the description should briefly explain each of the following and how they may affect the investment:

- the management fee
- the sales charge or deferred sales charge option available to the client and an explanation as to how such charges work. This means registered firms should advise clients that mutual funds sold on a deferred sales charge basis are subject to charges upon redemption that are applied on a declining rate scale over a specified period of years, until such time as the charges decrease to zero. Any other redemption fees or short-term trading fees that may apply should also be discussed
- any trailing commission, or other embedded fees
- any options regarding front end loads
- any fees related to the client changing or switching investments (“switch or change fees”)

Registrants may also wish to explain to clients that trailing commissions are included in the management fees that are charged to their investment funds and are not additional charges paid by the client to the registrant. “Trailing commission” is defined for purposes of NI 31-103 in section 1.1 in broad terms designed to ensure that payments similar to what are generally known as trailing commissions will be subject to similar reporting requirements under this instrument.

Registrants should advise clients with managed accounts whether the registrant will receive compensation from third parties, such as trailing commissions, on any securities purchased for the client and, if so, whether the fee paid by the client to the registrant will be affected by this. For example, the management fee paid by a client on the portion of a managed account related to mutual fund holdings may be lower than the overall fee on the rest of the portfolio.

**Description of content and frequency of client reporting**

Under paragraph 14.2(2)(i), a registered firm is required to provide a description of the content and frequency of reporting to the client. Reporting to clients includes, as applicable:

- trade confirmations under section 14.12
- account statements under section 14.14
- additional statements under section 14.14.1
- position cost information under section 14.14.2
- annual report on charges and other compensation under section 14.17
- investment performance reports under section 14.18

Guidance about registered firm's client reporting obligations is provided in Division 5 of this Part.

**KYC information**

Paragraph 14.2(2)(l) requires registrants to provide their clients with a copy of their KYC information at the time of account opening. We would expect registered firms to also provide a description to the client of the various terms which make up the KYC information, and explain how this information will be used in assessing the client's financial situation, investment objectives, investment knowledge and risk tolerance in determining investment suitability.

**Benchmarks**

Paragraph 14.2(2)(m) requires registered firms to provide clients with a general explanation of how investment performance benchmarks might be used to assess the performance of a client's investments and any options available to the client to obtain information about benchmarks from the registered firm. Other than this general discussion, there is no requirement for registered firms to provide benchmark information to clients. Nonetheless, we encourage firms to do so as a best practice. Guidance on the provision of benchmarks is set out in this Companion Policy at the end of the discussion of the content of investment performance reports under section 14.19.

**Scholarship plan dealers**

Paragraph 14.2(2)(n) requires an explanation of the important aspects of the scholarship plan that, if not fulfilled, would cause loss to the client. To be complete, this prescribed disclosure could include any options that would allow the investor to retain notional earnings in the event that they do not maintain prescribed payments under the plan and any fees associated with those options.

**Order execution trading**

Subsections 14.2(7) and (8) provide that only limited relationship disclosure information must be delivered by a dealer whose relationship with a client is limited to executing trades as directed by a registered adviser acting for the client. In a relationship of this kind, each registrant must explain to the client its role and responsibility to the client, and what services and reporting the client can expect of it.

**14.2.1 Pre-trade disclosure of charges**

For non-managed accounts, section 14.2.1 requires disclosure to a client of charges specific to a transaction prior to the acceptance of a client's instruction. This disclosure is not required to be in writing. Oral disclosure of charges is sufficient for the purposes of disclosing charges at the time of a transaction. Specific charges must be reported in writing on the trade confirmation as required in section 14.12.

For a purchase of a security on a deferred sales charge basis, disclosure that a deferred sales charge might be triggered upon the redemption of the security, and the schedule that would apply if it is sold within the time period that a deferred sales charge would be applicable, must be presented. The actual amount of the deferred sales charge, if any, would need to be disclosed once the security is redeemed. For the purposes of disclosing trailing commissions, the dealing representative may draw attention to the information in the prospectus or the fund facts document if that document is provided at the point of sale.

With respect to a transaction involving a debt security, pre-trade disclosure should include a discussion of any commission the registered firm will receive on the trade. This discussion should include both the number of basis points that the charge represents as well as the corresponding dollar amount, or a reasonable estimate of the amount if the actual amount of the charges is not known to the firm at the time.

**Switch or change transactions**

Processing a switch or change transaction without client knowledge is contrary to a registrant's duty to act fairly, honestly and in good faith. In our view, compliance with this duty requires that clients are informed, before any switch or change transaction is processed, of charges associated with the transaction, dealers' incentives for such a transaction (including increased trailing commissions), and any tax or other implications of such a transaction. In each case, we expect dealers to explain why a proposed switch or change transaction is appropriate for the client. We consider that providing clients with clear and complete

disclosure of the charges at the time of a transaction will help clients to be aware of the implications of proposed transactions and deter registrants from transacting for the purpose of generating commissions. Registrants are also reminded that their obligations in connection with suitability and conflicts of interest apply to such transactions, as well as their obligations under any applicable SRO requirements or guidance.

We expect all changes or switches to a client's investments to be accurately reported in trade confirmations by reporting each of the purchase and sale transactions making up the change or switch, as required in section 14.12, with a description of the associated charges.

**14.4 When the firm has a relationship with a financial institution**

As part of their duty to clients, registrants who have a relationship with a financial institution should ensure that their clients understand which legal entity they are dealing with. In particular, clients may be confused if more than one financial services firm is carrying on business in the same location. Registrants may differentiate themselves through various methods, including signage and disclosure.

*Division 3 Client assets*

**14.6 Holding client assets in trust**

Section 14.6 requires a registered firm to segregate client assets and hold them in trust. We consider it prudent for registrants who are not members of an SRO to hold client assets in client name only. This is because the capital requirements for non-SRO members are not designed to reflect the added risk of holding client assets in nominee name.

*Division 4 Client accounts*

**14.10 Allocating investment opportunities fairly**

If the adviser allocates investment opportunities among its clients, the firm's fairness policy should, at a minimum, indicate the method used to allocate the following:

- price and commission among client orders when trades are bunched or blocked
- block trades and initial public offerings among client accounts
- block trades and initial public offerings among client orders that are partially filled, such as on a pro-rata basis

The fairness policy should also address any other situation where investment opportunities must be allocated.

*Division 5 Reporting to clients*

Reporting to clients is on an account basis, except that

- securities that are not held in an account (i.e., securities reported under an additional statement) must be included in a report for the account through which they were traded, and
- subsection 14.18(4) permits performance reports for more than one account of a client and also securities not held in an account to be combined with the client's written consent.

Registered firms may choose how they meet their client reporting obligations within the framework set out in the Instrument. We encourage firms to combine client statements, position cost information and client reports into comprehensive documents or send them together. For example, an account statement and an additional statement for securities traded through (but not held) in an account might be combined, perhaps along with position cost information, each quarter. Once a year, an integrated statement such as this could be further combined with the report on charges and other compensation and the performance report, or delivered along with a separate document that combines the two reports.

We believe that integrating client reporting as much as possible within the limitations of firms' systems capabilities will better enable clients to make use of the information and that it is in the interests of registrants to have clients that are well informed about the services they provide. When client reporting information is combined or delivered together, we expect registered firms will give each element sufficient prominence among the others that a reasonable investor can readily locate it.

Consistent with the guidance on clear and meaningful disclosure to clients in section 1.1 of this Companion Policy, we expect registrants to present client statements and reports in an understandable manner and to explain, if applicable, what securities are included in different statements. Registered firms should encourage clients to contact their dealing or advising representative or the firm directly with questions about their statements and reports. We expect registered firms to ensure that clients know how their investments will be held (for example, by the firm or at an issuing fund company) and understand the different implications that this will have for them in such matters as client reporting, investor protection fund coverage and custody of their assets. If a registered firm trades in exempt market securities for a client, the firm should also explain the reasons why it is not always possible for the firm to determine a market value for products sold in the exempt market or whether the client still owns the security, and the implications that this may have for reporting on exempt-market securities.

It is the responsibility of the registered firm to produce these client statements and reports, not that of individual representatives. Registered firms should have policies and procedures in place to ensure that they are adequately supervising their registered representatives' communications with clients about the prescribed information.

The requirement to produce and deliver a trade confirmation under section 14.12, an account statement under section 14.14, an additional statement under section 14.14.1, position cost information under section 14.14.2, a security holder statement under section 14.15, a scholarship plan dealer statement under section 14.16 or client reports under sections 14.17 and 14.18 may be outsourced by a registered firm to a third-party service provider that acts as its agent. Third-party pricing providers may also be used to value securities for these purposes. Like all outsourcing arrangements, the registrant is ultimately responsible for the function and must supervise the service provider. See Part 11 of this Companion Policy for more guidance on outsourcing.

**14.11.1 Determining market value**

Section 14.11.1 sets out the basis on which market value must be determined for client reporting purposes.

Paragraph 14.11.1(1)(a) requires the market value of a security that is issued by an investment fund not listed on an exchange to be determined by reference to the net asset value provided by the investment fund manager of the fund on the relevant date.

For other securities, a hierarchy of valuation methods that depend on the availability of relevant information is prescribed in paragraph 14.11.1(1)(b). Registrants are required to act reasonably in applying these methodologies and we understand that this process will often require a registrant to exercise professional judgement.

Where possible, market value should be determined by reference to a quoted value on a marketplace. The quoted value will be the last bid or ask price on the relevant date or the last trading day prior to the relevant date. Registered firms should ensure that any quoted values used to determine market value do not represent stale or old prices that are not reflective of current values. If no current value for a security is quoted on a marketplace, market value should be determined by reference to published market reports or inter-dealer quotes.

We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and includes procedures that assess the reliability of any valuation inputs and assumptions. If available, valuation inputs and assumptions should be based on observable market data or inputs, such as market prices or yield rates for comparable securities and quoted interest rates. If observable inputs are not available, valuation can be based on unobservable inputs and assumptions. In some cases, it may be reasonable and appropriate to value at cost, where there has been no material subsequent event affecting value (e.g. a market event or new capital raising by the issuer). "Observable" and "unobservable" inputs are concepts under International Financial Reporting Standards (IFRS), and we expect them to be applied consistent with IFRS.

Subsection 14.11.1(3) provides that where the registered firm reasonably believes that it cannot determine the market value of a security, the firm must report that no value can be determined and the security must not be included in the calculation of the total market value of cash and securities in the client's account or in calculations for the investment performance report (see also subsection 14.19(7)).

If the market value for a security subsequently becomes determinable, a registered firm must begin to report it in client statements and add that value to the opening market values or deposits included in the calculations in subsection 14.19(1). This would be expected if the firm had previously assigned the security a value of zero in the calculation of opening market values or deposits because it could not determine the security's market value, as required by subsection 14.19(7). This would reduce the risk of presenting a misleading improvement in the performance of the investment by only adding the value of the security to the other calculations required under section 14.19. If the deposits used to purchase the security were already included in the calculation of opening market values or deposits, the registered firm would not need to adjust these figures.

We encourage firms to disclose the foreign exchange rate used in calculating the market value of non-Canadian dollar denominated securities as a best practice.

### 14.12 Content and delivery of trade confirmation

Section 14.12 requires registered dealers to deliver trade confirmations.

Under paragraph 14.12(1)(b.1), registered dealers must provide the yield on a purchase of a debt security in a trade confirmation. For non-callable debt securities, the yield to maturity would be appropriate. For callable securities, the yield to call may be more useful.

Under paragraph 14.12(1)(c.1), registrants may disclose the total dollar amount of compensation (which may consist of any mark-up or mark-down, commission or other service charge) or, alternatively, the total dollar amount of commission, if any, and if the registrant applied a mark-up or mark-down or any service charge other than a commission, a prescribed general notification. The notification is a minimum requirement and a firm may elect to provide more information in its trade confirmations.

Each trade should be reported in the currency in which it was executed. If a trade is executed in a foreign currency through a Canadian dollar account, the exchange rate should be reported to the client.

### 14.14 Account statements

Section 14.14 requires registered dealers and advisers to deliver statements to clients at least once every three months. There is no prescribed form for these statements but they must contain the information referred to in subsections 14.14(4) and (5). The types of transactions that must be disclosed in an account statement include any purchase, sale or transfer of securities, dividend or interest payment received or reinvested, any fee or charge, and any other account activity. A firm must deliver an account statement with the information referred to in subsection (4) if any transaction was made for the client in the reporting period. Effective July 15, 2015, a firm is only required to provide the account balance information referred to in subsection (5) if it holds securities owned by a client in an account of the client.

### 14.14.1 Additional statements

A firm is required to deliver additional statements if the circumstances described in subsection 14.14.1(1) apply. The additional statements must be delivered once every three months, except that an adviser must deliver the statements on a monthly basis if requested by the client as provided in subsection 14.14.1(3). The requirements set out for the frequency of delivering account statements and additional statements are minimum standards. Firms may choose to provide the statements more frequently.

Firms may choose to include securities that must be reported under the additional statement requirement in a document that it refers to as an account statement, consistent with their clients' expectations that their accounts are not limited to securities held by the firm, provided it satisfies the requirements for content of statements set out in sections 14.14 and 14.14.1.

### 14.14.2 Position cost information

Section 14.14.2 requires the delivery on a quarterly basis of position cost information for securities reported in account statements and additional statements. Position cost may be either the book cost or the original cost, as defined in section 1.1. Position cost information provides investors with a comparison to the market value of each security position they have open.

Where securities were transferred from another registrant firm and the information required to calculate position cost is unavailable, a registrant may elect to use market value information as at the date of the transfer as the position cost going forward.

Firms must include the definition of book cost or original cost in client statements. Firms can comply with that requirement by making reference to the definition in a footnote.

Position cost information must be delivered at least quarterly, within 10 days after an account statement or additional statement. A firm may combine position cost information with the statement(s) for the period, or it may send it separately. If it chooses to send position cost information separately, the firm must also include the market value information from the statement(s) for the period in order that the client will be able to readily compare the information. Although a firm may deliver statements under section 14.14 or section 14.14.1 more frequently than quarterly, it is not required to provide position cost information except on a quarterly basis.

**14.15 Security holder statements**

Section 14.15 sets out the client reporting requirements applicable to a registered investment fund manager where there is no dealer or adviser of record for a security holder on the records of the investment fund manager.

**14.16 Scholarship plan dealer statements**

Section 14.16 provides that sections 14.14 [*account statements*], 14.14.1 [*additional statements*] and 14.14.2 [*position cost information*] do not apply to a scholarship plan dealer that delivers prescribed information to a client at least once every 12 months. Subsection 14.19(4) sets out performance reporting requirements for scholarship plans.

**14.17 Report on charges and other compensation**

Registered firms must provide clients with an annual report on the firm's charges and other compensation received by the firm in connection with their investments. Examples of operating charges and transaction charges are provided in the discussion of the disclosure of charges and other compensation in section 14.2 of this Companion Policy.

The discussion of debt security disclosure requirements in section 14.12 of this Companion Policy is also relevant with respect to paragraph 14.17(1)(e).

Scholarship plans often have enrolment fees payable in instalments in the first few years of a client's investment in the plan. Paragraph 14.17(1)(f) requires that scholarship plan dealers include a reminder of the unpaid amount of any such fees in their annual reports on charges and other compensation.

Payments that a registered firm or its registered representatives receive from issuers of securities or other registrants in relation to registerable services to a client must be reported under paragraph 14.17(1)(g). Examples of payments that would be included in this part of the report on charges and other compensation include some referral fees, success fees on the completion of a transaction or finder's fees. This part of the report does not include trailing commissions, as they are specifically addressed in paragraph 14.17(1)(h).

Registered firms must disclose the amount of trailing commissions they received related to a client's holdings. The disclosure of trailing commissions received in respect of a client's investments must be included with a notification prescribed in paragraph 14.17(1)(h). The notification must be in substantially the form prescribed, so a registered firm may modify it to be consistent with the actual arrangements. For example, a firm that receives a payment that falls within the definition of "trailing commission" in section 1.1 in respect of securities that are not investment funds can modify the notification accordingly. The notification set out is the required minimum and firms can provide further explanation if they believe it will be helpful to their clients.

Registered firms may want to organize the annual report on charges and other compensation with separate sections showing the charges paid by the client to the firm, and the other compensation received by the firm in respect of the client's account.

Appendix D of this Companion Policy includes a sample Report on Charges and Other Compensation, which registered firms are encouraged to use as guidance.

**14.18 Investment performance report**

Where more than one registrant provides services pertaining to a client's account, responsibility for performance reporting rests with the registered firm with the client-facing relationship. For example, if a registered adviser has trading authority over a client's account at a registered dealer, the adviser must provide the client with an annual investment performance report; this is not an obligation of the dealer that only executes adviser-directed trades or provides custodial services in respect of the client's account.

Performance reporting to clients is required to be provided separately for each account. Securities of a client required to be reported in an additional statement under section 14.14.1, if any, must be covered in a performance report that also includes any other securities in the account through which they were transacted. However, subsection 14.18(4) provides that with client consent, a registrant may provide consolidated performance reporting for that client. A registrant may also provide a consolidated performance report for multiple clients, such as a family group, but only as a supplemental report, in addition to reports required under section 14.18.

**14.19 Content of investment performance report**

Subsection 14.19(5) requires the use of each of text, tables and charts in the presentation of investment performance reports. Explanatory notes and the definition of "total percentage return" must also be included. The purpose of these requirements is to make the information as understandable to investors as possible.

To help investors get the most out of their investment performance reports and encourage informed discussion with their registered dealing representative or advising representative, we encourage registered firms to consider including:

- additional definitions of the various performance measures used by the registrant
- additional disclosure that enhances the performance presentation
- a discussion with clients about what the information means to them

Registrants should not mislead a client by presenting a return of the client's capital in a manner that suggests it forms part of the client's return on an investment.

Registered representatives are also encouraged to meet with clients, as part of an in-person or telephone meeting, to help ensure they understand their investment performance reports and how the information relates to the client's investment objectives and risk tolerance.

Appendix E of this Companion Policy includes a sample Investment Performance Report which registered firms are encouraged to use as guidance.

**Opening market value, deposits and withdrawals**

As part of paragraphs 14.19(1)(a) and (b), registered firms must disclose the market value of cash and securities in the client's account as at the beginning and the end of the 12-month period covered by the investment performance report. The market value of cash and securities at account opening is assumed to be zero.

Under paragraphs 14.19(1)(c) and (d), registered firms must also disclose the market value of all deposits and transfers of cash and securities into the account, and the market value of all withdrawals and transfers of cash and securities out of the account, for the 12-month period covered by the performance report, as well as since account opening. Deposits and transfers into the account (which do not include reinvested distributions or interest income) should be shown separately from withdrawals and transfers out of the account. Where an account was opened before July 15, 2015 and market values are not available for all

deposits, withdrawals and transfers since account opening, under paragraph 14.19(1)(e) registered firms must present the market value of all cash and securities in the client's account as at July 15, 2015, and the market value of all deposits, withdrawals and transfers of cash and securities since July 15, 2015.

Subsection 14.19(7) requires a registered firm that cannot determine the market value for a security position to assign the security a value of zero for the performance reporting purposes and the reason for doing so must be disclosed to the client. The explanation may be included as a note in the performance report. As described in section 14.11.1 of this Companion Policy, if a registered firm is subsequently able to value that security it may need to adjust the calculation of the market values or deposits to avoid presenting a misleading improvement in the performance of the account.

**Change in market value**

The opening market value, plus deposits and transfers in, less withdrawals and transfers out, should be compared to the market value of the account as at the end of the 12-month period for which the performance reporting is provided and also since inception in order to provide clients, in dollar terms, with the performance of their account.

The change in the market value of the account since inception is the difference between the closing market value of the account and total of opening market value plus deposits less withdrawals since inception. The change in the value of the account for the 12-month period is the difference between the closing market value of the account and total of opening market value plus deposits less withdrawals during the period. Where market values since inception are not available, registered firms are required to disclose the change in value of a client's account since July 15, 2015.

The change in market value includes components such as income (dividends, interest) and distributions, including reinvested income or distributions, realized and unrealized capital gains or losses in the account, and the effect of operating charges and transaction charges if these are deducted directly from the account. Rather than show the change in value as a single amount, registered firms may opt to break this out into its components to provide more detail to clients.

**Percentage return calculation method**

Paragraph 14.19(1)(i) requires firms to provide the annualized total percentage return using a money-weighted rate of return calculation method. No specific formula is prescribed, but the method used by a firm must be one that is generally accepted in the securities industry. A registered firm may, if it so chooses, provide percentage returns calculated using both money-weighted and time-weighted methods. In such cases, the firm should explain in plain language the difference between the two sets of performance returns.

Paragraph 14.19(1)(j) requires that performance reports provide specified information about how the client's percentage return was calculated. This includes an explanation in general terms of what the calculation method takes into account. For example, a firm could explain that under a money weighted method, decisions a client made about deposits and withdrawals to and from the client's account have affected the returns calculated in the report. A firm that also uses a time weighted method could explain that the returns calculated under this method may not be the same as the actual returns in the client's account because they do not necessarily show the effect of deposits and withdrawals to and from the account. We do not expect firms to include a formula or an exhaustive list. We expect firms to use this notification to help clients understand the most important implications of the calculation methodology.

**Performance reporting periods**

Subsection 14.19(2) outlines the minimum reporting periods of 1, 3, 5 and 10 years and the period since the inception of the account. Registered firms may opt to provide more frequent performance reporting. However performance returns for periods of less than one year can be misleading and therefore, must not be presented on an annualized basis, consistent with subsection 14.19(6).

**Scholarship plans**

Under paragraph 14.19(4)(c), for scholarship plans, the information required to be delivered in the investment performance report includes a reasonable projection of future scholarship payments that the plan may pay to the client or the client's designated beneficiary upon the maturity of the client's investment in the plan.

A scholarship plan dealer is also required under paragraph 14.19(4)(d) to provide a summary of any terms of the plan, which if not met by the client or the client's designated beneficiary under the plan, may cause the client or the designated beneficiary to suffer a loss of contributions, earnings or government contributions in the plan. The disclosure here is not intended to be as detailed as the disclosure at account opening. It is intended to remind the client of the unique risks of the plan and the ways in which the client's scholarship plan may be seriously impaired. This disclosure must be consistent with other disclosures required to be delivered to clients under applicable securities legislation.

To the extent that a scholarship plan dealer and the plan itself are not the same legal entity but are affiliates of one another, the dealer may meet obligations to deliver annual investment performance reports by drawing attention to the plan's direct mailing of reports to a client by the plan's administrator.

**Benchmarks and investment performance reporting**

The use of benchmarks for investment performance reporting is optional. There is no requirement to provide benchmarks to clients in any of the reports required under NI 31-103.

However, we encourage registrants to use benchmarks that are relevant to a client's investments as a useful way for a client to assess the performance of their portfolio. Benchmarks need to be explained to clients in terms they will understand, including factors that should be considered by the client when comparing their investment returns to benchmark returns. For example, a registrant could discuss the differences between the composition of a client's portfolio that reflects the investment strategy they have agreed upon and the composition of an index benchmark, so that a comparison between them is fair and not misleading. A discussion of the impact of operating charges and transaction charges as well as other expenses related to the client's investments would also be helpful to clients, since benchmarks generally do not factor in the costs of investing.

If a registered firm chooses to present benchmark information, the firm should ensure that it is not misleading. We expect registrants to use benchmarks that are

- discussed with clients to ensure they understand the purpose of comparing the performance of their portfolio to the chosen benchmarks and determine if their information needs will be met
- reasonably reflective of the composition of the client's portfolio so as to ensure that a relevant comparison of performance is presented
- relevant in terms of the investing time horizon of the client
- based on widely recognized and available indices that are credible and not manufactured by the registrant or any of its affiliates using proprietary data
- broad-based securities market indices which can be linked to the major asset classes into which the client's portfolio is divided. The determination of a major asset class should be based on the firm's own policies and procedures and the client's portfolio composition. An asset class for benchmarking purposes may be based on the type of security and geographical region. We do not expect an asset class to be determined by industry sector
- presented for the same reporting periods as the client's annualized total percentage returns
- clearly named
- applied consistently from one reporting period to the next for comparability reasons, unless there has been a change to the pre-determined asset classes. In this case, the change in the benchmark(s) presented should be discussed with the client and included in the explanatory notes, along with the reasons for the change

Examples of acceptable benchmarks would include, but are not limited to, the S&P/TSX Composite index for Canadian equities, the S&P 500 index for U.S. equities, and the MSCI EAFE index as a measure of the equity markets outside of North America.

### 14.20 Delivery of report on charges and other compensation and investment performance report

Registered firms must deliver the annual report on charges and other compensation under section 14.17 and the investment performance report under section 14.18 for a client together. These client reports may be combined with or accompany an account statement or additional statement for a client, or must be sent within 10 days after an account statement or additional statement for the client.

**Appendix A**
**Contact information**

| Jurisdiction | E-mail | Fax | Address |
|---|---|---|---|
| Alberta | registration@asc.ca | (403) 297-4113 | Alberta Securities Commission,<br>Suite 600, 250–5th St. SW<br>Calgary, AB T2P 0R4<br>Attention: Registration |
| British Columbia | registration@bcsc.bc.ca | (604) 899-6506 | British Columbia Securities Commission<br>P.O. Box 10142, Pacific Centre<br>701 West Georgia Street<br>Vancouver, BC V7Y 1L2<br>Attention: Registration |
| Manitoba | registrationmsc@gov.mb.ca | (204) 945-0330 | The Manitoba Securities Commission<br>500-400 St. Mary Avenue<br>Winnipeg, MB R3C 4K5<br>Attention: Registrations |
| New Brunswick | nrs@nbsc-cvmnb.ca | (506) 658-3059 | Financial and Consumer Services Commission of New Brunswick ~~Securities/~~ Commission des services financiers du Nouveau Brunswick<br>Suite 300, 85 Charlotte Street<br>Saint John, NB E2L 2J2<br>Attention: Registration Officer |
| Newfoundland & Labrador | scon@gov.nl.ca | (709) 729-6187 | ~~Financial Services Regulation Division~~Superintendent of Securities, Service NL<br>~~Department of Government Services~~<br>~~Government of Newfoundland and Labrador~~<br>P.O. Box 8700, 2nd Floor, West Block<br>Confederation Building<br>St. John's, NL A1B 4J6<br>Attention: ~~Registration Section~~Manager of Registrations |
| Northwest Territories | SecuritiesRegistry@gov.nt.ca | (867) 873-0243 | Government of the Northwest Territories<br>P.O. Box 1320<br>Yellowknife, NWT X1A 2L9<br>Attention: Deputy Superintendent of Securities |
| Nova Scotia | nrs@gov.ns.ca | (902) 424-4625 | Nova Scotia Securities Commission<br>~~2nd Floor, Joseph Howe Building~~<br>~~1690 Hollis~~Suite 400, 5251 Duke Street<br>P.O. Box 458<br>Halifax, NS B3J 2P8<br>Attention: Deputy Director, Capital Markets |
| Nunavut | CorporateRegistrations@gov.nu.ca | (867) 975-6590 (Faxing to NU is unreliable. The preferred method is e-mail.) | Legal Registries Division<br>Department of Justice<br>Government of Nunavut<br>P.O. Box 1000 Station 570<br>Iqaluit, NU X0A 0H0<br>Attention: Deputy Registrar |
| Ontario | registration@osc.gov.on.ca | (416) 593-8283 | Ontario Securities Commission<br>~~Suite 1903, Box 55~~<br>22nd Floor<br>20 Queen Street West<br>Toronto, ON M5H 3S8<br>Attention: Compliance and Registrant Regulation |

| Jurisdiction | E-mail | Fax | Address |
|---|---|---|---|
| Prince Edward Island | ccis@gov.pe.ca | (902) 368-6288 | Consumer and Corporate Services Division,<br>Office of the Attorney General<br>P.O. Box 2000, 95 Rochford Street<br>Charlottetown, PE C1A 7N8<br>Attention: Superintendent of Securities |
| Québec | inscription@lautorite.qc.ca | (514) 873-3090 | Autorité des marchés financiers<br>~~Service~~Direction de l'encadrement des intermédiaires<br>800 square Victoria, 22e étage<br>C.P 246, Tour de la Bourse<br>Montréal (Québec) H4Z 1G3 |
| Saskatchewan | registrationsfsc@gov.sk.ca | (306) 787-5899 | Financial and Consumer Affairs Authority of Saskatchewan ~~Financial Services Commission~~<br>Suite 601<br>1919 Saskatchewan Drive<br>Regina, SK S4P 4H2<br>Attention: Registration |
| Yukon | corporateaffairs@gov.yk.ca | (867) 393-6251 | Department of Community Services Yukon<br>Yukon Securities Office<br>P.O. Box 2703 C-6<br>Whitehorse, YT Y1A 2C6<br>Attention: Superintendent of Securities |

**Appendix B**
**Terms not defined in NI 31-103 or this Companion Policy**

Terms defined in National Instrument 14-101 *Definitions*:

- adviser registration requirement
- Canadian securities regulatory authority
- dealer registration requirement
- foreign jurisdiction
- jurisdiction or jurisdiction of Canada
- local jurisdiction
- investment fund manager registration requirement
- prospectus requirement
- registration requirement
- regulator
- securities directions
- securities legislation
- securities regulatory authority
- SRO
- underwriter registration requirement

Terms defined in National Instrument 45-106 *Prospectus and Registration Exemptions:*

- accredited investor
- eligibility adviser
- financial assets

Terms defined in National Instrument 81-102 *Mutual Funds:*

- money market fund

Terms defined in the Securities Act of most jurisdictions:

- adviser
- associate
- company
- control person
- dealer
- director
- distribution
- exchange contract (BC, AB, SK and NB only)
- insider
- individual
- investment fund
- investment fund manager
- issuer
- mutual fund
- officer
- person
- promoter
- records
- registrant
- reporting issuer
- security
- trade
- underwriter

**Appendix C**
**Proficiency requirements for individuals acting on behalf of a registered firm**

The tables in this Appendix set out the education and experience requirements, by firm registration category, for individuals who are applying for registration under securities legislation.

An individual must not perform an activity that requires registration unless the individual has the education, training and experience that a reasonable person would consider necessary to perform the activity competently, including, in the case of registered representatives, understanding the structure, features and risks of each security the individual recommends.

CCOs must also not perform an activity set out in section 5.2 unless they have the education, training and experience that a reasonable person would consider necessary to perform the activity competently.

**Acronyms used in the tables**

**BMP**: Branch Manager Proficiency Exam

**CA**: Chartered Accountant

**CCO:** Chief Compliance Officer

**CCOQ:** Chief Compliance Officers Qualifying Exam

**CFA:** CFA Charter

**CGA**: Certified General Accountant Exam/Partners, Directors

**CMA:** Certified Management Accountant

**CIF**: Canadian Investment Funds Course Exam

**CIM:** Canadian Investment Manager designation

**CSC:** Canadian Securities Course Exam

**EMP:** Exempt Market Products Exam

**IFIC:** Investment Funds in Canada Course

**MFDC**: Mutual Funds Dealer Compliance Exam

**PDO:** Officers', Partners' and Directors' and Senior Officers Course Exam

**SRP:** Sales Representative Proficiency Exam

| **Investment dealer** | |
|---|---|
| **Dealing representative** | **CCO** |
| Proficiency requirements set by IIROC | Proficiency requirements set by IIROC |
| **Mutual fund dealer** | |
| **Dealing representative** | **CCO** |
| One of these five options:<br><br>1. CIF<br>2. CSC<br>3. IFIC<br>4. CFA Charter and 12 months of relevant securities industries experience in the 36-months before applying for registration<br>5. Advising representative requirements – portfolio manager or exempt from these under section 16.10(1) | One of these two options:<br><br>1. CIF, CSC or IFIC; and PDO, MFDC or CCOQ and 12 months of relevant securities industries experience in the 36-months before applying for registration<br>2. CCO requirements – portfolio manager or exempt from these under section 16.9(2) |

| Exempt market dealer | |
|---|---|
| **Dealing representative** | **CCO** |
| One of these four options:<br><br>1. CSC<br>2. EMP<br>3. CFA Charter and 12 months of relevant securities industries experience in the 36-months before applying for registration<br>4. Advising representative requirements – portfolio manager or exempt from these under section 16.10(1) | One of these two options:<br><br>1. PDO or CCOQ and EMP or CSC and 12 months of relevant securities industries experience in the 36-months before applying for registration<br>2. CCO requirements – portfolio manager or exempt from these under section 16.9(2) |
| **Scholarship plan dealer** | |
| **Dealing representative** | **CCO** |
| SRP | 1. SRP, BMP, and PDO or CCOQ<br>2. 12 months of relevant securities industry experience in the 36-months period before applying for registration |
| **Restricted dealer** | |
| **Dealing representative** | **CCO** |
| Regulator to determine on a case-by-case basis | Regulator to determine on a case-by-case basis |

| Portfolio manager | | |
|---|---|---|
| **Advising representative** | **Associate advising representative** | **CCO** |
| One of these two options:<br><br>1. CFA and 12 months of relevant investment management experience in the 36-month period before applying for registration<br><br>2. CIM and 48 months of relevant investment management experience (12 months gained in the 36-month period before applying for registration) | One of these two options:<br><br>1. Level 1 of the CFA and 24 months of relevant investment management experience<br><br>2. CIM and 24 months of relevant investment management experience | One of these three options:<br><br>1. CSC except if the individual has the CFA or CIM designation, PDO or CCOQ, and CFA or a professional designation as a lawyer, CA, CGA, CMA, notary in Quebec or the equivalent in a foreign jurisdiction, and:<br>• 36 months of relevant securities experience working at an investment dealer, registered adviser or investment fund manager, or<br>• 36 months providing professional services to the securities industry and 12 months working at a registered dealer, registered adviser or investment fund manager, for a total of 48 months<br><br>2. CSC except if the individual has the CFA or CIM designation, PDO or CCOQ and five years working at:<br>• an investment dealer or a registered adviser (including 36 months in a |

| | | |
|---|---|---|
| | | compliance capacity), or<br><br>• a Canadian financial institution in a compliance capacity relating to portfolio management and 12 months at a registered dealer or registered adviser, for a total of six years<br><br>3. PDO or CCOQ and advising representative requirements – portfolio manager |

| **Restricted portfolio manager** | | |
|---|---|---|
| **Advising representative** | **Associate advising representative** | **CCO** |
| Regulator to determine on a case-by-case basis | Regulator to determine on a case-by-case basis | Regulator to determine on a case-by-case basis |

| **Investment fund manager** |
|---|
| **CCO** |
| One of these three options:<br><br>1. CSC except if the individual has the CFA or CIM designation, PDO or CCOQ, and CFA or a professional designation as a lawyer, CA, CGA, CMA, notary in Quebec or the equivalent in a foreign jurisdiction, and:<br>• 36 months of relevant securities experience working at a registered dealer, registered adviser or investment fund manager, or<br>• 36 months providing professional services in the securities industry and 12 months working in a relevant capacity at an investment fund manager, for a total of 48 months<br><br>2. CIF, CSC or IFIC; PDO or CCOQ and five years of relevant securities experience working at a registered dealer, registered adviser or an investment fund manager (including 36 months in a compliance capacity)<br><br>3. CCO requirements for portfolio manager or exempt from these requirements under section 16.9(2) |

**Appendix D**

**[Name of Firm]**
**Annual Charges and Compensation Report**

Client name
Number:
Address line 1
Address line 2
Address line 3

Your Account
123456

**This report summarizes the compensation that we received directly and indirectly in 20XX. Our compensation comes from two sources:**

1. **What we charge you directly. Some of these charges are associated with the operation of your account. Other charges are associated with purchases, sales and other transactions you make in the account.**

2. **What we receive through third parties.**

**Charges are important because they reduce your profit or increase your loss from investing. If you need an explanation of the charges described in this report, your representative can help you.**

**Charges you paid directly to us**

| | | |
|---|---|---|
| RSP administration fee | $100 | |
| **Total charges associated with the operation of your account** | | **$100** |
| Commissions on purchases of mutual funds with a sales charge | $101 | |
| Switch fees | $45 | |
| **Total charges associated with transactions we executed for you** | | **$146** |
| **Total charges you paid directly to us** | | **$246** |

**Compensation we received through third parties**

| | |
|---|---|
| Commissions from mutual fund managers on purchases of mutual funds (see note 1) | $503 |
| Trailing commissions from mutual fund managers (see note 2) | $286 |
| **Total compensation we received through third parties** | **$789** |

| | |
|---|---|
| **Total charges and compensation we received in 20XX** | **$1,035** |

**Notes:**

1. When you purchased units of mutual funds on a deferred sales charge basis, we received a commission from the investment fund manager. During the year, these commissions amounted to $503.

2. We received $286 in trailing commissions in respect of securities you owned during the 12-month period covered by this report.

   Investment funds pay investment fund managers a fee for managing their funds. The managers pay us ongoing trailing commissions for the services and advice we provide you. The amount of the trailing commission depends on the sales charge option you chose when you purchased the fund. You are not directly charged the trailing commission or the management fee. But, these fees affect you because they reduce the amount of the

fund's return to you. Information about management fees and other charges to your investment funds is included in the prospectus or fund facts document for each fund.

**Our current schedule of operating charges**

[*As part of the annual report of charges and compensation, registrants are required to provide their current operating charges that may be applicable to their clients' accounts. For the purposes of this sample document, we are not providing such a list.*]

**Appendix E**

**Your investment performance report** **For the period ending December 31, 2030**
Investment account 123456789

Client name
Address line 1
Address line 2
Address line 3

This report tells you how your account has performed to December 31, 2030. It can help you assess your progress toward meeting your investment goals.

Speak to your representative if you have questions about this report. It is important that you tell your representative if your personal or financial circumstances have changed. Your representative can recommend adjustments to your investments to keep you on track to meeting your goals.

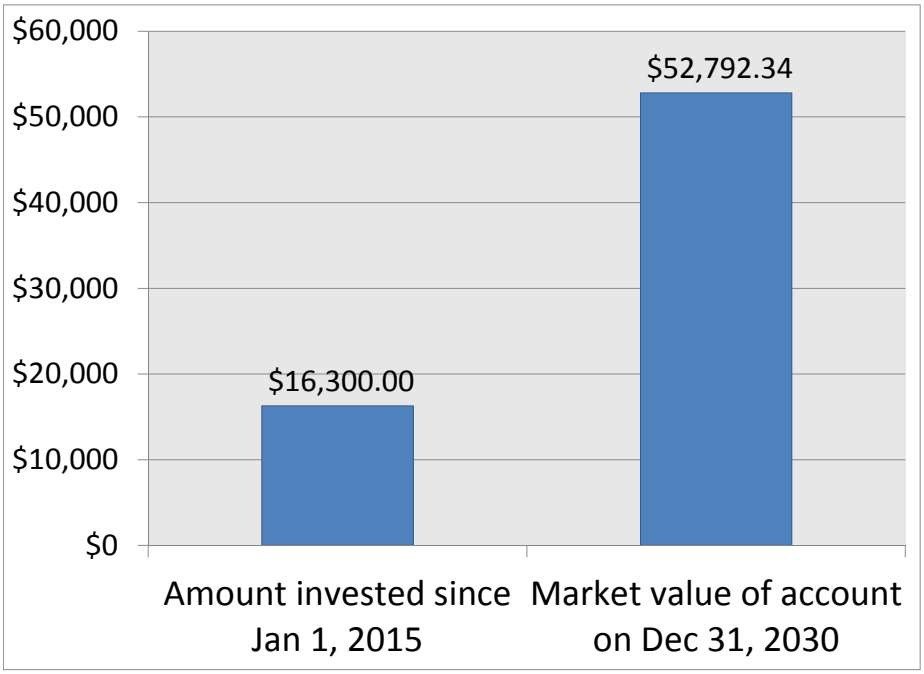
**Amount invested means opening market value plus deposits including:**
the market value of all deposits and transfers of securities and cash into your account, not including interest or dividends reinvested.

**Less withdrawals including:**
the market value of all withdrawals and transfers out of your account.

**Total value summary**

**Your investments have increased by $36,492.34 since you opened the account**
**Your investments have increased by $2,928.85 during the past year**

| | |
|---|---|
| Amount invested since you opened your account on January 1, 2015 | $16,300.00 |
| Market value of your account on December 31, 2030 | **$52,792.34** |



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**Change in the value of your account**

This table is a summary of the activity in your account. It shows how the value of your account has changed based on the type of activity.

| | Past year | Since you opened your account |
|---|---|---|
| Opening market value | $51,063.49 | $0.00 |
| Deposits | $4,000.00 | $21,500.00 |
| Withdrawals | $(5,200.00) | $(5,200.00) |
| Change in the market value of your account | $2,928.85 | $36,492.34 |
| **Closing market value** | **$52,792.34** | **$52,792.34** |

**Your personal rates of return**

**What is a total percentage return?**
This represents gains and losses of an investment over a specified period of time, including realized and unrealized capital gains and losses plus income, expressed as a percentage.

For example, an annual total percentage return of 5% for the past three years means that the investment effectively grew by 5% a year in each of the three years.

The table below shows the total percentage return of your account for periods ending December 31, 2030. Returns are calculated after charges have been deducted. These include charges you pay for advice, transaction charges and account-related charges, but not income tax.

Keep in mind your returns reflect the mix of investments and risk level of your account. When assessing your returns, consider your investment goals, the amount of risk you're comfortable with, and the value of the advice and services you receive.

| | Past year | Past 3 years | Past 5 years | Past 10 years | Since you opened your account |
|---|---|---|---|---|---|
| **Your account** | 5.51% | 10.92% | 12.07% | 12.90% | 13.09% |

**Calculation method**
We use a money weighted method to calculate rates of return. Contact your representative if you want more information about this calculation.

The returns in this table are your personal rates of return. Your returns are affected by changes in the value of the securities you have invested in, dividends and interest that they paid, and also deposits and withdrawals to and from your account.

If you have a personal financial plan, it will contain a target rate of return, which is the return required to achieve your investment objectives. By comparing the rates of return you actually achieved (shown in the table) with your target rate of return, you can see whether you are on track to meet your investment objectives.

Contact your representative to discuss your rate of return and investment objectives.

**Annex C**

**AMENDMENTS TO NATIONAL INSTRUMENT 33-109 *REGISTRATION INFORMATION***

**1.** ***National Instrument 33-109 Registration Information is amended by this Instrument.***

**2.** ***Section 1.1 is amended by***

***(a) adding the following definition:***

"business location" means a location where the firm carries out an activity that requires registration, and includes a residence if regular and ongoing activity that requires registration is carried out from the residence or if records relating to an activity that requires registration are kept at the residence;"***, and***

***(b) replacing the definition of*** "cessation date" ***with the following:***

"cessation date" means the last day on which an individual had authority to act as a registered individual on behalf of their sponsoring firm or was a permitted individual of their sponsoring firm, because of the end of, or a change in, the individual's employment, partnership, or agency relationship with the firm;"**.**

**3.** ***Subsection 2.3(2) is amended by***

***(a) adding*** "(other than Item 13(3)(c))"***, after*** "[*Regulatory disclosure*]" in ***clause (i) of paragraph (c), and***

***(b) replacing paragraph (d) with the following:***

(d) the individual is seeking reinstatement with a sponsoring firm in one or more of the same categories of registration in which the individual was registered on the cessation date;**.**

**4.** ***Section 2.6 is amended by replacing, in subsection (1),*** "subsection" ***with*** "paragraph"**.**

**5.** ***Subsection 3.1(4) is amended by replacing*** "Submission to jurisdiction and Appointment of Agent for Service" ***with*** "Submission to jurisdiction and appointment of agent for service"**.**

**6.** ***Subsection 4.1(4) is amended*** **by**

***(a) replacing*** "." ***with*** ";" ***at the end of paragraph (c), and***

***(b) adding the following paragraph:***

(d) any information on Schedule C of Form 33-109F4.

**7.** ***Section 4.2 is amended by***

***(a) in paragraphs (a) and (b) of subsection (2), replacing*** "subsection" ***with*** "paragraph"***, and***

***(b) in paragraph (b) of subsection (4), replacing*** "subsection" ***with*** "paragraph"**.**

**8.** ***Part 6 is repealed.***

**9.** ***Part 8 is amended by***

***(a) replacing the title with*** "Effective date"***, and***

***(b) repealing section 8.1.***

**10. The title of all schedules to forms of National Instrument *33-109 Registration Information* is amended by replacing** "SCHEDULE"**, *wherever this word appears,* with** "Schedule"**.**

**11.** ***Form 33-109F1 is amended by***

***(a) replacing the paragraph under "Terms" with the following:***

In this form, "cessation date" (or "effective date of termination") means the last day on which an individual had authority to act as a registered individual on behalf of their sponsoring firm or was a permitted individual of their sponsoring firm, because of the end of, or a change in, the individual's employment, partnership, or agency relationship with the firm.**,**

***(b) under "How to submit the form", replacing*** "*[National Registration Database]*" ***with*** "*National Registration Database*"***;***

***(c) under "When to submit the form", replacing*** "termination date" ***with*** "cessation date"**,**

***(d) in Item 3, replacing*** "Address" ***with*** "Business location address"**,**

***(e) in section 1 of Item 4 under*** "Cessation date / Effective date of termination"***, replacing the sentence with the following:***

This is the last day that the individual had authority to act in a registerable capacity on behalf of the firm, or the last day that the individual was a permitted individual.**,**

***(f) adding, at the end of section 2 of Item 4, the following:***

If "Other", explain: _____**,**

***(g) adding, in section 8 of Item 5,*** "or materially" ***after*** "Did the individual repeatedly"***; and***

***(h) replacing Item 7 with the following:***

***Item 7 Warning***

**It is an offence under securities legislation and derivatives legislation, including commodity futures legislation, to give false or misleading information on this form.**

**12.** ***Form 33-109F2 is amended by***

***(a) in the heading, replacing*** "section" ***with*** "sections",

***(b)*** **under "General Instructions", adding** "or provide notice of other changes to the information on Schedule C of Form 33-109F4" **at the end of the sentence**,

***(c) under "How to submit this form", adding*** "*National Registration Database*" ***after*** "National Instrument 31-102",

***(d) replacing section 1 of Item 2 with the following:***

**1.** Are you filing this form under the passport system / interface for registration?

Choose "No" if you are registered in:

(a) only one jurisdiction of Canada

(b) more than one jurisdiction of Canada and you are requesting a surrender in a non-principal jurisdiction or jurisdictions, but not in your principal jurisdiction, or

(c) more than one jurisdiction of Canada and you are requesting a change only in your principal jurisdiction.

Yes ☐ No ☐

***(e)*** ***deleting*** "of individual categories of registration" ***in section 2 of Item 2,***

***(f)*** ***replacing*** "Not Applicable" above ***with*** "N/A" ***in section 3 of Item 4,***

***(g)*** ***replacing*** "yes" ***with*** "Yes" ***in section 3 of Item 4***

***(h)*** ***adding, in Item 5,*** "registration" ***before*** "category"***,***

***(i)*** ***amending Item 6 by replacing*** "Schedule A" ***with*** "Schedule B" ***wherever this expression appears, and replacing, in the second paragraph,*** "SROs" ***with*** "SRO***" and*** "enforce their respective by-laws" ***with*** "enforce its by-laws"***,***

***(j)*** ***replacing Item 7 with the following:***

**Item 7 Warning**

**It is an offence under securities legislation and derivatives legislation, including commodity futures legislation, to give false or misleading information on this form*, and***

***(j)*** ***in Schedule A, replacing the third paragraph with the following:***

Indicate the continuing education activities in which you have participated in during the last 36 months and that are relevant to the category of registration you are applying for:**,**

***(l)*** ***replacing Schedule B with the following:***

**Schedule B**
**Contact information for**
**Notice of collection and use of personal information**

**Alberta**
Alberta Securities Commission,
Suite 600, 250–5th St. SW
Calgary, AB T2P 0R4
Attention: Information Officer
Telephone: (403) 297-6454

**Nunavut**
Government of Nunavut
Department of Justice
P.O. Box 1000 Station 570
Iqaluit, NU X0A 0H0
Attention: Deputy Registrar of Securities
Telephone: (867) 975-6590

**British Columbia**
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, BC V7Y 1L2
Attention: Freedom of Information Officer
Telephone: (604) 899-6500 or (800) 373-6393 (in Canada)

**Manitoba**
The Manitoba Securities Commission
500 - 400 St. Mary Avenue
Winnipeg, MB R3C 4K5
Attention: Director of Registrations
Telephone: (204) 945-2548
Fax (204) 945-0330

**New Brunswick**
Financial and Consumer Services Commission of New Brunswick / Commission des services financiers et des services aux consommateurs du Nouveau-Brunswick
Suite 300, 85 Charlotte Street, Suite 300
Saint John, NB E2L 2J2
Attention: Director of Securities
Telephone: (506) 658-3060

**Newfoundland and Labrador**
Superintendent of Securities, Service NL
Government of Newfoundland and Labrador
P.O. Box 8700
2nd Floor, West Block
Confederation Building
St. John's, NL A1B 4J6
Attention: Manager of Registrations
Telephone: (709) 729-5661

**Nova Scotia**
Nova Scotia Securities Commission
Suite 400, 5251 Duke Street
Halifax, NS B3J 1P3
Attention: Deputy Director, Capital Markets
Telephone: (902) 424-7768

**Ontario**
Ontario Securities Commission
22nd Floor
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Compliance and Registrant Regulation
Telephone: (416) 593-8314
e-mail: registration@osc.gov.on.ca

**Prince Edward Island**
Securities Office
Department of Community Affairs and Attorney General
P.O. Box 2000
Charlottetown, PE C1A 7N8
Attention: Deputy Registrar of Securities
Telephone: (902) 368-6288

**Québec**
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Attention: Responsable de l'accès à l'information
Telephone: (514) 395-0337 or (877) 525-0337

**Saskatchewan**
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2
Attention: Deputy Director, Capital Markets
Telephone: (306) 787-5871

**Yukon**
Government of Yukon
Superintendent of Securities
Department of Community Services
P.O. Box 2703 C-6
Whitehorse, YT Y1A 2C6
Attention: Superintendent of Securities
Telephone: (867) 667-5314

**Northwest Territories**
Government of the Northwest Territories
Department of Justice
1st Floor Stuart M. Hodgson Building
5009 – 49th Street
Yellowknife, NWT X1A 2L9
Attention: Deputy Superintendent of Securities
Telephone: (867) 920-8984

**Self-regulatory organization**
Investment Industry Regulatory Organization of Canada
121 King Street West, Suite 2000
Toronto, Ontario M5H 3T9
Attention: Privacy Officer
Telephone: (416) 364-6133
E-mail: PrivacyOfficer@iiroc.ca

**13.** ***Form 33-109F3 is amended by***

***(a) under "How to submit this form", adding*** *"National Registration Database"* after "National Instrument 31-102"**,**

***(b) replacing Item 1 with the following:***

**Item 1 Type of business location**

Branch or business location ☐

Sub-branch (Mutual Fund Dealers Association of Canada members only) ☐

***(c) replacing Item 3 with the following:***

**Item 3 Business location information**

Business location address _____
(a post office box is not a valid business location address)

Mailing address (if different from business location address) _____

Telephone number (____) _____

Fax number (____) _____

E-mail address _____

***(d) replacing, in the second paragraph of Item 4,*** "SROs" ***with*** "SRO"***, and*** "enforce their respective by-laws" ***with*** "enforce its by-laws"**.**

***(e) replacing Item 5 with the following:***

***Item 5 Warning***
**It is an offence under securities legislation and derivatives legislation, including commodity futures legislation, to give false or misleading information on this form.**

***(f) adding the following at the end of "Certification-NRD format" in Item 6:***

☐ If the business location is a residence, the individual conducting business from that business location has completed a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* certifying that they give their consent for the regulator or, in Québec, the securities regulatory authority to enter the residence for the administration of securities legislation and derivatives legislation, including commodity futures legislation.

***(g) replacing the first paragraph under "Certification-Format other than NRD format" in Item 6 with the following:***

By signing below, I certify to the securities regulator or, in Québec, the securities regulatory authority, in each jurisdiction where I am submitting this form for the firm, either directly or through the principal regulator, that:

- I have read this form and understand the questions,
- all of the information provided on this form is true, and complete, and
- if the business location specified in this form is a residence, the individual conducting business from that business location has completed a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* certifying that they give their consent for the regulator or, in Québec, the securities regulatory authority to enter the residence for the administration of securities legislation and derivatives legislation, including commodity futures legislation.

***(h) replacing Schedule A with the following:***

**Schedule A**
**Contact information for**
**Notice of collection and use of personal information**

**Alberta**
Alberta Securities Commission,
Suite 600, 250–5th St. SW
Calgary, AB T2P 0R4
Attention: Information Officer
Telephone: (403) 297-6454

**British Columbia**
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, BC V7Y 1L2
Attention: Freedom of Information Officer
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Winnipeg, MB R3C 4K5
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Telephone: (204) 945-2548
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Department of Justice
P.O. Box 1000 Station 570
Iqaluit, NU X0A 0H0
Attention: Deputy Registrar of Securities
Telephone: (867) 975-6590

**Ontario**
Ontario Securities Commission
22nd Floor
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Compliance and Registrant Regulation
Telephone: (416) 593-8314
e-mail: registration@osc.gov.on.ca

**Prince Edward Island**
Securities Office
Department of Community Affairs and Attorney General
P.O. Box 2000
Charlottetown, PE C1A 7N8
Attention: Deputy Registrar of Securities
Telephone: (902) 368-6288

**Québec**
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800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
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Telephone: (306) 787-5871

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Department of Justice
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5009 – 49th Street
Yellowknife, NWT X1A 2L9
Attention: Deputy Superintendent of Securities
Telephone: (867) 920-8984

**Yukon**
Government of Yukon
Superintendent of Securities
Department of Community Services
P.O. Box 2703 C-6
Whitehorse, YT Y1A 2C6
Attention: Superintendent of Securities
Telephone: (867) 667-5314

**Self-regulatory organization**
Investment Industry Regulatory Organization of Canada
121 King Street West, Suite 2000
Toronto, Ontario M5H 3T9
Attention: Privacy Officer
Telephone: (416) 364-6133
E-mail: PrivacyOfficer@iiroc.ca

**14.** ***Form 33-109F4 is amended by***

***(a) replacing the first and second paragraphs under "General instructions", with the following:***

Complete and submit this form to the relevant regulator(s) or in Québec, the securities regulatory authority, or self-regulatory organization (SRO) if an individual is seeking

- registration in individual categories,
- to be reviewed as a permitted individual.

You are only required to submit one form even if you are applying to be registered in several categories. This form is also used if you are seeking to be reviewed as a permitted individual. A post office box is not acceptable as a valid business location address.

***(b) replacing the "Terms" section with the following:***

"Approved person" means, in respect of a member (Member) of the Investment Industry Regulatory Organization of Canada (IIROC), an individual who is a partner, director, officer, employee or agent of a Member who is approved by the IIROC or another Canadian SRO to perform any function required under any IIROC or another Canadian SRO by-law, rule, or policy;

"Canadian Investment Manager designation" means the designation earned through the Canadian investment manager program prepared and administered by CSI Global Education Inc. and so named on the day this Instrument comes into force, and every program that preceded that program, or succeeded that program, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned program;

"CFA Charter" means the charter earned through the Chartered Financial Analyst program prepared and administered by the CFA Institute and so named on the day this Instrument comes into force, and every program that preceded that program, or succeeded that program, that does not have a significantly reduced scope and content when compared to the scope and content of the first-mentioned program;

"Derivatives" means financial instruments, such as futures contracts (including exchange traded contracts), futures options and swaps whose market price, value or payment obligations are derived from, or based on, one or more underlying interests. Derivatives can be in the form of instruments, agreements or securities;

"Major shareholder" and "shareholder" mean a shareholder who, in total, directly or indirectly owns voting securities carrying 10 per cent or more of the votes carried by all outstanding voting securities;

"Sponsoring firm" means the registered firm where you will carry out your duties as a registered or permitted individual; and

"You", "your" and "individual" mean the individual who is seeking registration or the individual who is filing this form as a permitted individual under securities legislation or derivatives legislation or both.

***(c) deleting, under "NRD format",*** "You are only required to submit one form regardless of number of registration categories you are seeking."**,**

***(d) replacing, in the second paragraph under "Format other than NRD format",*** "Item" ***with*** "item"**,**

***(e) replacing, in the third paragraph under "Format other than NRD format",*** "National Registration Database"***, with*** "NRD",

***(f) replacing, in sections 2 and 3 of Item 1,*** "yes" ***with*** "Yes"**,**

***(g) adding the following at the end of Item 2:***

**3.** Business e-mail address

***(h) amending section 1 of Item 5 by***

***(i) replacing*** "no" ***with*** "No"***, and***

***(ii) deleting "only in your principal jurisdiction" in paragraph (b),***

***(i) amending Item 7 by***

***(i) in the first paragraph of section 1, replacing*** "A post office box is not acceptable" ***with*** "A post office box is not an acceptable address for service"**,**

***(i) replacing*** "E-mail address, if available***", at the end of section 1, by the following:***

Business e-mail address
_____***, and***

***(j) replacing section 2 of Item 8 with the following:***

**2. Student numbers**

If you have a student number for a course that you successfully completed with one of the following organizations, provide it below:

CSI Global Education: _____

IFSE Institute: _____

Institute of Canadian Bankers (ICB): _____

CFA Institute: _____

Advocis: _____

RESP Dealers Association of Canada: _____

Other: _____

***(k) amending section 4 of Item 8 by***

***(i) replacing*** "Not Applicable below" ***with*** "N/A"***, and***

***(ii) replacing*** "yes" ***with*** "Yes"**.**

***(l) replacing Item 9 with the following:***

**Item 9 Location of employment**

**1.** Provide the following information for your new sponsoring firm. If you will be working out of more than one business location, provide the following information for the business location out of which you will be doing most of your business. If you are only filing this form because you are a permitted individual and you are not employed by, or acting as agent for, the sponsoring firm, select "N/A".

NRD location number: _____

Unique Identification Number (optional): _____

Business location address: _____
(number, street, city, province, territory or state, country, postal code)

Telephone number: (___) _____

Fax number: (___) _____

N/A ☐

**2.** If the firm has a foreign head office, and/or you are not a resident of Canada, provide the address for the business location in which you will be conducting most of your business. If you are only filing this form because you are a permitted individual and you are not employed by, or acting as agent for, the sponsoring firm, select "N/A".

Business location address: _____
(number, street, city, province, territory or state, country, postal code)

Telephone number: (___) _____

Fax number: (___) _____

N/A ☐

*[The following under #3 "Type of business location", #4 and #5 is for a Format other than NRD format only]*

**3.** Type of business location:

☐ Head office
☐ Branch or business location

☐ Sub-branch (members of the Mutual Fund Dealers Association of Canada only)

**4.** Name of supervisor or branch manager: _____

**5.** ☐ Check here if the mailing address of the business location is the same as the business location address provided above. Otherwise, complete the following:

Mailing address: _____
(number, street, city, province, territory or state, country, postal code)

***(m) replacing Item 10 with the following:***

**Item 10 Current employment, other business activities, officer positions held and directorships**

Complete a separate Schedule G for each of your current business and employment activities, including employment and business activities with your sponsoring firm and any employment and business activities outside your sponsoring firm. Also include all officer or director positions and any other equivalent positions held, as well as positions of influence. The information must be provided

- whether or not you receive compensation for such services, and
- whether or not any such position is business related.

***(n) replacing Item 11 with the following:***

**Item 11 Previous employment and other activities**

On Schedule H, complete your history of employment and other activities for the past 10 years.

***(o) amending Item 12 by adding a*** "," ***after*** "Schedule I"***, wherever it appears;***

***(p) amending Item 13 as follows:***

***(i) Adding*** "The questions below relate to any jurisdiction of Canada and any foreign jurisdiction" ***in the introduction,***

***(ii) deleting*** "in any province, territory, state or country" ***wherever these words appear, and***

***(iii) replacing, in paragraph 1(c),*** "8(3)" ***with*** "8.3***.***

***(q) replacing Item 14 with the following:***

**Item 14 Criminal disclosure**

The questions below apply to offences committed in any jurisdiction of Canada and any foreign jurisdiction.

You must disclose all offences, including:

- criminal offences under federal statutes such as the *Criminal Code* (Canada), *Income Tax Act* (Canada), *the Competition Act* (Canada), *Immigration and Refugee Protection Act (C*anada) and the *Controlled Drugs and Substances Act* (Canada), even if
    - a record suspension has been ordered under the *Criminal Records Act* (Canada)
    - you have been granted an absolute or conditional discharge under the *Criminal Code* (Canada), and
- a criminal offence, with respect to questions 14.2 and 14.4, of which you or your firm has been found guilty or for which you or your firm have participated in the alternative measures program within the previous three years, even if a record suspension has been ordered under the *Criminal Records Act* (Canada)

You are not required to disclose:

- charges for summary conviction offences that have been stayed for six months or more,
- charges for indictable offences that have been stayed for a year or more,
- offences under the *Youth Criminal Justice Act* (Canada), and
- speeding or parking violations.

Subject to the exceptions above:

**1.** Are there any outstanding or stayed charges against you alleging a criminal offence that was committed?

Yes ☐ No ☐

If “Yes”, complete Schedule K, Item 14.1.

**2.** Have you ever been found guilty, pleaded no contest to, or been granted an absolute or conditional discharge from any criminal offence that was committed?

Yes ☐ No ☐

If "Yes", complete Schedule K, Item 14.2.

**3.** To the best of your knowledge, are there any outstanding or stayed charges against any firm of which you were, at the time the criminal offence was alleged to have taken place, a partner, director, officer or major shareholder?

Yes ☐ No ☐

If "Yes", complete Schedule K, Item 14.3.

**4.** To the best of your knowledge, has any firm, when you were a partner, officer, director or major shareholder, ever been found guilty, pleaded no contest to or been granted an absolute or conditional discharge from a criminal offence that was committed?

Yes ☐ No ☐

If "Yes", complete Schedule K, Item 14.4.

***(r) amending Item 15 as follows:***

***(i) Adding*** "The questions below relate to any jurisdiction of Canada and any foreign jurisdiction" ***in the introduction, and***

***(ii) deleting*** "in any province, territory, state or country" ***wherever these words appear.***

***(s) replacing , in section 2 of Item 16,*** "$5,000" ***wherever it appears, with*** "$10,000"**,**

***(t) replacing the first sentence of the last paragraph of Item 20 with the following:***

You certify that you have discussed the questions in this form, together with this Agreement, with an Officer, Supervisor or Branch Manager of your sponsoring member firm and, to your knowledge and belief, the authorized Officer, Supervisor or Branch Manager was satisfied that you fully understood the questions and the terms of this Agreement.

***(u) replacing Item 21 with the following:***

**Item 21 Warning**

**It is an offence under securities legislation and derivatives legislation, including commodity futures legislation, to give false or misleading information on this form.**

***(v) amending Item 22 as follows:***

***(i) adding the following after the last sentence of paragraph 1:***

If the business location specified in this form is a residence, I hereby give my consent for the regulator or, in Québec, the securities regulatory authority to enter that residence for the administration of securities legislation and derivatives legislation, including commodity futures legislation.

***(ii) adding*** "and provide the certification above" ***after*** "provided me with all of the information on this form" ***in the last paragraph of section 1, and***

***(iii) replacing, in the "Individual" section of "Certification – Format other than NRD format", the first paragraph with the following:***

By signing below, I certify to the regulator, or in Québec the securities regulatory authority, in each jurisdiction where I am filing or submitting this form, either directly or through the principal regulator, that:

- I have read this form and understand the questions,
- all of the information provided on this form is true, and complete, and
- if the business location specified in this form is a residence, I hereby give my consent for the regulator or, in Québec, the securities regulatory authority to enter that residence for the administration of securities legislation and derivatives legislation, including commodity futures legislation.

Signature of individual _____ Date _____

***(w) amending Item 1.3 of Schedule A by***

***(i) adding*** "N/A ☐" ***after*** "No ☐" ***in the sections "Name 2" and "Name 3", and***

***(ii) replacing*** "N\A" ***with*** "N/A" ***in the section "Name 1,***

***(x) amending Schedule C by***

***(i) adding*** "[ ] permitted individual" ***between*** "[ ] Chief Compliance Officer" and "[ ] Officer – specify title" ***in "Categories common to all jurisdictions under securities legislation – Individual categories and permitted activities",***

***(ii) replacing*** "[ ] Floor Trader" ***with "***"[ ] Floor Broker" ***in "Manitoba - Individual categories and permitted activities", and***

***(iii) replacing the section for "Québec" with the following:***

**Québec**

***Firm categories***

[ ] Derivatives Dealer

[ ] Derivatives Portfolio Manager

***Individual categories and permitted activities***

[ ] Derivatives Dealing Representative

[ ] Derivatives Advising Representative

[ ] Derivatives Associate Advising Representative

***(y) amending Schedule D by replacing "E-mail address" in Item 7.1 with the following:***

Business e-mail address: _____

***(z) amending Schedule E by replacing the text following the table with the following:***

If you have listed the CFA Charter in Item 8.1, please indicate by checking "Yes" below if you are a current member of the CFA Institute permitted to use this charter.

Yes ☐ No ☐

If "No", please explain why you no longer hold this designation:

_____
_____
_____
_____
_____

If you have listed the Canadian Investment Manager Designation in Item 8.1, please indicate by checking "Yes" below if you are currently permitted to use this designation.

Yes ☐ No ☐

If "No", please explain why you no longer hold this designation:

_____
_____
_____
_____

***(aa) amending Item 8.4 of Schedule F by replacing the last paragraph with following:***

Indicate the continuing education activities in which you have participated in during the last 36 months and that are relevant to the category of registration you are applying for:

***(ab) replacing the first paragraph of Schedule G with the following:***

Complete a separate Schedule G for each of your current business and employment activities, including employment and business activities with your sponsoring firm and any employment and business activities outside your sponsoring firm. Also include all officer or director positions and any other equivalent positions held, as well as positions of influence. The information must be provided

- whether or not you receive compensation for such services, and
- whether or not any such position is business related.

***(ac) amending Schedule N as follows:***

***(i) replacing, in the first paragraph,*** "Firm name" ***with*** "Name of firm (whose business is trading in or advising on securities or derivatives, or both):"***, and***

***(ii) replacing, in paragraph (g),*** *"if applicable"* ***with "***N/A ☐***"*** ***where it appears,***

***(ad) replacing Schedule O with the following:***

**Schedule O**
**Contact information for**
**Notice of collection and use of personal information**

**Alberta**
Alberta Securities Commission,
Suite 600, 250–5th St. SW
Calgary, AB T2P 0R4
Attention: Information Officer
Telephone: (403) 297-6454

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**Self-regulatory organization**
Investment Industry Regulatory Organization of Canada
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Toronto, Ontario M5H 3T9
Attention: Privacy Officer
Telephone: (416) 364-6133
E-mail: PrivacyOfficer@iiroc.ca

**15.** ***Form 33-109F5 is amended by***

***(a) replacing the numbers with bullet points in the first paragraph of "General Instructions",***

***(b) replacing*** "[National Registration Database]" ***with*** "National Registration Database" ***in clause (b) of the second paragraph of "General Instructions",***

***(c) replacing, in the second paragraph of Item 3,*** "SROs" ***with*** "SRO"***, and*** "enforce their respective by-laws" ***with*** "enforce its by-laws"***,***

***(d) replacing Item 4 with the following:***

**It is an offence under securities legislation and derivatives legislation, including commodity futures legislation, to give false or misleading information on this form*, and***

*(d) replacing Schedule A with following:*

**Schedule A**
**Contact information for Notice of collection and use of personal information**

**Alberta**
Alberta Securities Commission,
Suite 600, 250–5th St. SW
Calgary, AB T2P 0R4
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British Columbia Securities Commission
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The Manitoba Securities Commission
500 - 400 St. Mary Avenue
Winnipeg, MB R3C 4K5
Attention: Director of Registrations
Telephone: (204) 945-2548
Fax (204) 945-0330

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Telephone: (506) 658-3060

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Department of Justice
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Attention: Deputy Registrar of Securities
Telephone: (867) 975-6590

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Ontario Securities Commission
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e-mail: registration@osc.gov.on.ca

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Securities Office
Department of Community Affairs and Attorney General
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Government of Newfoundland and Labrador
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Department of Justice
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Telephone: (306) 787-5871

**Yukon**
Government of Yukon
Superintendent of Securities
Department of Community Services
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Whitehorse, YT Y1A 2C6
Attention: Superintendent of Securities
Telephone: (867) 667-5314

**Self-regulatory organization**
Investment Industry Regulatory Organization of Canada
121 King Street West, Suite 2000
Toronto, Ontario M5H 3T9
Attention: Privacy Officer
Telephone: (416) 364-6133
E-mail: PrivacyOfficer@iiroc.ca

**16. Form 33-109F6 is amended by**

***(a) changing the title to*** "Firm Registration"***, from*** "Firm registration"**,**

***(b) adding*** "In this form" ***immediately after the title "Definitions",***

***(c) replacing*** "Submission to jurisdiction and Appointment of Agent for Service" ***with*** "Submission to jurisdiction and appointment of agent for service" ***in section 1 of "Contents of the form",***

***(d) replacing section 2 of "Contents of the form" with the following:***

2. Business plan, policies and procedures manual, and client agreements (except in Ontario) (question 3.3)

***(e) replacing, in the penultimate paragraph of "How to complete and submit the form",*** "which" ***with*** "that"***,***

***(f) deleting the*** "*" ***after*** "section 5.5" ***in the third paragraph of section 1.3,***

***(g) amending section 2.2 as follows:***

***(i) adding*** "location" ***after*** "business" ***in paragraph (a), and***

***(ii) replacing paragraph (b) with the following:***

(b) If a firm is not registered in a jurisdiction of Canada, indicate the jurisdiction of Canada in which the firm expects to conduct most of its activities that require registration as at the end of its current financial year or conducted most of its activities that require registration as at the end of its most recently completed financial year.

***(h) replacing*** "*Submission to Jurisdiction and Appointment of Agent for Service*" ***with*** "*Submission to jurisdiction and appointment of agent for service*" ***in section 2.4,***

***(i) replacing sections 2.5 and 2.6 with the following:***

### 2.5 Ultimate designated person

A registered firm must have an individual registered in the category of ultimate designated person.

| | |
|---|---|
| Legal name | |
| Officer title | |
| Telephone number | |
| E-mail address | |
| NRD number, if available | |
| Address<br>☐ Same as firm head office address | |
| Address line 1 | |
| Address line 2 | |
| City | Province/territory/state |

| | |
|---|---|
| Country | Postal/zip code |

**2.6 Chief compliance officer**

☐ Same as ultimate designated person

A registered firm must have an individual registered in the category of chief compliance officer.

| | |
|---|---|
| Legal name | |
| Officer title | |
| Telephone number | |
| E-mail address | |
| NRD number, if available | |
| Address<br>☐ Same as firm head office address | |
| Address line 1 | |
| Address line 2 | |
| City | Province/territory/state |
| Country | Postal/zip code |

***(j) replacing the third paragraph of section 3.3 with the following:***

Attach the firm's business plan, policies and procedures manual and client agreements, including any investment policy statements and investment management agreements, except if the regulator in Ontario is the principal regulator of the firm seeking registration, unless the regulator in Ontario has requested they be provided.

***(k) adding the following guidance for section 5.6:***

This information is required only if the firm is applying for registration in Québec as a mutual fund dealer or as a scholarship plan dealer.

***(l) replacing Schedule A with the following:***

**Schedule A**
**Contact information for**
**Notice of collection and use of personal information**

**Alberta**
Alberta Securities Commission,
Suite 600, 250–5th St. SW
Calgary, AB T2P 0R4
Attention: Information Officer
Telephone: (403) 297-6454

**British Columbia**
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, BC V7Y 1L2
Attention: Freedom of Information Officer
Telephone: (604) 899-6500 or (800) 373-6393 (in Canada)

**Manitoba**
The Manitoba Securities Commission
500 - 400 St. Mary Avenue
Winnipeg, MB R3C 4K5
Attention: Director of Registrations
Telephone : (204) 945-2548
Fax (204) 945-0330

**New Brunswick**
Financial and Consumer Services Commission of New Brunswick / Commission des services financiers et des services aux consommateurs du Nouveau-Brunswick
Suite 300, 85 Charlotte Street, Suite 300
Saint John, NB E2L 2J2
Attention: Director of Securities
Telephone: (506) 658-3060

**Newfoundland and Labrador**
Superintendent of Securities, Service NL
Government of Newfoundland and Labrador
P.O. Box 8700
2nd Floor, West Block
Confederation Building

**Nunavut**
Government of Nunavut
Department of Justice
P.O. Box 1000 Station 570
Iqaluit, NU X0A 0H0
Attention: Deputy Registrar of Securities
Telephone: (867) 975-6590

**Ontario**
Ontario Securities Commission
22nd Floor
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Compliance and Registrant Regulation
Telephone: (416) 593-8314
e-mail: registration@osc.gov.on.ca

**Prince Edward Island**
Securities Office
Department of Community Affairs and Attorney General
P.O. Box 2000
Charlottetown, PE C1A 7N8
Attention: Deputy Registrar of Securities
Telephone: (902) 368-6288

**Québec**
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Attention: Responsable de l'accès à l'information
Telephone: (514) 395-0337 or (877) 525-0337

**Saskatchewan**
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2
Attention: Deputy Director, Capital Markets
Telephone: (306) 787-5871

St. John's, NL A1B 4J6
Attention: Manager of Registrations
Telephone: (709) 729-5661

**Nova Scotia**
Nova Scotia Securities Commission
Suite 400, 5251 Duke Street
Halifax, NS B3J 1P3
Attention: Deputy Director, Capital Markets
Telephone: (902) 424-7768

**Northwest Territories**
Government of the Northwest Territories
Department of Justice
1st Floor Stuart M. Hodgson Building
5009 – 49th Street
Yellowknife, NWT X1A 2L9
Attention: Deputy Superintendent of Securities
Telephone: (867) 920-8984

**Yukon**
Government of Yukon
Superintendent of Securities
Department of Community Services
P.O. Box 2703 C-6
Whitehorse, YT Y1A 2C6
Attention: Superintendent of Securities
Telephone: (867) 667-5314

**Self-regulatory organization**
Investment Industry Regulatory Organization of Canada
121 King Street West, Suite 2000
Toronto, Ontario M5H 3T9
Attention: Privacy Officer
Telephone: (416) 364-6133
E-mail: PrivacyOfficer@iiroc.ca

***(m) amending Schedule B by replacing*** "Submission to jurisdiction and Appointment of Agent for Service" ***with*** "Submission to jurisdiction and appointment of agent for service" ***in sections 7 and 8 and under the heading "Acceptance", wherever these terms appear;***

***(n) replacing Schedule C with the following:***

**Schedule C**
**FORM 31-103F1 CALCULATION OF EXCESS WORKING CAPITAL**

_____
Firm Name

Capital Calculation
(as at _____ with comparative figures as at _____)

| | **Component** | **Current period** | **Prior period** |
|---|---|---|---|
| 1. | Current assets | | |
| 2. | Less current assets not readily convertible into cash (e.g., prepaid expenses) | | |

| | | | |
|---|---|---|---|
| 3. | Adjusted current assets<br>Line 1 minus line 2 = | | |
| 4. | Current liabilities | | |
| 5. | Add 100% of non-current related party debt unless the firm and the lender have executed a subordination agreement in the form set out in Appendix B of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and the firm has delivered a copy of the agreement to the regulator or, in Québec, the securities regulatory authority. See section 12.2 of National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations.* | | |
| 6. | Adjusted current liabilities<br>Line 4 plus line 5 = | | |
| 7. | Adjusted working capital<br>Line 3 minus line 6 = | | |
| 8. | Less minimum capital | | |
| 9. | Less market risk | | |
| 10. | Less any deductible under the bonding or insurance policy required under Part 12 of National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations* | | |
| 11. | Less Guarantees | | |
| 12. | Less unresolved differences | | |

| | | | |
|---|---|---|---|
| 13. | Excess working capital | | |

**Notes:**

Form 31-103F1 *Calculation of Excess Working Capital* must be prepared using the accounting principles that you use to prepare your financial statements in accordance with National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*. Section 12.1 of Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* provides further guidance in respect of these accounting principles.

**Line 5. Related-party debt** – Refer to the CICA Handbook for the definition of "related party" for publicly accountable enterprises. The firm is required to deliver a copy of the executed subordination agreement to the regulator or, in Québec, the securities regulatory authority on the earlier of a) 10 days after the date the agreement is executed or b) the date an amount subordinated by the agreement is excluded from its calculation of excess working capital on Form 31-103F1 *Calculation of Excess Working Capital*. The firm must notify the regulator or, in Québec, the securities regulatory authority, 10 days before it repays the loan (in whole or in part), or terminates the subordination agreement. See section 12.2 of National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

**Line 8. Minimum Capital** – The amount on this line must be not less than (a) $25,000 for an adviser and (b) $50,000 for a dealer. For an investment fund manager, the amount must be not less than $100,000 unless subsection 12.1(4) of National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations* applies.

**Line 9. Market Risk** – The amount on this line must be calculated according to the instructions set out in Schedule 1 to Form 31-103F1 *Calculation of Excess Working Capital*. A schedule supporting the calculation of any amounts included in Line 9 as market risk should be provided to the regulator or, in Québec, the securities regulatory authority in conjunction with the submission of Form 31-103F1 *Calculation of Excess Working Capital*.

**Line 11. Guarantees** – If the registered firm is guaranteeing the liability of another party, the total amount of the guarantee must be included in the capital calculation. If the amount of a guarantee is included in the firm's statement of financial position as a current liability and is reflected in line 4, do not include the amount of the guarantee on line 11.

**Line 12. Unresolved differences** – Any unresolved differences that could result in a loss from either firm or client assets must be included in the capital calculation. The examples below provide guidance as to how to calculate unresolved differences:

(i) If there is an unresolved difference relating to client securities, the amount to be reported on Line 12 will be equal to the fair value of the client securities that are short, plus the applicable margin rate for those securities.

(ii) If there is an unresolved difference relating to the registrant's investments, the amount to be reported on Line 12 will be equal to the fair value of the investments (securities) that are short.

(iii) If there is an unresolved difference relating to cash, the amount to be reported on Line 12 will be equal to the amount of the shortfall in cash.

Please refer to section 12.1 of Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* for further guidance on how to prepare and file Form 31-103F1 *Calculation of Excess Working Capital*.

**Management Certification**

**Registered Firm Name:** _____

We have examined the attached capital calculation and certify that the firm is in compliance with the capital requirements as at _____.

| **Name and Title** | **Signature** | **Date** |
|---|---|---|
| 1. _____ | _____ | _____ |
| _____ | _____ | _____ |
| 2. _____ | | |
| _____ | | |

**Schedule 1 of Form 31-103F1 Calculation of Excess Working Capital (calculating line 9 [market risk])**

For purposes of completing this form:

(1) "Fair value" means the value of a security determined in accordance with Canadian GAAP applicable to publicly accountable enterprises.

(2) For each security whose value is included in line 1, Current Assets, multiply the fair value of the security by the margin rate for that security set out below. Add up the resulting amounts for all of the securities you hold. The total is the "market risk" to be entered on line 9.

**(a) Bonds, Debentures, Treasury Bills and Notes**

(i) Bonds, debentures, treasury bills and other securities of or guaranteed by the Government of Canada, of the United Kingdom, of the United States of America and of any other national foreign government (provided such foreign government securities are currently rated Aaa or AAA by Moody's Canada Inc. or its DRO affiliate, or Standard & Poor's Rating Services (Canada) or its DRO affiliate, respectively), maturing (or called for redemption):

| | |
|---|---|
| within 1 year: | 1% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365 |
| over 1 year to 3 years: | 1 % of fair value |
| over 3 years to 7 years: | 2% of fair value |
| over 7 years to 11 years: | 4% of fair value |
| over 11 years: | 4% of fair value |

(ii) Bonds, debentures, treasury bills and other securities of or guaranteed by any jurisdiction of Canada and obligations of the International Bank for Reconstruction and Development, maturing (or called for redemption):

| | |
|---|---|
| within 1 year: | 2% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365 |
| over 1 year to 3 years: | 3 % of fair value |
| over 3 years to 7 years: | 4% of fair value |
| over 7 years to 11 years: | 5% of fair value |
| over 11 years: | 5% of fair value |

(iii) Bonds, debentures or notes (not in default) of or guaranteed by any municipal corporation in Canada or the United Kingdom maturing:

| | |
|---|---|
| within 1 year: | 3% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365 |
| over 1 year to 3 years: | 5 % of fair value |
| over 3 years to 7 years: | 5% of fair value |

| | |
|---|---|
| over 7 years to 11 years: | 5% of fair value |
| over 11 years: | 5% of fair value |

(iv) Other non-commercial bonds and debentures (not in default): 10% of fair value

(v) Commercial and corporate bonds, debentures and notes (not in default) and non-negotiable and non-transferable trust company and mortgage loan company obligations registered in the registered firm's name maturing:

| | |
|---|---|
| within 1 year: | 3% of fair value |
| over 1 year to 3 years: | 6 % of fair value |
| over 3 years to 7 years: | 7% of fair value |
| over 7 years to 11 years: | 10% of fair value |
| over 11 years: | 10% of fair value |

**(b) Bank Paper**

Deposit certificates, promissory notes or debentures issued by a Canadian chartered bank (and of Canadian chartered bank acceptances) maturing:

| | |
|---|---|
| within 1 year: | 2% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365 |
| over 1 year: | apply rates for commercial and corporate bonds, debentures and notes |

**(c) Acceptable foreign bank paper**

Deposit certificates, promissory notes or debentures issued by a foreign bank, readily negotiable and transferable and maturing:

| | |
|---|---|
| within 1 year: | 2% of fair value multiplied by the fraction determined by dividing the number of days to maturity by 365 |
| over 1 year: | apply rates for commercial and corporate bonds, debentures and notes |

"Acceptable Foreign Bank Paper" consists of deposit certificates or promissory notes issued by a bank other than a Canadian chartered bank with a net worth (i.e., capital plus reserves) of not less than $200,000,000.

**(d) Mutual Funds**

Securities of mutual funds qualified by prospectus for sale in any jurisdiction of Canada:

(i) 5% of the net asset value per security as determined in accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure*, where the fund is a money market mutual fund as defined in National Instrument 81-102 *Mutual Funds*; or

(ii) the margin rate determined on the same basis as for listed stocks multiplied by the net asset value per security of the fund as determined in accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure*.

Securities of mutual funds qualified by prospectus for sale in the United States of America: 5% of the net asset value per security if the fund is registered as an investment company under the *Investment Companies Act of 1940*, as amended from time to time, and complies with Rule 2a-7 thereof.

**(e) Stocks**

In this paragraph, "securities" includes rights and warrants and does not include bonds and debentures.

(i) On securities including investment fund securities, rights and warrants, listed on any exchange in Canada or the United States of America:

Long Positions – Margin Required

Securities selling at $2.00 or more – 50% of fair value

Securities selling at $1.75 to $1.99 – 60% of fair value

Securities selling at $1.50 to $1.74 – 80% of fair value

Securities selling under $1.50 – 100% of fair value

Short Positions – Credit Required

Securities selling at $2.00 or more – 150% of fair value

Securities selling at $1.50 to $1.99 – $3.00 per share

Securities selling at $0.25 to $1.49 – 200% of fair value

Securities selling at less than $0.25 – fair value plus $0.25 per shares

(ii) For positions in securities that are constituent securities on a major broadly-based index of one of the following exchanges, 50% of the fair value:

(a) Australian Stock Exchange Limited

(b) Bolsa de Madrid

(c) Borsa Italiana

(d) Copenhagen Stock Exchange

(e) Euronext Amsterdam

(f) Euronext Brussels

(g) Euronext Paris S.A.

(h) Frankfurt Stock Exchange

(i) London Stock Exchange

(j) New Zealand Exchange Limited

(k) Stockholm Stock Exchange

(l) SIX Swiss Exchange

(m) The Stock Exchange of Hong Kong Limited

(n) Tokyo Stock Exchange

**(f) Mortgages**

(i) For a firm registered in any jurisdiction of Canada except Ontario:

(a) Insured mortgages (not in default): 6% of fair value

(b) Mortgages which are not insured (not in default): 12% of fair value.

(ii) For a firm registered in Ontario:

(a) Mortgages insured under the *National Housing Act* (Canada) (not in default): 6% of fair value

(b) Conventional first mortgages (not in default): 12% of fair value.

If you are registered in Ontario regardless of whether you are also registered in another jurisdiction of Canada, you will need to apply the margin rates set forth in (ii) above.

**(g) For all other securities** – 100% of fair value.

**17. Form 33-109F7 is amended by**

**(a) replacing the first sentence of "General Instructions" with the following:**

Complete and submit this form to the relevant regulator(s) or in Québec, the securities regulatory authority, or self-regulatory organization (SRO) if an individual has left a sponsoring firm and is seeking to reinstate their registration in one or more of the same categories or reinstate their same status of permitted individual as before with a sponsoring firm.

***(b) replacing*** "end of three months" ***with*** "90th day" ***in section 1 of "General Instructions",***

***(c) adding*** "other than changes to Item 13.3(c)" ***after "Items 13 (Regulatory Disclosure)" in section 2,***

***(d) deleting*** "or elsewhere in the securities legislation of your province or territory. Please refer to those definitions." ***in the last paragraph of "Terms",***

***(e) adding*** "with securities regulation experience" ***after*** "legal adviser" ***in "How to submit this form – NRD format" and in "How to submit this form – Format, other than NRD format",***

***(f) replacing*** "If "yes" ***with*** "If "Yes"" ***in the last sentence of section 4 of Item 1,***

***(g) replacing*** "E-mail address, if available" ***in section 1 of Item 4 with*** "Business e-mail address"**,**

***(h) replacing Item 5 with the following:***

**Item 5 Location of employment**

**1.** Provide the following information for your new sponsoring firm. If you will be working out of more than one business location, provide the following information for the business location out of which you will be doing most of your business. If you are only filing this form because you are a permitted individual and are not employed by, or acting as agent for, the sponsoring firm, select "N/A".

Unique Identification Number (optional): _____

NRD location number: _____

Business location address: _____
(number, street, city, province, territory or state, country, postal code)

Telephone number: (____)_____

Fax number: (____)_____

N/A ☐

**2.** If the new sponsoring firm has a foreign head office, and/or you are not a resident of Canada, provide the address for the business location in which you will be conducting most of your business. If you are only filing this form because you are a permitted individual and are not employed by, or acting as agent for, the sponsoring firm, select "N/A".

Business location address: _____ _____
(number, street, city, province, territory or state, country, postal code)

Telephone number: (____) _____

Fax number: (____) _____

N/A ☐

[The following under #3 "Type of business location", #4 and #5 is for a Format other than NRD format only]

**3.** Type of business location:

☐ Head office
☐ Branch or business location
☐ Sub-branch (Mutual Fund Dealers Association members only)

**4.** Name of supervisor or branch manager: _____

**5.** ☐ **Check here if the mailing address of the business location is the same as the business location address provided above. Otherwise, complete the following:**

Mailing address:_____
(number, street, city, province, territory or state, country, postal code)

***(i) replacing Item 7 with the following:***

**Item 7 Current employment, other business activities, officer positions held and directorships**

Name of your new sponsoring firm: _____

Complete a separate Schedule D for each of your current business and employment activities, including employment and business activities with your new sponsoring firm and any employment and business activities outside your new sponsoring firm. Also include all officer or director positions and any other equivalent positions held, as well as positions of influence. The information must be provided

- whether or not you receive compensation for such services, and
- whether or not any such position is business related.

***(j) adding*** ", other than changes to Item 13.3(c))" ***after*** "Regulatory disclosure (Item 13" ***in section 1 of Item 9,***

***(k) replacing*** 'Reactivation of Registration' ***with*** "Reactivation of Registration" ***in the second paragraph of section 2 of Item 9,***

***(l) replacing Item 11 with the following:***

**Item 11 Warning**

**It is an offence under securities legislation and derivatives legislation, including commodity futures legislation, to give false or misleading information on this form.**

***(m) replacing section 1 of Item 12 with the following:***

I confirm I have discussed the questions in this form with an officer, branch manager or supervisor of my sponsoring firm. To the best of my knowledge, the officer, branch manager or supervisor was satisfied that I fully understood the questions. I will limit my activities to those permitted by my category of registration. If the business location specified in this form is a residence, I hereby give my consent for the regulator or, in Québec, the securities regulatory authority to enter that residence for the administration of securities legislation and derivatives legislation, including commodity futures legislation.

☐ I am making this submission as agent for the individual. By checking this box, I certify that the individual provided me with all of the information on this form and provide the certification above.

***(n) replacing, in the "Individual" section of "Certification – Format other than NRD format", the first paragraph with the following:***

By signing below, I certify to the regulator, or in Québec the securities regulatory authority, in each jurisdiction where I am submitting this form, either directly or through the principal regulator that:

- I have read the form and understand the questions,
- all of the information provided on this form is true, and complete, and
- if the business location specified in this form is a residence, I hereby give my consent for the regulator or, in Québec, the securities regulatory authority to enter that residence for the administration of securities legislation and derivatives legislation, including commodity futures legislation..

Signature of individual _____Date signed_____
(YYYY/MM/DD)

***(o) amending Schedule B as follows:***

***(i) adding*** "[ ] permitted individual" ***between*** "Chief Compliance Officer" and "Officer – specify title" ***in "Categories common to all jurisdictions under securities legislation – Individual categories and permitted activities",***

***(ii) replacing "***[ ] Floor Trader" ***with "***[ ] Floor Broker" ***in "Manitoba - Individual categories and permitted activities", and***

***(iii) replacing the section for "Québec" with the following:***

**Québec**

***Firm categories***

[ ] Derivatives Dealers

[ ] Derivatives Portfolio Manager

***Individual categories and permitted activities***

[ ] Derivatives Dealing Representative

[ ] Derivatives Advising Representative

[ ] Derivatives Associate Advising Representative**,**

***(p) amending Schedule C as follows by replacing "E-mail address" in Item 4.1 with the following:***

Business e-mail address: _____

***(q) amending Schedule D as follows:***

***(i) replacing the first paragraph with the following:***

Complete a separate Schedule D for each of your current business and employment activities, including employment and business activities with your new sponsoring firm and any employment and business activities outside your new sponsoring firm. Also include all officer or director positions and any other equivalent positions held, as well as positions of influence. The information must be provided

- whether or not you receive compensation for such services, and
- whether or not any such position is business related., ***and***

***(ii) adding the following paragraph in section 5:***

D. State the name of the person at your sponsoring firm who has reviewed and approved your multiple employment or business related activities or proposed business related activities***, and***

***(iii) renumbering paragraph D as paragraph E,***

***(r) amending Schedule E by***

***(i) changing the title to*** "Ownership of securities in new sponsoring firm (Item 8)" ***from that of*** "Ownership of securities and derivatives firms (Item 8)"***,***

***(ii) adding, after*** "Firm name" ***in the first paragraph,*** "(whose business is trading in or advising on securities or derivatives, or both)"***, and***

***(iii) replacing, in paragraph (g),*** "if applicable" ***with "***N/A ☐" ***wherever it appears, and***

***(s) replacing Schedule F with the following:***

**Schedule F**
**Contact information for**
**Notice of collection and use of personal information**

**Alberta**
Alberta Securities Commission,
Suite 600, 250–5th St. SW
Calgary, AB T2P 0R4
Attention: Information Officer
Telephone: (403) 297-6454

**British Columbia**
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, BC V7Y 1L2
Attention: Freedom of Information Officer
Telephone: (604) 899-6500 or (800) 373-6393 (in Canada)

**Manitoba**
The Manitoba Securities Commission
500 - 400 St. Mary Avenue
Winnipeg, MB R3C 4K5
Attention: Director of Registrations
Telephone : (204) 945-2548
Fax (204) 945-0330

**New Brunswick**
Financial and Consumer Services Commission of New Brunswick / Commission des services financiers et des services aux consommateurs du Nouveau-Brunswick
Suite 300, 85 Charlotte Street, Suite 300
Saint John, NB E2L 2J2
Attention: Director of Securities
Telephone: (506) 658-3060

**Newfoundland and Labrador**
Superintendent of Securities, Service NL
Government of Newfoundland and Labrador
P.O. Box 8700
2nd Floor, West Block
Confederation Building
St. John's, NL A1B 4J6
Attention: Manager of Registrations
Telephone: (709) 729-5661

**Nunavut**
Government of Nunavut
Department of Justice
P.O. Box 1000 Station 570
Iqaluit, NU X0A 0H0
Attention: Deputy Registrar of Securities
Telephone: (867) 975-6590

**Ontario**
Ontario Securities Commission
22nd Floor
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Compliance and Registrant Regulation
Telephone: (416) 593-8314
e-mail: registration@osc.gov.on.ca

**Prince Edward Island**
Securities Office
Department of Community Affairs and Attorney General
P.O. Box 2000
Charlottetown, PE C1A 7N8
Attention: Deputy Registrar of Securities
Telephone: (902) 368-6288

**Québec**
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Attention: Responsable de l'accès à l'information
Telephone: (514) 395-0337 or (877) 525-0337

**Saskatchewan**
Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2
Attention: Deputy Director, Capital Markets
Telephone: (306) 787-5871

**Nova Scotia**
Nova Scotia Securities Commission
Suite 400, 5251 Duke Street
Halifax, NS B3J 1P3
Attention: Deputy Director, Capital Markets
Telephone: (902) 424-7768

**Northwest Territories**
Government of the Northwest Territories
Department of Justice
1st Floor Stuart M. Hodgson Building
5009 – 49th Street
Yellowknife, NWT X1A 2L9
Attention: Deputy Superintendent of Securities
Telephone: (867) 920-8984

**Yukon**
Government of Yukon
Superintendent of Securities
Department of Community Services
P.O. Box 2703 C-6
Whitehorse, YT Y1A 2C6
Attention: Superintendent of Securities
Telephone: (867) 667-5314

**Self-regulatory organization**
Investment Industry Regulatory Organization of Canada
121 King Street West, Suite 2000
Toronto, Ontario M5H 3T9
Attention: Privacy Officer
Telephone: (416) 364-6133
E-mail: PrivacyOfficer@iiroc.ca

**Coming into force**

**18.** This Instrument comes into force on (*insert date*) 2014.

**Annex D**

**Companion Policy 33-109CP**
***Registration Information***

## PART 1 – GENERAL

### 1.1 Purpose

This Companion Policy sets out how the Canadian Securities Administrators interpret or apply National Instrument 33-109 *Registration Information* (the Rule).

The registration requirement in securities legislation provides protection to investors from unfair, improper or fraudulent practices and enhances capital market integrity and efficiency. The information required under the Rule allows regulators to assess a filer's fitness for registration or for permitted individual status, with regard to their solvency, integrity and proficiency. These fitness requirements are the cornerstones of the registration requirement. In each jurisdiction of Canada the registration requirement and the Rule apply to dealers, underwriters, advisers and investment fund managers and to individuals who act on their behalf as registered or permitted individuals.

### 1.2 Definition of permitted individuals

Section 1.1 of the Rule defines a permitted individual as an individual who meets the criteria set forth in either ~~subsection~~paragraph (a) or ~~subsection~~paragraph (b) of the definition, or both. A permitted individual may or may not be a registered individual. For example, the chief executive officer of a registered firm is registered as the firm's ultimate designated person and is also a permitted individual. The definition of permitted individual allows the Rule to separate out the filing requirements which are applicable only to permitted individuals from those which are applicable to registered individuals.

### 1.3 Overview of the forms

The following forms are for firms:

- ~~Form 33-109F6 *Firm Registration* – to apply for registration as a dealer, adviser or investment fund manager~~
- Form 33-109F3 *Business Locations other than Head Office* – to disclose each business location of the firm and any change of business location

  Form 33-109F6 *Firm Registration* – to apply for registration as a dealer, adviser or investment fund manager

The following forms are for individuals and are submitted in NRD format:

- Form 33-109F1 *Notice of Termination of Registered Individuals and Permitted Individuals* – to notify the regulator that a registered or permitted individual has ceased to have authority to act on behalf of the firm

- ~~Form 33-109F4 Registration of Individuals and Review of Permitted Individuals – to apply for registration or review as a permitted individual~~

  Form 33-109F2 *Change or Surrender of Individual Categories* – to apply for registration or review in an additional category or to surrender a category

- Form 33-109F4 Registration of Individuals and Review of Permitted Individuals – to apply for registration or review as a permitted individual

- Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* – to reinstate an individual's registration or a permitted individual status

### 1.4 Notice requirements

Form 33-109F5 *Change of Registration Information* is used by firms and individuals to notify regulators of any change to their registration information. Under sections 3.1 and 4.1 of the Rule, a registrant and a permitted individual must keep their registration information current on an ongoing basis by filing notices of change of information within the required time.

Appendix A summarizes the notice requirements, time periods and the forms under the Rule to notify regulators of a change to a firm's or individual's registration information.

### 1.5 Contact information

When a firm submits a Form 33-109F6, supporting documents or a Form 33-109F5, it can make the submission using e-mail, fax or mail. Appendix B attached to this policy sets out the contact information for the regulator in each jurisdiction of Canada and for the Investment Industry Regulatory Organization of Canada (IIROC) in those jurisdictions where the securities regulatory authority has delegated, assigned or authorized IIROC to perform registration functions.

## PART 2 – FORMS USED BY INDIVIDUALS

### 2.1 National Registration Database (NRD)

The NRD is the database containing information about all registrants and permitted individuals under securities or commodity futures legislation in each jurisdiction of Canada. The requirement for firms to enrol, and to make certain submissions, on NRD are set out in National Instrument 31-102 *National Registration Database*. Detailed information about the NRD and the enrolment process is available in the NRD User Guide published at www.nrd-info.ca.

### 2.2 Form 33-109F4

***Types of submissions using Form 33-109F4***

The NRD format for submitting a completed Form 33-109F4 under ~~subsections~~subsection 2.2(1) or 2.5(1) of the Rule include four distinct NRD submission types that are made in the following circumstances:

- *Initial Registration*, when an individual is seeking registration, or review as a permitted individual, through NRD for the first time

- *Registration in an Additional Jurisdiction*, when an individual is registered or is a permitted individual in a jurisdiction of Canada and is seeking registration, or review as a permitted individual, in an additional jurisdiction

- *Registration with an Additional Sponsoring Firm*, when an individual is registered, or is a permitted individual, on behalf of one sponsoring firm and applies for registration, or seeks review as a permitted individual, to act on behalf of an additional sponsoring firm

- *Reactivation of registration*, when an individual who has an NRD record is applying for registration, reinstatement of registration or is seeking review as a permitted individual and is not eligible under ~~sections~~subsection 2.3(2) or 2.5(2) of the Rule to submit a Form 33-109F7

***Submissions by permitted individuals***

Under subsection 2.5(1) of the Rule, within 10 days of becoming a permitted individual, the individual must submit a Form ——33-109F4 for review by the regulator. An individual whose registration is suspended may apply to reinstate the registration by submitting a completed Form 33-109F4 to the regulator. This is done with the *Reactivation of registration* submission on NRD. After making this submission the individual may not conduct activities requiring registration unless and until the regulator has approved the application. However, an application for reinstatement or review is not required if the individual meets all of the conditions for automatic reinstatement in ~~subsections~~subsection 2.3(2) or 2.5(2) of the Rule, which include submitting a completed Form 33-109F7 to the regulator as described in section 2.5 below.

***Agent for service***

Item 18 *Agent for service* of Form 33-109F4 is a certification clause by the individual that he or she has completed the appointment for service required in each relevant jurisdiction. There is no distinct form under NI 33-109 for the appointment of an agent for service for use by individuals. Please refer to the form used by the registered firm. This format is acceptable to the regulator.

### 2.3 Form 33-109F2

This form is used by individuals to apply to add or to surrender a registration category ~~or,~~ to seek review of a change in their permitted individual category~~.~~ or to change to any information on Schedule C of a previously submitted Form 33-109F4. If an individual has ceased to have authority to act on behalf of their sponsoring firm as a registered or permitted individual in the last jurisdiction of Canada where they were so acting, they cannot submit a Form ~~——~~33-109F2. Instead, the individual's sponsoring firm submits a Form 33-109F1 to notify the regulator of the termination or cessation of authority to act on behalf of the firm.

### 2.4 Form 33-109F5 for individuals

When an individual submits a Form 33-109F5 to update their registration information ~~the,~~ NRD will transmit the information to the regulator in each jurisdiction in which the individual is registered or is a permitted individual. However, only the principal regulator processes the submission to update the individual's registration information on NRD, or if necessary to deny or withdraw the submission.

Form 33-109F5 should not be used by an individual applying to add or surrender a registration category or to seek review of a change in his/her permitted individual category. In this case, Form 33-109F2 is used. It should also be noted that Form ~~——~~33-109F5 is not used by an individual that is registered or is a permitted individual in a jurisdiction of Canada and is seeking registration, or review as a permitted individual, in an additional jurisdiction. In this case, a Form 33-109F4 is used and is identified on NRD as *Registration in an additional jurisdiction*. This also applies to an individual adding a sponsoring firm; Form 33-109F4 is used and is identified on NRD as *Registration with an additional sponsoring firm*.

### 2.5 Form 33-109F7 for reinstatement

When an individual leaves a sponsoring firm and joins a new registered firm, they may submit a Form 33-109F7 to have their registration or permitted individual status automatically reinstated in one or more of the same ~~category~~categories and ~~jurisdiction(s)~~jurisdictions as before, subject to all of the conditions set out in subsection 2.3(2) or 2.5(2) of the Rule. An individual who meets all of the applicable conditions will be able to transfer directly from one sponsoring firm to another and start engaging in activities requiring registration from the first day that they submit the Form 33-109F7.

### 2.6 Business locations (Form 33-109F4 and Form 33-109F7)

The term "business location" is defined in section 1.1 of the Rule. If the business location specified in Item 9 of Form 33-109F4 or Item 5 of NI 33-109F7 is a residence, the individual must certify in both these forms that they give their consent for the regulator or, in Québec, the securities regulatory authority to enter the residence for the administration of securities legislation.

### 2.7 Ongoing fitness for registration

Every registrant must maintain their fitness for registration on an ongoing basis. Under securities legislation, the regulator has discretionary authority to suspend or revoke an individual's registration or to restrict it with terms and conditions at any time. The regulator may do this, for example, if it receives information through a notice of termination from an individual's former sponsoring firm or any other source that raises concerns about the individual's continued fitness for registration. Individuals will be given an opportunity to be heard before a decision is made to suspend or revoke registration or to impose terms and conditions.

## PART 3 – FORMS USED BY FIRMS

### 3.1 Form 33-109F6

When a firm submits a Form 33-109F6 to apply for registration, it may pay the regulatory fees to the applicable regulators by cheque or by using the NRD function called *Resubmit Fee Payment*. A firm that applies in multiple jurisdictions should submit its application to the regulator in the principal jurisdiction or, if

Ontario is a non-principal jurisdiction, to the regulators in the principal jurisdiction and in Ontario. For more details refer to National Policy 11-204 *Process for registration in multiple jurisdictions*.

Under section 4A.1 of Multilateral Instrument 11-102 *Passport System*, the principal regulator for a foreign firm is the securities regulatory authority or regulator identified in Item 2.2(b) of the firms most recent Form 33-109F6 or Form 33-109F5 – *Change of registration information* if the change noted in that form relates to Item 2.2(b) of Form 33-109F6. For firms without a head office in Canada or not already registered in a jurisdiction of Canada, Item 2.2(b) of Form 33-109F6 specifies that the principal regulator is the jurisdiction of Canada in which the firm expects to conduct most of its activities that require registration as at the end of its current financial year or conducted most of its activities that require registration as at the end of its most recently completed financial year. Firms should determine whether to base the selection on where they expect to conduct most of their activities or where they conducted most of their activities the previous year based on which they feel is most appropriate.

The factors a firm should consider in identifying the principal regulator are:

- the jurisdiction in which the firm has a business location,
- when applying for dealer registration or adviser registration, the jurisdiction in which the firm expects to have most of its clients as at the end of its current financial year or the jurisdiction in which most of the firm's clients were located at the end of its most recently completed financial year,
- when applying for investment fund manager registration, the jurisdiction in which the firm expects to conduct most of its investment fund manager activities as at the end of its current financial year or the jurisdiction in which most of the firm's investment fund manager activities were conducted at the end of its most recently completed financial year,
- when applying for investment fund manager registration and another category of registration, the jurisdiction in which firm expects to conduct most of the activities that require registration as at the end of its current financial year or conducted most of the activities that require registration as at the end of its most recently completed financial year based on the forgoing.

Under section 4A.2 of Multilateral Instrument 11-102 *Passport System*, a securities regulatory authority or regulator has the discretion to change the principal regulator for the firm.

**3.2 Form 33-109F5**

A firm that is registered in multiple jurisdictions may submit a Form 33-109F5 to its principal regulator only to notify regulators of a change to the firm's registration information, in accordance with subsection 3.1(6) of the Rule.

**3.3 Form 33-109F3**

A firm must notify the regulator of each business location in the jurisdiction~~, including~~. The term "business location" is defined in section 1.1 of the Rule and may include a residence~~,~~ where a firm's registered individuals are based for the purpose of carrying out activities that require registration.

Firms certify in Item 22 of Form 33-109F4 that if the business location is a residence, the individual conducting business from that business location has completed a Form 33-109F4 certifying that they give their consent for the regulator or, in Québec, the securities regulatory authority to enter the residence for the administration of securities legislation.

Firms submit this form through the NRD website.

**3.4 Discretionary exemption for bulk transfers**

Regulators will consider an application for an exemption from certain requirements in the Rule to facilitate a reorganization or combination of firms which would otherwise require a large number of submissions to change business locations and transfer individuals. The information required, and the conditions to obtain, this type of exemption application are described in the attached Appendix C.

### 3.5 Form 33-109F1

Under section 4.2 of the Rule, a registered firm must notify the regulator no more than 10 days after an individual ceased to have authority to act on behalf of the firm, as a registered or permitted individual. Typically, this occurs due to the termination of the individual's employment, partnership or agency relationship with the firm. However, it also occurs when an individual is re-assigned to a different position at the firm that does not require registration or is not a permitted individual category. Form 33-109F1 is submitted through the NRD website to give notice of the cessation date and the reason for the termination or cessation.

Under paragraph 4.2(1)(b) of the Rule, the information in Item 5 [*Details about the termination*] of a Form 33-109F1 must be submitted unless the cessation of authority to act on behalf of the firm was caused by the death of the individual. A firm can submit the information in Item 5 either at the time of the making the initial submission on NRD, if the information is available within that 10 day period, or within 30 days of the cessation date, by making an NRD submission entitled *Update / Correct Termination Information*.

## PART 4 – DUE DILIGENCE BY FIRMS

### 4.1 Obligations of former sponsoring firm

After submitting a Form 33-109F1 with regard to a former sponsored individual, a firm should promptly send the individual a copy of the completed Form 33-109F1. Under subsections 4.2(3) and (4) of the Rule, within 10 days of a request by a former sponsored individual, a firm must provide the individual with a copy of the Form 33-109F1 that was submitted, and if necessary, a further copy that includes the information in Item 5 of the Form 33-109F1, within 10 days of submitting that information.

### 4.2 Obligations of new sponsoring firm

~~(1)~~ In fulfilling its obligations under subsection 5.1(1) of the Rule, a firm should make reasonable efforts to do all of the following:

- establish written policies and procedures to verify an individual's information prior to submitting a Form ~~—~~33-109F4 or Form 33-109F7 on behalf of the individual
- document the firm's review of an individual's information in accordance with the firm's policies and procedures
- regularly remind registered and permitted individuals about their disclosure obligations under the Rule, such as notifying the regulator about changes to their registration information

Under subsection 5.1(2) of the Rule, within 60 days of hiring a sponsored individual, a firm must obtain a copy of the most recent Form 33-109F1, if any, for the individual. If a sponsoring firm cannot obtain it from the sponsored individual, as a last resort the individual should request it from the regulator.

The information referred to above will assist the firm in meeting its obligations under subsection 5.1(1) of the Rule and should inform the firm's hiring decisions. If an individual is hired before a completed Form 33-109F1 is available and if the firm discovers an inconsistency in the individual's disclosure to the firm or the regulator, then the firm should take appropriate action. All of the required information should be available within 60 days of hiring the individual, which will often fall within the individual's probation period under their employment or agency contract.

## PART 5 – COMMODITY FUTURES ACT SUBMISSIONS

### 5.1 Ontario

In Ontario, if a person or company is required to make a submission under both the Rule and OSC Rule 33-506 (*Commodity Futures Act*) with respect to the same information, the securities regulatory authority is of the view that a single filing on a form required under either rule satisfies both requirements.

### 5.2 Manitoba

In Manitoba, the Rule is a rule under each of the *Securities Act* and the *Commodity Futures Act*. A single submission with respect to the same information will satisfy the requirements of both statutes.

**Appendix A**

**Summary of Notice Requirements in National Instrument 33-109**

| Description of Change | Notice Period | Section | Form submitted |
|---|---|---|---|
| **Firms – Form 33-109F6 information** | | | **by e-mail, fax or mail** |
| Part 1 – Registration details | 10 days | 3.1(1)(b) | Form 33-109F5 |
| Part 2 – Contact information, including head office address (except 2.4) | 10 days | | |
| Item 2.4 –Agent and Address for service [Items 3 and 4 of Schedule B to Form 33-109F6] | 10 days | 3.1(4) | Schedule B to Form 33-109F6 *Submission to Jurisdiction* |
| Part 3 – Business history & structure | 30 days | 3.1(1)(a) | Form 33-109F5 |
| Part 4 – Registration history | 10 days | 3.1(1)(b) | |
| Part 5 – Financial condition | 10 days | | |
| Part 6 – Client relationships | 10 days | | |
| Part 7 – Regulatory action | 10 days | | |
| Part 8 – Legal action | 10 days | | |
| **Firms – other notice requirements** | | | **in NRD format** |
| Open / change of business location (other than head office) | 10 days | 3.2 | Form 33-109F3 |
| Termination / Cessation of Authority of a registered or permitted individual – Items 1 – 4 | 10 days | 4.2(2)(a) | Form 33-109F1 |
| Item 5 | 30 days | 4.2(2)(b) | |
| **Individuals – Form F4 information** | | | **in NRD format** |
| Item 1 – Name | 10 days | 4.1(1)(b) | Form 33-109F5 |
| Item 2 – Address | 10 days | | |
| Item 3 – Personal information | No update required | 4.1(2) | |
| Item 4 – Citizenship | 30 days | 4.1(1)(a) | |
| Item 5 – Registration jurisdictions | 10 days | 4.1(1)(b) | |
| Item 6 – Individual categories | 10 days | | |
| Item 7 – Address for service | 10 days | | |
| Item 8 – Proficiency | 10 days | | |
| Item 9 – Location of employment | 10 days | | |
| Item 10 – Current employment | 10 days | | |
| Item 11 – Previous employment | 30 days | 4.1(1)(a) | |
| Item 12 – Terminations | 10 days | 4.1(1)(b) | |
| Item 13 – Regulatory disclosure | 10 days | | |
| Item 14 – Criminal disclosure | 10 days | | |
| Item 15 – Civil disclosure | 10 days | | |
| Item 16 – Financial disclosure | 10 days | | |
| Item 17 – Ownership of securities | 10 days | | |
| Change of F4: registrant position or relationship with sponsoring firm / permitted status | 10 days | 4.1(4) | Form 33-109F2 |
| Review of a Permitted individual | 10 days after appointment | 2.5 | Form 33-109F4 or Form 33-109F7, subject to conditions |
| Automatic reinstatement of registration subject to conditions | within 90 days of cessation date | 2.3(2) | Form 33-109F7 |

**Appendix B**

**Contact Information for the Regulators and IIROC**

- Part 1 provides the regulators' contact information for registrants in all categories, except for those in the jurisdictions and categories listed in Part 2
- Part 2 below, provides IIROC's contact information in the jurisdictions where IIROC performs registration functions for representatives of investment dealers and, in some cases, for investment dealer firms

**PART 1 – Regulators' Contact Information**

| | |
|---|---|
| **Alberta**<br>e-mail: registration@asc.ca<br>fax: (403) 297-4113<br>Alberta Securities Commission,<br>Suite 600, 250–5th St. SW<br>Calgary, AB T2P 0R4 Registration department | **British Columbia**<br>e-mail: registration@bcsc.bc.ca<br>fax: (604) 899-6506<br>British Columbia Securities Commission<br>P.O. Box 10142, Pacific Centre<br>701 West Georgia Street<br>Vancouver, BC V7Y 1L2<br>Attention: Registration |
| **Manitoba**<br>e-mail: registrationmsc@gov.mb.ca<br>fax: (204) 945-0330<br>The Manitoba Securities Commission<br>500-400 St. Mary Avenue<br>Winnipeg, MB R3C 4K5<br>Attention: Registrations | **New Brunswick**<br>e-mail: nrs@~~nbsc-cvmnb~~fcnb.ca<br>fax:(506) 658-3059<br>~~Fax:~~Financial and Consumer Services Commission of New Brunswick ~~Securities/~~ Commission des services financiers et des services aux consommateurs du Nouveau-Brunswick<br>Suite 300, 85 Charlotte Street<br>Saint John, NB E2L 2J2<br>Attention: Registration Officer<br>~~nrs@nbsc-cvmnb.ca~~ |
| **Newfoundland and Labrador**<br>e-mail: scon@gov.nl.ca<br>fax: (709) 729-6187<br>~~Financial Services Regulation Division~~<br>~~Department of Government Services~~<br>Superintendent of Securities, Service NL<br>Government of Newfoundland and Labrador<br>P.O. Box 8700, 2nd Floor, West Block<br>Confederation Building<br>St. John's, NL A1B 4J6<br>Attention: Registration Section | **Northwest Territories**<br>e-mail: SecuritiesRegistry@gov.nt.ca<br>fax: (867) 873-0243<br>Government of the Northwest Territories<br>Department of Justice<br>P.O. Box 1320<br>Yellowknife, NWT X1A 2L9<br>Attention: Exemption Review Staff |
| **Nova Scotia**<br>e-mail: nrs@gov.ns.ca<br>fax: (902) 424-4625<br>Nova Scotia Securities Commission<br>~~2nd Floor, Joseph Howe Building~~<br>~~1690 Hollis~~Suite 400, 5251 Duke Street<br>~~P.O. Box 458~~<br>Halifax, NS B3J 1P3~~J9~~<br>Attention: Registration | **Nunavut**<br>e-mail: CorporateRegistrations@gov.nu.ca<br>fax: (867) 975-6594<br>~~Legal Registries Division~~<br>~~Department of Justice~~<br>Government of Nunavut<br>Department of Justice<br>P.O. Box 1000 Station 570<br>Iqaluit, NU X0A 0H0<br>Attention: Deputy Registrar |

**PART 1 – Regulators' Contact Information**

| | |
|---|---|
| **Ontario**<br>Telephone: (416) 593-8314<br>e-mail: registration@osc.gov.on.ca<br>Ontario Securities Commission<br>~~Suite 1903, Box 55~~<br>22nd Floor<br>20 Queen Street West<br>Toronto, ON M5H 3S8<br>Attention: Compliance and Registrant Regulation<br>~~Telephone: (416) 593-8314~~<br>~~e-mail: registration@osc.gov.on.ca~~ | **Prince Edward Island**<br>e-mail: ccis@gov.pe.ca<br>fax: (902) 368-5283<br>~~Consumer and Corporate Services Division,~~<br>Securities Office<br>Department of ~~the~~Community Affairs and Attorney General<br>P.O. Box 2000, 95 Rochford Street<br>Charlottetown, PE C1A 7N8<br>Attention: Superintendent of Securities |
| **Québec**<br>e-mail: inscription@lautorite.qc.ca<br>fax : (514) 873-3090<br>Autorité des marchés financiers<br>~~Service~~Direction de l'encadrement des intermédiaires<br>800 square Victoria, 22e étage<br>C.P 246, Tour de la Bourse<br>Montréal (Québec) H4Z 1G3 | **Saskatchewan**<br>e-mail: registrationsfsc@gov.sk.ca<br>fax: (306) 787-~~5899~~5871<br>Financial and Consumer Affairs Authority of Saskatchewan~~ Financial Services Commission~~<br>Suite 601<br>1919 Saskatchewan Drive<br>Regina, SK S4P 4H2<br>Attention: Registration |
| **Yukon ~~Territory~~**<br>e-mail: corporateaffairs@gov.yk.ca<br>fax: (867) 393-6251<br>~~Department~~Government of ~~Community Services~~ Yukon<br>~~Yukon~~Superintendent of Securities~~ Office~~<br>P.O. Box 2703<br>Whitehorse, YT Y1A 2C6<br>Attention: Superintendent of Securities | |

**PART 2 - Investment Industry Regulatory Organization of Canada Contact Information**

** registration of investment dealer firms and their representatives **
* registration of investment dealer representatives *

| | |
|---|---|
| **** Alberta – IIROC ****<br><br>**** Saskatchewan- IIROC ****<br>e-mail: registration@iiroc.ca<br>fax: (403) 265-4603<br>#2300, 355- 4th Avenue SW,<br>Calgary, AB T2P 0J1<br>Attention: Registration department | ****British Columbia – IIROC****<br>e-mail: registration@iiroc.ca<br>fax: 604-683-3491<br>1055 West Georgia Street<br>Suite 2800 – Royal Centre<br>Vancouver, BC V6E 3R5<br>Attention: Registration department |
| **** Newfoundland and Labrador – IIROC ****<br><br>*** Ontario – IIROC ***<br><br>e-mail: registration@iiroc.ca<br>fax: (416) 364-9177<br>Suite 1600, 121 King Street West<br>Toronto, ON M5H 3T9<br>Attention: Registration department | *** Québec – IIROC ***<br>e-mail: registration@iiroc.ca<br>fax: (514) 878-0797<br>Organisme canadien de réglementation du commerce des valeurs mobilières<br>5 Place Ville Marie<br>Bureau 1550<br>Montréal (Québec) H3B 2G2<br>Attention : Service des inscriptions |

## Appendix C

### Discretionary Exemption for Bulk Transfers of Business Locations and Individuals

(1) If a registered firm is acquiring a large number of business locations (for example, as a result of an amalgamation or asset purchase) from one or more other registered firms that are located in the same jurisdiction(s) and registered in the same categories as the acquiring firm, and if a significant number of individuals are associated on NRD with the business locations, the regulator will consider granting an exemption from any or all of the following requirements:

(a) to submit a notice regarding the termination of each employment, partner, or agency relationship under section 4.2 of the Rule;

(b) to submit a registration application or a reinstatement notice for each individual seeking to be a registered individual under section 2.2 or 2.3 of the Rule;

(c) to submit a Form 33-109F4 or Form 33-109F7 for each permitted individual under section 2.5 of the Rule;

(d) to notify the regulator of a change to the business location information in Form 33-109F3 under section 3.2 of the Rule.

(2) The exemption application should be submitted by the registered firm that will acquire control of the business locations at the closing of the transaction and should be submitted well in advance of the date (transfer date) on which the business locations will be transferred. It would typically be sufficient if a firm submits the application at least 30 days before the transfer date. An application for this type of exemption should include the following information:

(a) the name and NRD number of the registered firm that will acquire control of the business locations;

(b) for each registered firm that is transferring control of the business locations;

(i) the name and NRD number of the registered firm,

(ii) the address and NRD number of each business location that is being transferred from the registered firm named in (b)(i) to the registered firm named in (a),

(iii) the date that the business locations and individuals will be transferred to the registered firm named in (a).

(3) If the exemption is granted, as soon as practicable after the transfer date, the regulator will instruct the NRD administrator to record on NRD the transfer of the business locations, registered individuals and permitted individuals.

(4) Bulk transfers involving firms that are registered in different categories or different jurisdictions may need to take additional steps. Firms involved in such a transaction should contact their principal regulator to discuss what steps are required for the firm to be eligible for a bulk transfer exemption as described above.

(5) A firm applying for this type of exemption in more than one jurisdiction should refer to National Policy 11-203 *Process for Exemption Applications in Multiple Jurisdictions* for guidance on the form of application and the information required. The firm may set out the information referred to in (2) as follows:

A) Registered firm that will acquire the business locations
Name:
Firm NRD number:

B) Registered firm transferring the business locations
Name:
Firm NRD number:

Business locations that will be transferred
Address of business location:
NRD number of business location:

Address of business location:
NRD number of business location:

(Repeat for each business location as necessary)

C) Date that business locations will be transferred:

**Annex E**

**AMENDMENTS TO NATIONAL INSTRUMENT 52-107 ACCEPTABLE ACCOUNTING PRACTICES AND AUDITING STANDARDS**

**1.** ***National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards is amended by this Instrument.***

**2.** ***Section 2.1 is amended by adding, at the end of subsection (1),*** "that are subject to National Instrument 81-106 *Investment Fund Continuous Disclosure* in respect of their reporting requirements as investment funds"**.**

**Coming into force**

***3. This Instrument comes into force on ▪, 2014.***

**Annex F**

**Companion Policy 52-107CP**
***Acceptable Accounting Principles and Auditing Standards***

## PART I: INTRODUCTION AND DEFINITIONS

**1.1 Introduction and Purpose** — This Companion Policy provides information about how the securities regulatory authorities interpret or apply National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (the Instrument). The Instrument is linked closely with the application of other national instruments, including National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) and National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (NI 71-102). These and other national instruments also contain a number of references to International Financial Reporting Standards (IFRS) and the requirements in the Handbook of the Canadian Institute of Chartered Accountants (the Handbook). Full definitions of IFRS and the Handbook are provided in National Instrument 14-101 *Definitions*.

The Instrument does not apply to investment funds. National Instrument 81-106 *Investment Fund Continuous Disclosure* applies to investment funds.

**1.2 Multijurisdictional Disclosure System** — National Instrument 71-101 *The Multijurisdictional Disclosure System* (NI 71-101) permits certain U.S. incorporated issuers to satisfy Canadian disclosure filing obligations, including financial statements, by using disclosure documents prepared in accordance with U.S. federal securities laws. The Instrument does not replace or alter NI 71-101. There are instances in which NI 71-101 and the Instrument offer similar relief to a reporting issuer. There are other instances in which the relief differs. If both NI 71-101 and the Instrument are available to a reporting issuer, the issuer should consider both instruments. It may choose to rely on the less onerous instrument in a given situation.

**1.3 Calculation of Voting Securities Owned by Residents of Canada** — The definition of "foreign issuer" is based upon the definition of foreign private issuer in Rule 405 of the 1933 Act and Rule 3b-4 of the 1934 Act. For the purposes of the definition of "foreign issuer", in determining the outstanding voting securities that are beneficially owned by residents of Canada, an issuer should

(a) use reasonable efforts to identify securities held by a broker, dealer, bank, trust company or nominee or any of them for the accounts of customers resident in Canada,

(b) count securities beneficially owned by residents of Canada as reported on reports of beneficial ownership, including insider reports and early warning reports, and

(c) assume that a customer is a resident of the jurisdiction or foreign jurisdiction in which the nominee has its principal place of business if, after reasonable inquiry, information

regarding the jurisdiction or foreign jurisdiction of residence of the customer is unavailable.

This method of calculation differs from that in NI 71-101 which only requires a calculation based on the address of record. Some SEC foreign issuers may therefore qualify for exemptive relief under NI 71-101 but not under the Instrument.

**1.4 Exemptions Evidenced by the Issuance of a Receipt** — Section 5.2 of the Instrument states that an exemption from any of the requirements of the Instrument pertaining to financial statements or auditor's reports included in a prospectus may be evidenced by the issuance of a receipt for that prospectus. Issuers should not assume that the relief evidenced by the receipt will also apply to financial statements or auditors' reports filed in satisfaction of continuous disclosure obligations or included in any other filing.

**1.5 Filed or Delivered** — Financial statements that are filed in a jurisdiction will be made available for public inspection in that jurisdiction, subject to the provisions of securities legislation in the local jurisdiction regarding confidentiality of filed material. Material that is delivered to a regulator, but not filed, is not required under securities legislation to be made available for public inspection. However, the regulator may choose to make such material available for inspection by the public.

**1.6 Other Legal Requirements** — Issuers and auditors should refer to National Instrument 52-108 *Auditor Oversight* for requirements relating to auditor oversight by the Canadian Public Accountability Board. In addition, issuers and registrants are reminded that they and their auditors may be subject to requirements under the laws and professional standards of a jurisdiction that address matters similar to those addressed by the Instrument, and which may impose additional or more onerous requirements. For example, applicable corporate law may prescribe the accounting principles or auditing standards required for financial statements. Similarly, applicable federal, provincial or state law may impose licensing requirements on an auditor practising public accounting in certain jurisdictions.

**1.7 Investment Funds** - Section 2.1 of the Instrument provides that it does not apply to investment funds that are subject to NI 81-106 *Investment Fund Continuous Disclosure* (NI 81-106) in respect of their reporting requirements as investment funds. If an investment fund is also a registrant, it is subject to the requirements of this Instrument in relation to its reporting requirements as a registrant. Accordingly, if the same legal entity is both an investment fund that is subject to NI 81-106 and is also a registrant, it will be subject to both the requirements of this Instrument and NI 81-106.

**PART 2: APPLICATION - ACCOUNTING PRINCIPLES**

**2.1 Application of Part 3** — Part 3 of the Instrument generally applies to periods relating to financial years beginning on or after January 1, 2011. Part 3 refers to Canadian GAAP applicable to publicly accountable enterprises, which is IFRS incorporated into the Handbook, contained in Part I of the Handbook.

**2.2 Application of Part 4** — Part 4 of the Instrument generally applies to periods relating to

financial years beginning before January 1, 2011. Part 4 refers to Canadian GAAP-Part V, which is generally accepted accounting principles determined with reference to Part V of the Handbook applicable to public enterprises. These are the pre-changeover accounting standards for public companies. Part V of the Handbook has differing requirements for public enterprises and non-public enterprises. The following are some of the significant differences in Canadian GAAP applicable to public enterprises compared to those applicable to non-public enterprises:

(a) financial statements for public enterprises cannot be prepared using the differential reporting options as set out in Part V of the Handbook;

(b) transition provisions applicable to enterprises other than public enterprises are not available; and

(c) financial statements must include any additional disclosure requirements applicable to public enterprises.

**2.3 IFRS in English and French** — The Handbook provides IFRS in English and French. Both versions have equal status and effect under Canadian GAAP. Issuers, auditors, and other market participants may use either version to comply with the requirements in the Instrument.

**2.4 Reference to accounting principles** — Section 3.2 of the Instrument requires certain financial statements to be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises. This section includes requirements for an unreserved statement of compliance with IFRS in annual financial statements, and an unreserved statement of compliance with International Accounting Standard 34 *Interim Financial Reporting* in interim financial reports. These provisions distinguish between the basis of preparation and disclosure requirements.

There are two options for referring to accounting principles in the applicable financial statements and, in the case of annual financial statements, accompanying auditor's reports referred to in section 3.3 of the Instrument:

(a) refer only to IFRS in the notes to the financial statements and in the auditor's report, or

(b) refer to both IFRS and Canadian GAAP in the notes to the financial statements and in the auditor's report.

**2.5 IFRS as adopted by the IASB** —The definition of IFRS in National Instrument 14-101 *Definitions* refers to standards and interpretations adopted by the International Accounting Standards Board. The definition does not extend to national accounting standards that are modified or adapted from IFRS, sometimes referred to as a "jurisdictional" version of IFRS.

**2.6 Presentation and functional currencies** — If financial statements comply with requirements contained in IFRS in International Accounting Standard 1 *Presentation of Financial Statements* and International Accounting Standard 21 *The Effects of Changes in*

*Foreign Exchange Rates* relating to the disclosure of presentation currency and functional currency, then they will comply with section 3.5 of the Instrument.

**2.7 Registrants' financial statements and interim financial information** — Subsections 3.2(3) and (4) and paragraphs 3.15(a) and (b) of the Instrument mandate accounting for any investments in subsidiaries, jointly controlled entities and associates as specified for separate financial statements in International Accounting Standard 27 *Consolidated and Separate Financial Statements* (IAS 27). Separate financial statements are sometimes referred to as non-consolidated financial statements. These requirements apply regardless of whether a registrant meets the criteria set out in IAS 27 for not presenting consolidated financial statements. Paragraph 3.2(3)(b) also requires a registrant's annual financial statements to describe the financial reporting framework used to prepare the financial statements. The description should refer to the requirement to account for any investments in subsidiaries, jointly controlled entities and associates as specified for separate financial statements in IAS 27, even if the registrant does not have these types of investments. In addition, if annual financial statements for a year beginning in 2011 are prepared using the financial reporting framework permitted by subsection 3.2(4), the description of the framework should explain the lack of comparatives and the date of transition, as specified in paragraphs 3.2(4)(b) and (c).

The financial reporting frameworks prescribed by subsections 3.2(3) and (4) are Canadian GAAP applicable to publicly accountable enterprises with specified differences. Although these frameworks differ in specified ways from IFRS, the exceptions and exemptions included as Appendices in IFRS 1 *First-time Adoption of International Financial Reporting Standards* (IFRS 1) would be relevant for determining an opening statement of financial position at the date of transition to the financial reporting framework prescribed in subsection 3.2(3) or (4).

Subparagraph 3.3(1)(a)(iii) requires an auditor's report in the form specified by Canadian GAAS for an audit of financial statements prepared in accordance with a fair presentation framework. The financial reporting frameworks prescribed by subsections 3.2(3) and (4) are fair presentation frameworks.

Subsection 3.2(4) of the Instrument allows a registrant to file financial statements and interim financial information for periods relating to a financial year beginning in 2011 that exclude comparative information relating to the preceding year and to use a date of transition to the financial reporting framework that is the first day of the financial year beginning in 2011. When such a registrant prepares the comparative information for financial statements and interim financial information for periods relating to a financial year beginning in 2012, the registrant should consider whether it must adjust the comparative information in order to comply with subsection 3.2(3). Adjustments may be necessary if a registrant changes one or more accounting policies for its year beginning in 2012 compared to its year beginning in 2011.

**2.8 Use of different accounting principles** — Subsection 3.2(5) of the Instrument requires financial statements to be prepared in accordance with the same accounting principles for all periods presented in the financial statements.

An issuer that is required to file, or include in a document that is filed, financial statements for

three years can, except in the situation discussed in section 2.9 of this Companion Policy, choose to present two sets of financial statements. For example, if the earliest of the three financial years relates to a financial year beginning before January 1, 2010, the issuer should provide one set of financial statements that presents information for the most recent two years using the accounting principles in Part 3 of the Instrument and one set of financial statements that either:

(a) presents information for a third and fourth year using the accounting principles in Part 4, or

(b) presents information for a second and third year using the accounting principles in Part 4.

Note that under option (a), a fourth year not otherwise required would be included to satisfy the requirement in the issuer's GAAP for comparative financial statements. Under option (b), information for a second year would be presented in both sets of financial statements. This second year would be included in the most recent set of financial statements using accounting principles in Part 3 of the Instrument and also in the earliest set of financial statements using accounting principles in Part 4 of the Instrument.

If the accounting principles used for the earliest of the three financial years and the most recent two years differ, but both are acceptable in Part 3 of the Instrument, presentation of information for the earliest year would be similar to the example described above.

**2.9 Date of transition to IFRS if financial statements include a transition year of less than nine months –** Subsection 4.8(6) of NI 51-102 states that if a transition year is less than nine months in length, the reporting issuer must include comparative financial information for the transition year and old financial year in its financial statements for its new financial year. Similarly, subsection 32.2(4) in Form 41-101F1 states that if an issuer changed its financial year end during any of the financial years referred to in section 32.2 and the transition year is less than nine months, the transition year is deemed not to be a financial year for purposes of the requirement to provide financial statements for a specified number of financial years in section 32.2.

If an issuer's first set of annual financial statements with an unreserved statement of compliance with IFRS includes comparatives for both a transition year of less than nine months and the old financial year, the date of transition to IFRS should be the first day of the old financial year. Since subsection 3.2(5) of the Instrument requires financial statements to be prepared in accordance with the same accounting principles for all periods presented in the financial statements, a date of transition to IFRS using the first day of the transition year would not be appropriate.

**2.10 Acceptable Accounting Principles** — Readers are likely to assume that financial information disclosed in a news release is prepared on a basis consistent with the accounting principles used to prepare the issuer's most recently filed financial statements. To avoid misleading readers, an issuer should alert readers if financial information in a news release is prepared using accounting principles that differ from those used to prepare an issuer's most

recently filed financial statements or includes non-GAAP financial measures discussed in CSA Staff Notice 52-306 *Non-GAAP Financial Measures.*

**2.11 Financial statements for a reverse takeover or capital pool company acquisition** – Subsection 8.1(2) of NI 51-102 states that Part 8 of that rule does not apply to a transaction that is a reverse takeover. Similarly, subsection 35.1(1) in Form 41-101F1 indicates that item 35 of that Form does not apply to a completed or proposed transaction that was or will be accounted for as a reverse takeover. Therefore, if a document includes financial statements for a reverse takeover acquirer, as defined in NI 51-102, for a period prior to completion of the reverse takeover, section 3.11 of the Instrument does not apply to the financial statements. Such financial statements must comply with section 3.2, 3.7, 3.9, 4.2, 4.7 or 4.9 of the Instrument as applicable.

Paragraph 32.1(b) of Form 41-101F1 indicates that financial statements of an issuer required under Item 32 of that Form include the financial statements of a business acquired or business proposed to be acquired by the issuer if a reasonable investor would regard the primary business of the issuer upon completion of the acquisition to be the acquired business or business proposed to be acquired. Consistent with this provision, if a capital pool company acquires or proposes to acquire a business, regardless of whether or not the transaction will be accounted for as a reverse takeover, financial statements for the acquired business or business proposed to be acquired must comply with section 3.2, 3.7, 3.9, 4.2, 4.7 or 4.9 of the Instrument as applicable.

**2.12 Acquisition statements prepared using Canadian GAAP applicable to private enterprises –** Paragraph 3.11(1)(f) of the Instrument permits acquisition statements to be prepared using Canadian GAAP applicable to private enterprises, which is Canadian accounting standards for private enterprises in Part II of the Handbook.

**2.13 Conditions for acquisition statements prepared using Canadian GAAP applicable to private enterprises** — Paragraph 3.11(1)(f) of the Instrument specifies certain conditions for the use of Canadian GAAP applicable to private enterprises. One of these conditions, in subparagraph 3.11(1)(f)(ii), is that financial statements for the business were not previously prepared in accordance with any of the accounting principles specified in paragraphs 3.11(1)(a) through (e) for the periods presented in the acquisition statements. Paragraph 3.11(1)(a) refers to Canadian GAAP applicable to publicly accountable enterprises, which is IFRS incorporated into the Handbook contained in Part I of the Handbook. The condition in subparagraph 3.11(1)(f)(ii) does not preclude Canadian GAAP - Part V, as defined in section 4.1 of the Instrument.

**2.14 Acquisition statements prepared using Canadian GAAP applicable to private enterprises that include a reconciliation to the issuer's GAAP** – If acquisition statements included in a document filed by an issuer that is not a venture issuer and not an IPO venture issuer are prepared using Canadian GAAP applicable to private enterprises, the reconciliation requirement in subparagraph 3.11(1)(f)(iv) applies.

For each difference presented in the quantified reconciliation that relates to measurement, clause 3.11(1)(f)(iv)(C) requires disclosure and discussion of the material inputs or assumptions underlying the measurement of the relevant amount computed in accordance with the issuer's GAAP, consistent with the disclosure requirements of the issuer's GAAP. If the relevant amount

was measured using a valuation technique, disclose the valuation technique, and disclose and discuss the inputs used. If changing one or more of the inputs to reasonably possible alternative assumptions would change the measurement significantly, a discussion of that fact and the effect of the changes on the measurement would facilitate readers' understanding of the measurement.

Clause 3.11(1)(f)(iv)(C) does not require disclosure and discussion of all the disclosure elements identified in the issuer's GAAP that relate to a difference presented in the reconciliation. As well, the clause does not require disclosure of information not required by the issuer's GAAP.

As an example of the disclosure required by clause 3.11(1)(f)(iv)(C), if the issuer's GAAP is IFRS and the relevant amount is share based payments measured using an option pricing model, disclose the option pricing model used and the inputs used in the model (i.e., weighted average share price, exercise price, expected volatility, option life, expected dividends, risk-free interest rate and any other inputs to the model). Also, discuss how expected volatility was determined and how any other features of the option grant (e.g., market condition) were incorporated into the measurement of the relevant amount.

If acquisition statements are carve-out statements prepared in accordance with Canadian GAAP for private enterprises, as discussed in section 2.18 of this Companion Policy, subparagraph 3.11(6)(d)(iii) requires reconciliation information for non-venture issuers similar to that required by subparagraph 3.11(1)(f)(iv). The above guidance on subparagraph 3.11(1)(f)(iv) also applies to subparagraph 3.11(6)(d)(iii).

**2.15 Acquisition statements prepared using Canadian GAAP applicable to private enterprises that include a reconciliation to IFRS** – If the reconciliation requirement in subparagraph 3.11(1)(f)(iv) applies, and the issuer's GAAP requires the annual financial statements to include an explicit and unreserved statement of compliance with IFRS, the reconciliation information in annual and interim acquisition statements must address material differences between Canadian GAAP applicable to private enterprises and IFRS that relate to recognition, measurement and presentation.

Consistent with IFRS requirements, for the purpose of preparing the reconciliation information required by subparagraph 3.11(1)(f)(iv), the date of transition to IFRS would be the first day of the earliest period for which comparative information is presented in the annual acquisition statements. For example, if annual acquisition statements present information for the most recently completed financial year and the comparative year, the date of transition to IFRS would be the first day of the comparative year.

Also consistent with IFRS, for the purpose of preparing the reconciliation, IFRS 1 would be applied to determine the opening IFRS statement of financial position at the date of transition to IFRS. The exceptions and exemptions included as Appendices in IFRS 1 would be relevant for determining the entity's statement of financial position at the date of transition to IFRS.

The opening IFRS statement of financial position is the starting point for identifying material differences from Canadian GAAP applicable to private enterprises. Although an opening IFRS statement of financial position must be prepared in order to prepare the information required by

subparagraph 3.11(1)(f)(iv), that subparagraph does not require disclosure of the opening IFRS statement of financial position. Similarly, that subparagraph does not require disclosure of differences relating to equity as at the date of transition to IFRS.

As discussed in section 2.14 of this Companion Policy, clause 3.11(1)(f)(iv)(C) does not require disclosure and discussion of all the disclosure elements identified in the issuer's GAAP that relate to a difference presented in the reconciliation. Therefore, it would be inappropriate to include an explicit and unreserved statement of compliance with IFRS in acquisition statements that include reconciliation information for material differences between Canadian GAAP applicable to private enterprises and IFRS.

**2.16 Acquisition statements prepared using Canadian GAAP applicable to private enterprises that do not include a reconciliation to the issuer's GAAP** – If acquisition statements included in a document filed by a venture issuer or IPO venture issuer are prepared using Canadian GAAP applicable to private enterprises, the reconciliation requirements in subparagraph 3.11(1)(f)(iv) do not apply. However, subsection 3.14(1) requires *pro forma* financial statements to be prepared using accounting policies that are permitted by the issuer's GAAP and would apply to the information presented in the *pro forma* financial statements if that information were included in the issuer's financial statements for the same time. Companion Policy 51-102CP *Continuous Disclosure Obligations* provides further guidance on preparation of *pro forma* financial statements in this circumstance.

**2.17 Acquisition statements that are an operating statement** – Subsection 3.11(5) requires the line items in an operating statement to be prepared in accordance with accounting policies that comply with the accounting policies permitted by one of Canadian GAAP applicable to publicly accountable enterprises, IFRS, U.S. GAAP, or Canadian GAAP applicable to private enterprises. For the purpose of preparing the operating statement, the exceptions and exemptions included as Appendices in IFRS 1 would be relevant for determining the opening statement of financial position at the date of transition to IFRS.

**2.18 Acquisition statements that are carve-out financial statements** – Subsection 3.11(6) specifies the financial reporting framework required for acquisition statements that are based on information from the financial records of another entity whose operations included the acquired business or the business to be acquired, and there are no separate financial records for the business. Such financial statements are commonly referred to as "carve-out" financial statements. Subsection 3.11(6) requires carve-out financial statements to be prepared in accordance with one of Canadian GAAP applicable to publicly accountable enterprises, IFRS, U.S. GAAP, or Canadian GAAP applicable to private enterprises, and in each case include specified line items. For carve-out financial statements prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises or IFRS, the exceptions and exemptions included as Appendices in IFRS 1 would be relevant for determining the opening statement of financial position at the date of transition to IFRS.

**2.19 Preparation of *pro forma* financial statements when there is a change in accounting principles –** Subsection 3.14(1) requires *pro forma* financial statements to be prepared using accounting policies that are permitted by the issuer's GAAP and would apply to the information

presented in the *pro forma* financial statements if that information were included in the issuer's financial statement for the same period as that of the *pro forma* financial statements. If the accounting principles used to prepare an issuer's most recent annual financial statements differ from the accounting principles used to prepare the issuer's interim financial report for a subsequent period, subsection 3.14(3) provides an issuer the option of preparing its annual *pro forma* income statement using accounting policies that are permitted by the accounting principles used to prepare the interim financial report and would apply to the information presented in the *pro forma* income statement if that information were included in the interim financial report. In this case, the annual *pro forma* income statement should include adjustments to the amounts reported in the issuer's most recent statement of comprehensive income in order to restate the amounts on the basis of the accounting principles used to prepare the issuer's interim financial report. The *pro forma* income statement should present such adjustments separate from other adjustments relating to significant acquisitions.

If an issuer does not use the option provided by subsection 3.14(3), in order to avoid confusion, it would be appropriate to present the issuer's annual and interim *pro forma* financial statements as separate sets of *pro forma* financial statements.

**2.20 Reconciliation requirements for an SEC issuer** – If financial statements of an SEC issuer, other than acquisition statements, filed with or delivered to a securities regulatory authority or regulator are

(a) for a financial year beginning before January 1, 2011,

(b) prepared in accordance with U.S. GAAP, and

(c) the SEC issuer previously filed or included in a prospectus financial statements prepared in accordance with Canadian GAAP – Part V,

then subsection 4.7(1) applies. Subsection 4.7(1) requires the notes of the first two sets of the SEC issuer's annual financial statements, and interim financial report during those first two years, to provide reconciling information between Canadian GAAP – Part V and U.S. GAAP that complies with subparagraphs 4.7(1)(a)(i) to (iii).

If an SEC issuer's second set of annual financial statements after a change in accounting principles is for a financial year beginning after January 1, 2011, the reconciliation requirements in subsection 4.7(1) no longer apply. Financial statements for a financial year beginning after January 1, 2011 are required to be prepared in accordance with Part 3 of the Instrument, which does not include any reconciliation requirements when an SEC issuer changes its accounting principles.

## PART 3: APPLICATION - AUDITING STANDARDS

**3.1 Auditor's Expertise** — The securities legislation in most jurisdictions prohibits a regulator or securities regulatory authority from issuing a receipt for a prospectus if it appears to the regulator or securities regulatory authority that a person or company who has prepared any part

of the prospectus or is named as having prepared or certified a report used in connection with a prospectus is not acceptable.

**3.2 Canadian Auditors for Canadian GAAP and GAAS Financial Statements** — A Canadian auditor is a person or company that is authorized to sign an auditor's report by the laws, and that meets the professional standards, of a jurisdiction of Canada. We would normally expect issuers and registrants incorporated or organized under the laws of Canada or a jurisdiction of Canada, and any other issuer or registrant that is not a foreign issuer nor a foreign registrant, to engage a Canadian auditor to audit the issuer's or registrant's financial statements if those statements are prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and will be audited in accordance with Canadian GAAS unless a valid business reason exists to use a non-Canadian auditor. A valid business reason would include a situation where the principal operations of the company and the essential books and records required for the audit are located outside of Canada.

**3.3 Auditor Oversight** — In addition to the requirements in sections 3.4 and 4.4 of the Instrument, National Instrument 52-108 *Auditor Oversight* also contains certain requirements related to auditors and auditor reports.

**3.4 Modification of opinion** — Part 5 of the Instrument permits the regulator or securities regulatory authority to grant exemptive relief from the Instrument, including the requirement that an auditor's report express an unmodified opinion. A modification of opinion includes a qualification of opinion, an adverse opinion, and a disclaimer of opinion. However, staff will generally recommend that relief not be granted if the modification of opinion or other similar communication is:

(a) due to a departure from accounting principles permitted by the Instrument, or

(b) due to a limitation in the scope of the auditor's examination that

(i) results in the auditor being unable to form an opinion on the financial statements as a whole,

(ii) is imposed or could reasonably be eliminated by management, or

(iii) could reasonably be expected to be recurring.

**3.5 Identification of the financial reporting framework used to prepare an operating statement or carve-out financial statements**– Paragraph 3.12(2)(e) requires an auditor's report to identify the financial reporting framework used to prepare an operating statement or carve-out financial statements as addressed in subsections 3.11(5) and (6). To comply with this requirement, the auditor's report may identify the applicable requirement in the Instrument, and refer the reader's attention to the note in the operating statement or carve-out financial statements that describes the financial reporting framework.