



Canadian Securities  
Administrators

Autorités canadiennes  
en valeurs mobilières

## Notice and Request for Comment

### **Proposed National Policy 11-204 *Process for Registration in Multiple Jurisdictions***

### **Proposed Amendments to Multilateral Instrument 11-102 *Passport System*, Companion Policy 11-102CP *Passport System*, National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*, and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* and Other Related Amendments**

**July 18, 2008**

This notice describes the proposals of the Canadian Securities Administrators (the CSA) to streamline the process for registration in multiple jurisdictions. The proposals include rule and policy amendments by the CSA, other than the Ontario Securities Commission (OSC), (the passport regulators) to make the passport system available for registration. The proposals also include a new national policy for adoption by all members of CSA, including the OSC, setting out the processes for registration in multiple jurisdictions. These proposed rule and policy amendments would further simplify the securities regulatory system for registrants who deal with clients in more than one Canadian jurisdiction.

The proposals also include rule and policy amendments to deal with issues that have arisen since the implementation of the phase II of passport for issuers. The phase II of passport for issuers covers continuous disclosure, prospectuses and discretionary exemption applications.

#### **Passport system — overview**

In September 2005, the passport regulators implemented Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101) as phase I of passport. On March 17, 2008, the passport regulators implemented Multilateral Instrument 11-102 *Passport System* (MI 11-102) as phase II of passport for issuers and repealed the provisions of MI 11-101 related to issuers. We propose implementing phase II of passport for registration, and updates to phase II of passport for issuers, in the first half of 2009.

The OSC is not adopting the proposed amendments to MI 11-102 and to Companion Policy 11-102CP *Passport System* (CP 11-102) to implement the passport for registrants. As with the passport for issuers, CSA developed proposed interfaces to make the securities regulatory system as efficient and effective as possible in the circumstances for all registrants who want to deal with clients in both passport jurisdictions and Ontario. The OSC has participated in developing the proposed interfaces between the passport jurisdictions and Ontario.

Passport for registration, together with the related Ontario interfaces, would replace the National Registration System (NRS). We describe the elements of the passport and interface system for registration more fully below.

A key foundation for the passport system is a set of nationally harmonized regulatory requirements consistently interpreted and applied throughout Canada. Implementation of passport for registration depends on the adoption of proposed National Instrument 31-103 *Registration Requirements* (NI 31-103). CSA members expect to implement consequential amendments to national and local rules, and some of our governments to proclaim act amendments to harmonize registration requirements, when we adopt NI 31-103.

The governments of the Northwest Territories and Nunavut have enacted a new *Securities Act*, which the regulators in those jurisdictions expect will be in force when CSA members adopt NI 31-103.

CSA expects to make consequential amendments to National Instrument 31-102 *National Registration Database* (NI 31-102) and National Instrument 33-109 *Registration Information* (NI 33-109), its companion policy and forms and to make minor changes to proposed NI 31-103 and its companion policy. CSA members are not publishing these amendments for comment because they are not material, but we describe them generally later in this notice.

### **Passport system – rule and policy changes for registration**

The passport regulators are publishing the proposed rule and policy changes to implement passport for registration. The major elements of the passport system for registration are set out in:

- amendments to MI 11-102, and
- amendments to CP 11-102.

We developed the amendments to appendices to MI 11-102 based on the securities act and rule provisions we expect to be in force when we implement passport for registration.

All CSA members, including the OSC, are publishing proposed National Policy 11-204 *Process for Registration in Multiple Jurisdictions* (NP 11-204) and proposed consequential amendments to National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* (NP 11-203).

Passport for registration contained in the proposed amendments to MI 11-102 and related documents and proposed NP 11-204 would replace NRS, which is the current process registrants use to obtain decisions in multiple jurisdictions. Consequently, CSA, including the OSC, also proposes to repeal the following:

- National Instrument 31-101 *National Registration System* (NI 31-101),
- Form 31-101F1 *Election to use NRS and Determination of Principal Regulator* (Form 31-101F1),

- Form 31-101F2 *Notice of Change* (Form 31-101F2), and
  - National Policy 31-201 *National Registration System* (NP 31-201)
- (collectively, the proposed repeals).

### **Purpose and scope of passport for registration**

The purpose of passport for registration is to implement a system that gives a registrant access to clients in multiple jurisdictions by dealing only with the registrant's principal regulator and meeting the requirements of one set of harmonized laws. A registrant's principal regulator will usually be the regulator in the jurisdiction where the registrant's head office or working office is located.

### **Local amendments**

CSA members in some jurisdictions plan to make consequential amendments to local securities rules and policies.

### **Amendments to passport for issuers**

We propose to update the passport for issuers to address a few issues that have arisen since implementation. The passport regulators propose to amend MI 11-102 and CP 11-102, and CSA proposes to amend National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions* (NP 11-202) and NP 11-203.

### **Publication and request for comments**

The text of proposed new NP 11-204, the proposed amendments to NP 11-202 and NP 11-203 and, except in Ontario, the proposed amendments to MI 11-102 and CP 11-102 accompany this notice, as follows:

- amendments to MI 11-102 (Schedule A)
- amendments to Appendix D of MI 11-102 (in the form of a blackline) (Schedule B)
- amendments to CP 11-102 (in the form of a blackline) (Schedule C)
- NP 11-204 (Schedule D)
- amendments to NP 11-202 (Schedule E)
- amendments to NP 11-203 (in the form of a blackline) (Schedule F)

CSA expects to implement proposed NP 11-204, the proposed amendments to NP 11-202 and NP 11-203, and the proposed repeals when we implement NI 31-103, which we currently target for the first half of 2009. The passport regulators expect to implement the proposed amendments to MI 11-102 and CP 11-102 at the same time.

### **Background**

In 2005, the passport regulators implemented phase I of the passport system using the statutory powers that were available at the time. In March 2008, we implemented phase II of the passport for issuers using recently acquired statutory powers. We are also using these powers to implement the passport for registration.

On March 28, 2007, the passport regulators published a proposed passport system for registration. We received 17 submissions on that publication which also included the passport for

issuers. The passport regulators responded to all comments received, except those specifically related to registration, in a notice published on January 25, 2008. We attach a summary of the registration comments, including our response, as Schedule G.

Under the Memorandum of Understanding Regarding Securities Regulation of September 2004 entered into by the Ministers responsible for securities regulation in the passport jurisdictions (MOU), governments undertook to review the fee structures of participating jurisdictions to assess how they might want to change them so they are consistent with the objectives of passport.

The Council of Ministers created under the MOU asked CSA to review the fee structures of its members and propose changes to Ministers. CSA is conducting the review and will report to Ministers. Meanwhile, under passport, existing fees continue to apply to market participants in all jurisdictions, except for fees for exemption applications, which apply only in the principal jurisdiction.

### **Summary of proposals**

#### ***Passport for registration***

Phase I of passport for registration consisted of NRS and the mobility exemption in MI 11-101. NRS provides a registered firm or individual with an exemption from the fit and proper requirements that would otherwise apply when the firm or individual seeks registration in a non-principal jurisdiction, an exemption from fit and proper filing and notice requirements, and a mutual reliance process for obtaining registration in a non-principal jurisdiction by dealing only with the principal regulator.

CSA published a revised mobility exemption on February 29, 2008 as part of the second publication for comment of proposed NI 31-103 and proposed repealing MI 11-101 (because it only contains the current mobility exemption, which will be replaced with the new exemption in NI 31-103).

CSA does not propose to keep the NRS exemption from the fit and proper requirements that would otherwise apply when a firm or individual seeks registration in a non-principal jurisdiction. This exemption is no longer necessary because the requirements will be harmonized under NI 31-103. Furthermore, CSA proposes to replace the NRS exemption from the notice and filing requirements with a permission in the companion policy to NI 31-103 for a firm to submit fit and proper notices and filings to its principal regulator only.

In addition, the passport regulators propose to simplify obtaining registration and complying with requirements in multiple jurisdictions as follows.

#### ***(i) Automatic registration and other regulatory action***

We propose to replace NRS with a new system under Part 6 of MI 11-102. Under sections 6.3 and 6.4 of MI 11-102, a firm or individual that is registered in its principal jurisdiction can obtain registration in a non-principal passport jurisdiction through a submission that, for a firm, can be made only with its principal regulator. A submission for an individual will continue to be made on the National Registration Database (NRD).

For a firm, automatic registration also depends on receipt of the submission having been acknowledged. A regulator will acknowledge receipt by updating NRD to show that the firm is registered in the non-principal jurisdiction. This condition would make the firm's registration effective on the date shown on NRD so that the NRD information would be conclusive. CSA is currently looking at ways to remove the acknowledgement as a condition of registration so that automatic registration in a non-principal passport jurisdiction can occur upon making the required submission, while still preserving the accuracy of NRD as the database of record for firm registration. We did not include the acknowledgement as a condition for automatic registration of individuals because NRD keeps track of every submission date for individuals.

Section 6.3 of MI 11-102 does not apply to a firm registered in the category of restricted dealer. To register in a non-principal jurisdiction, a restricted dealer must apply directly in the non-principal passport jurisdiction. Automatic registration does not apply because there are no standard requirements for this category, which has been designed to deal with purely local categories. However, other aspects of passport, including automatic registration of the firm's representatives, would apply to a restricted dealer registered as such in multiple passport jurisdictions.

MI 11-102 makes regulatory actions by a firm's or individual's principal regulator apply automatically in each non-principal passport jurisdiction where the firm or individual is registered. Section 6.5 provides that any terms, conditions, restrictions, or requirements imposed by the principal regulator would also apply in each non-principal passport jurisdiction. If the registration is suspended, cancelled, terminated, revoked or surrendered in the principal jurisdiction, sections 6.6 to 6.8 provide that the registration would automatically be suspended, cancelled, terminated or revoked in each non-principal passport jurisdiction as appropriate. These provisions apply whether or not the firm or individual was registered automatically in a non-principal passport jurisdiction under section 6.3 or 6.4.

Registration fees would apply in each passport jurisdiction as at present. However, we plan to make changes to NRD to allow a firm making a submission to register in more than one jurisdiction to submit each jurisdiction's fees on NRD instead of by cheque as is currently the case.

Passport is designed to accommodate registration through self-regulatory organizations in jurisdictions where the necessary arrangements are in place. If one of those jurisdictions is a firm's or individual's principal jurisdiction, the firm or individual would deal with the self-regulatory organization it normally deals with in its principal jurisdiction to become registered in a non-principal passport jurisdiction under MI 11-102.

*(ii) Automatic transition to terms and conditions of Principal Regulator*

Section 6.9 of MI 11-102 delays the automatic application of the terms and conditions of the principal regulator in a non-principal passport jurisdiction until 30 days after the effective date of Part 6 of MI 11-102. This is to give a firm or individual time to apply to the regulator in the non-principal jurisdiction for an exemption from section 6.5 of MI 11-102. This means that, if a firm

or individual does not apply for the exemption, the firm or individual will generally be subject to a single set of terms and conditions, i.e., those of the principal regulator.

*(iii) Transition – Notice of Principal Regulator for Foreign Firm*

Under section 6.10(1) of MI 11-102, if a foreign firm was registered in a category in multiple jurisdictions of Canada before the effective date of Part 6, the firm must submit information about its principal regulator in proposed Form 33-109F6, which will be revised to make this possible. The purpose of this submission is for a foreign firm to identify its principal regulator in accordance with section 6.1 of MI 11-102 and notify the securities regulatory authorities or regulators. Section 6.10(2) permits the foreign firm to make its submission by giving it to the principal regulator instead of the regulator in the non-principal passport jurisdiction.

*(iv) Applicable requirements*

We propose to harmonize most regulatory requirements for registrants through proposed NI 31-103, which CSA published for a second comment period on February 29, 2008. Proposed NI 31-103 contains some requirements and carve-outs for specific jurisdictions, which are apparent on the face of the instrument. In addition, some jurisdictions may have unique registration requirements in their statute or local rules or regulations.

***Passport for discretionary exemption applications***

Consequent to the proposed amendments for passport for registration and the expected concurrent adoption of proposed NI 31-103, passport regulators also propose to amend

- MI 11-102 to ensure the principal regulator for registration deals with the usual applications for exemption made in connection with an application for registration, and
- Appendix D of MI 11-102 to add the relevant provisions of proposed NI 31-103 and other equivalent registration provisions to the list of equivalent provisions from which a registrant may obtain a discretionary exemption and have it apply automatically in non-principal passport jurisdictions under Part 4 of MI 11-102.

***NP 11-204***

CSA proposes to implement new processes for making national registration decisions through NP 11-204, which all jurisdictions would adopt. NP 11-204 would work in tandem with MI 11-102. The processes will provide the interface:

- for registrants from passport jurisdictions to register in Ontario; and
- for Ontario registrants to register in one or more passport jurisdictions.

The interface for passport jurisdiction registrants would be similar to NRS. They would ensure that a passport jurisdiction registrant generally deals only with its principal regulator to gain access to Ontario.

The interface for Ontario market participants would provide them with direct access to passport jurisdictions under MI 11-102. An Ontario market participant would therefore be able to deal with the OSC as its principal regulator to register automatically in passport jurisdictions.

A foreign registrant would be able to gain access to the Canadian capital markets through a principal regulator on the same basis as a market participant in that regulator's jurisdiction.

***Description of other amendments***

The passport regulators propose to amend MI 11-102 and CP 11-102, and CSA proposes to amend NP 11-202 to address issues that have arisen since we implemented MI 11-102. The proposed additional amendments to MI 11-102

- repeal the exemptions from the non-harmonized continuous disclosure and prospectus requirements because the requirements would no longer exist or the relevant passport regulators have determined that they should continue to apply in their jurisdiction.
- amend the definition of 'national prospectus instrument' to add National instrument 71-101 *Multijurisdictional Disclosure System* and extend passport to MJDS offerings, and
- make necessary adjustments to the equivalent provisions in Appendix D.

The amendments to NP 11-202 reflect administrative practices that CSA has developed since the passport regulators implemented MI 11-102.

Most of the amendments to NP 11-203 are consequential to the proposed amendments to MI 11-102 to implement passport for registration. The others deal with issues that have arisen since the implementation of passport for issuers.

CSA also expects to amend NI 31-102 and NI 33-109, its related forms and companion policy, as applicable, to

- allow firms, and individuals filing under a temporary hardship exemption, to make their submissions in alternate format instead of in paper format,
- allow foreign firms to identify their principal regulator under item A of Form 33-109F6, and
- generally adapt them for use with MI 11-102, for example, by adding the concept of 'principal regulator' and giving a firm permission to submit a notice of change on Form 33-109F5 to the firm's principal regulator only.

CSA also expects to further amend proposed NI 31-103 and its companion policy, which we published for a second comment period on February 29, 2008. The proposed additional amendments include

- conforming the definition of 'principal regulator' in NI 31-103 to the concept of 'principal regulator' in proposed Part 6 of MI 11-102,
- eliminating the notice of principal regulator requirement under the mobility exemption in NI 31-103,
- adopting a requirement to give notice before relying on the mobility exemption under NI 31-103 like under MI 11-101,
- giving permission in the companion policy to a firm to submit the notices and filings required under the 'fit and proper' notice and filing requirements of Part 4 of proposed NI 31-103 to the firm's principal regulator only, and

- reflecting the repeal of NRS.

### **Anticipated Costs and Benefits**

The passport regulators expect that passport for registration will enhance the efficiency of regulation of the capital markets and simplify the use of the regulatory system for registrants. By using the passport tools, we can make more timely decisions and our processes more efficient and seamless for registrants.

We did not do a cost-benefit analysis of passport for registration. We worked with the OSC to develop interfaces for Ontario registrants who want to deal with clients in passport jurisdictions, and for registrants in passport jurisdictions who want to deal with clients in Ontario. The interfaces make the securities regulatory system as efficient and effective as possible in the circumstances for all registrants who want to deal with clients in both passport jurisdictions and Ontario.

### **Request for Comment**

We request comments on the proposed amendments to MI 11-102 and CP 11-102, proposed new NP 11-204, the proposed amendments to NP 11-202 and NP 11-203, and the proposed repeals.

### **How to Provide Your Comments**

Please provide your comments on

- the amendments to MI 11-102, CP 11-102, NP 11-202, NP 11-203, and new NP 11-204, by **September 17, 2008**, and
- the repeal of NRS by **October 17, 2008**.

Please address your submissions to the regulators listed below:

British Columbia Securities Commission

Alberta Securities Commission

Saskatchewan Financial Services Commission

Manitoba Securities Commission

Autorité des marchés financiers

New Brunswick Securities Commission

Nova Scotia Securities Commission

Office of the Attorney General, Prince Edward Island

Financial Services Regulation Division, Consumer and Commercial Affairs Branch, Department of Government Services, Newfoundland and Labrador

Registrar of Securities, Government of Yukon

Registrar of Securities, Department of Justice, Government of the Northwest Territories

Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut

You do not need to deliver your comments to each of these regulators. Please deliver your comments to the two addresses that follow, and they will be distributed to the other jurisdictions:

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If you are not sending your comments by e-mail, please send a diskette or CD containing your comments in Word.

We cannot keep submissions confidential because securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

### **Questions**

Please refer your questions to any of:

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**Schedule A**  
**Amendments to**  
**Multilateral Instrument 11-102 *Passport System***

**1     *This Instrument amends Multilateral Instrument 11-102 Passport System.***

**2     *Section 1.1 is amended***

**(a)   *by adding the following definitions:***

“category” means a category of registration set out in sections 2.1, 2.3, 2.6 or 2.7 of NI 31-103 or in sections 25(1) to (3) or 26(2) to (5) of the *Securities Act* (Ontario)<sup>1</sup>;

“firm” means a person or company that is registered, or seeking registration, as a dealer, adviser or investment fund manager in its principal jurisdiction;

“foreign firm” means a firm that has its head office outside Canada;

“foreign individual” means an individual whose working office is outside Canada;

“Form 33-109F2” means Form 33-109F2 *Change or Surrender of Individual Categories* under NI 33-109<sup>2</sup>;

“Form 33-109F5” means Form 33-109F5 *Change of Information in Form 33-109F4 or Form 33-109F6* under NI 33-109<sup>3</sup>;

“Form 33-109F6” means Form 33-109F6 *Application for Registration as a Dealer, Adviser or Investment Fund Manager for Securities and/or Derivatives* under NI 33-109<sup>4</sup>;

“NI 31-103” means National Instrument 31-103 *Registration Requirements*;

“NI 33-109” means National Instrument 33-109 *Registration Information*;

“sponsoring firm” has the same meaning as in NI 33-109;

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<sup>1</sup> The sections of the Securities Act (Ontario) referred to in the definition of ‘category’ are contained in proposed Act amendments the Ontario government published for consultation on April 24, 2008. If passed by the Legislative Assembly of Ontario, the registration categories in Ontario would be in the Ontario Act rather than in NI 31-103.

<sup>2</sup> This is a reference to proposed Form 33-109F2 published for comment as part of the second publication of proposed NI 31-103.

<sup>3</sup> This is a reference to proposed Form 33-109F5 published for comment as part of the second publication of proposed NI 31-103.

<sup>4</sup> This is a reference to proposed Form 33-109F6 published for comment as part of the second publication of proposed NI 31-103.

“working office” means the office of the sponsoring firm where an individual does most of his or her business.

(b) *in the definition of “national prospectus instrument” by striking out “or” at the end of paragraph (d) and by adding the following paragraph:*

(d.1) National Instrument 71-101 *The Multijurisdictional Disclosure System*, or,  
*and*

(c) *in the definition of “principal regulator” by striking out “Part 3 or 4,” and substituting “Part 3, 4 or 6.”*

3 *Part 2 is repealed.*

4 *Section 3.4 is repealed.*

5 *Section 4.4 is amended by striking out “Subject to section 4.5 and 4.6,” and substituting “Subject to sections 4.4.1, 4.5 and 4.6.”*

6 *The following section is added:*

#### **4.4.1 Principal regulator for discretionary exemption application made with an application for registration**

Subject to sections 4.5 and 4.6, if a firm or individual makes an application for exemption from a requirement listed below in connection with an application for registration in the principal jurisdiction, the principal regulator for the application for exemption is the principal regulator as determined under section 6.1:

(a) a requirement in Part 4 of NI 31-103;

(b) a requirement in Part 2 of NI 33-109.

7 *Section 4.5 is amended*

(a) *in subsection (1),*

(i) *by striking out “Subject to subsection (2),” and substituting “Subject to section 4.6 and subsection (2),” and*

(ii) *by striking out “as determined under section 4.2, 4.3 or 4.4” and substituting “as determined under section 4.2, 4.3, 4.4 or 4.4.1” and*

(b) *in subsection (2),*

(i) *by striking out “If at any one time” and substituting “Subject to section 4.6, if at any one time”, and*

(ii) *by striking out “as determined under section 4.2, 4.3 or 4.4 or subsection (1), and substituting “as determined under section 4.2, 4.3, 4.4 or 4.4.1 or subsection (1)”.*

**8** *The following Part is added:*

## **PART 6 REGISTRATION**

### **6.1 Principal regulator for registration**

(1) Subject to subsections (2) and (3) and section 6.2, for the purposes of this Part, the principal regulator is the securities regulatory authority or regulator of the jurisdiction in which,

(a) for a firm, the firm’s head office is located, or

(b) for an individual, the individual’s working office is located.

(2) The principal regulator for a foreign firm is the securities regulatory authority or regulator in the jurisdiction of Canada the firm identified as its principal jurisdiction in its most recently submitted

(a) Form 33-109F5, or

(b) Form 33-109F6.

(3) The principal regulator for a foreign individual is the principal regulator for the individual’s sponsoring firm.

### **6.2 Discretionary change of principal regulator for registration**

If a securities regulatory authority or regulator gives written notice that specifies a principal regulator for the firm or individual, the securities regulatory authority or regulator specified in the notice is the principal regulator for the firm or individual as of the later of

(a) the date the firm or individual receives the notice, and

(b) the effective date specified in the notice, if any.

### **6.3 Firm registration**

- (1) Subject to subsection (4), if a firm is registered in a category in its principal jurisdiction, the firm is registered in the same category in the local jurisdiction if
  - (a) the firm has submitted a completed Form 33-109F6 in accordance with NI 33-109, and
  - (b) receipt of the submission has been acknowledged.
- (2) A firm that makes a submission under subsection (1)(a) must pay the required fee at the time it makes the submission.
- (3) For the purpose of subsection (1), the firm may make the submission by giving it to the principal regulator.
- (4) Subsection (1) does not apply to a firm registered in the category of restricted dealer.

### **6.4 Individual registration**

If an individual acting on behalf of a sponsoring firm is registered in a category in his or her principal jurisdiction, the individual is registered in the same category in the local jurisdiction if

- (a) the sponsoring firm is registered in the local jurisdiction in the same category as in the firm's principal jurisdiction, and
- (b) the individual has submitted a completed Form 33-109F2 or a completed Form 33-109F4 in accordance with NI 33-109.

### **6.5 Terms and conditions of registration**

- (1) If the firm or individual is registered in the same category in the principal jurisdiction and in the local jurisdiction, a term, condition, restriction or requirement imposed on the registration in the principal jurisdiction applies as if it were imposed in the local jurisdiction.
- (2) A term, condition, restriction or requirement that applies in the local jurisdiction under subsection (1) continues to apply until the earlier of the date
  - (a) the securities regulatory authority or regulator that imposed the term, condition, restriction or requirement cancels or revokes it, or
  - (b) the term, condition, restriction or requirement expires.

## **6.6 Suspension**

If a firm's or individual's registration in the principal jurisdiction is suspended, the firm's or individual's registration in the local jurisdiction is suspended.

## **6.7 Termination**

If a firm's or individual's registration in the principal jurisdiction is cancelled, revoked or terminated, as applicable, the firm's or individual's registration in the local jurisdiction is cancelled, revoked or terminated, as applicable.

## **6.8 Surrender**

If a firm or individual is registered in the same category in the local jurisdiction and the principal jurisdiction, and the firm or individual applies to surrender the registration in the principal jurisdiction, the firm's or individual's registration in that category in the local jurisdiction is cancelled, revoked or terminated, as applicable, if the principal regulator accepts the firm's or individual's surrender of registration in the principal jurisdiction.

## **6.9 Transition – terms and conditions in non-principal jurisdictions**

- (1) Subject to subsection (2), section 6.5 does not apply to a firm or individual registered in the local jurisdiction before [insert the effective date of this Part ] until [insert the date 30 days after the effective date of this Part].
- (2) Section 6.5 does not apply to a firm or individual after [insert the date 30 days after the effective date of this Part] if
  - (a) on or before [insert the date 30 days after the effective date of this Part], the firm or individual applies to the securities regulatory authority or regulator for an exemption from section 6.5, and
  - (b) the securities regulatory authority or regulator has not issued a decision rejecting the application and the application has not been withdrawn.
- (3) Subject to subsection (4), if a firm or individual was registered in the local jurisdiction before [insert the effective date of this Part], a term, condition, restriction or requirement imposed on the registration in the local jurisdiction before [insert the date 30 days after the effective date of this Part], if any, does not apply to the firm or individual on or after the [insert the date 30 days after the effective date of this Part] unless the term, condition, restriction or requirement was
  - (a) agreed to under a settlement agreement between the firm or individual and the securities regulatory authority or regulator, or
  - (b) imposed in a decision relating to the firm or individual made by the securities regulatory authority or regulator following a hearing.

- (4) If a firm or individual applies for an exemption under subsection (2), subsection (3) does not apply unless
- (a) the securities regulatory authority or regulator has issued a decision rejecting the application, or
  - (b) the application has been withdrawn.

**6.10 Transition - notice of principal regulator for foreign firm**

- (1) If a foreign firm was registered in a category in the local jurisdiction and another jurisdiction of Canada before [insert effective date of this Part], the firm must submit, on or before [insert date that is 30 days after effective date of this Part] the information required in item A of Form 33-109F6 in accordance with NI 33-109.
- (2) For the purposes of subsection (1), the foreign firm may make the submission by giving it to the principal regulator.

**9** *Appendix A is repealed.*

**10** *Appendix B is amended by*

- (a) *by repealing the text opposite “Prince Edward Island” and substituting “sections 94 (Prospectus required) and 95 (Filing prospectus without distribution)”, and*
- (b) *by repealing the text opposite “Yukon” and substituting “sections 94 (Prospectus required) and 95 (Filing prospectus without distribution)”,*
- (c) *by repealing the text opposite “Northwest Territories” and substituting “sections 94 (Prospectus required) and 95 (Filing prospectus without distribution)”, and*
- (d) *repealing the text opposite “Nunavut” and substituting “sections 94 (Prospectus required) and 95 (Filing prospectus without distribution)”.*

**11** *Appendix C is repealed.*

**12** *Appendix D is repealed and Appendix D attached to this Instrument is substituted.*

**13** *This Instrument comes into force on \*.*

## Schedule B

### APPENDIX D Equivalent provisions

All references are to provisions of the *Securities Act* of the relevant jurisdiction unless otherwise noted. All references to ‘NI’ are to ‘National Instruments’. All references to ‘MI’ are to ‘Multilateral Instruments’.

| Provision                                   | British Columbia   | Alberta | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut                                | Ontario |
|---|--|---------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|--|---------|
| SEDAR                                       | NI 13-101  |         |              |          |        |             |               |                      |                           |       |                       |  |         |
| Marketplace operation                       | NI 21-101<br>(only Parts 6, 7 – 11, as they apply to an ATS, and 13) |         |              |          |        |             |               |                      |                           |       |                       |  |         |
| Trading rules                               | NI 23-101<br>(only Parts 4 and 8 – 11)                               |         |              |          |        |             |               |                      |                           |       |                       |  |         |
| Institutional trade matching and settlement | NI 24-101 n/aNI 24-101   |         |              |          |        |             |               |                      |                           |       |                       |  |         |
| National registration database (NRD)        | NI 31-102  |         |              |          |        |             |               |                      |                           |       |                       |  |         |
| <u>Registration requirements</u>            | <u>NI 31-103</u><br>(except as noted below)<br>(not yet in force)    |         |              |          |        |             |               |                      |                           |       |                       |  |         |
| <u>Dealer and underwriter categories</u>    | <u>s.2.1 of NI 31-103</u>  |         |              |          |        |             |               |                      |                           |       |                       | <u>ss.25(1) and 26(2), (3) and (4)</u> |         |
| <u>Adviser categories</u>                   | <u>s.2.3 of NI 31-103</u>  |         |              |          |        |             |               |                      |                           |       |                       | <u>ss.25(2) and 26(5)</u>              |         |

| Provision                               | British Columbia              | Alberta  | Saskatchewan                  | Manitoba   | Québec                        | Nova Scotia   | New Brunswick   | Prince Edward Island  | Newfoundland and Labrador   | Yukon   | Northwest Territories  | Nunavut | Ontario |
|---|-------------------------------|--|-------------------------------|--|-------------------------------|---|---|---|---|---|--|---------|---------|
| <u>Investment fund manager category</u> | <u>s.2.6 of NI 31-103</u>     |  |                               |  |                               |   |   |   |   |   |  |         |         |
| <u>Individual categories</u>            | <u>s.2.7 of NI 31-103</u>     |  |                               |  |                               |   |   |   |   |   |  |         |         |
| <u>UDP registration</u>                 | <u>s.2.9(1) of NI 31-103</u>  | <u>ss.75(2) (c) and 75.1 of Securities Act (not yet in force) and s.2.9(1) of NI 31-103</u>  | <u>s.2.9(1) of NI 31-103</u>  | <u>s.149 of Securities Act (not yet in force, as amended) and s.2.9(1) of NI 31-103</u>  | <u>s.2.9(1) of NI 31-103</u>  | <u>s.87 of Securities Act (not yet in force) and s.2.9(1) of NI 31-103</u>  | <u>ss.26(2)(c) and 26.1 of Securities Act (not yet in force) and s.2.9(1) of NI 31-103</u>  | <u>s.87 of Securities Act (not yet in force) and s.2.9(1) of NI 31-103</u>  | <u>s.87 of Securities Act (not yet in force) and s.2.9(1) of NI 31-103</u>  | <u>s.87 of Securities Act (not yet in force) and s.2.9(1) of NI 31-103</u>  | <u>s.21(4) of Securities Act (not yet in force) and s.2.9(1) of NI 31-103</u>  |         |         |
| <u>CCO registration</u>                 | <u>s.2.10(1) of NI 31-103</u> | <u>ss.75(2) (c) and 75.1 of Securities Act (not yet in force) and s.2.10(1) of NI 31-103</u> | <u>s.2.10(1) of NI 31-103</u> | <u>s.149 of Securities Act (not yet in force, as amended) and s.2.10(1) of NI 31-103</u> | <u>s.2.10(1) of NI 31-103</u> | <u>s.87 of Securities Act (not yet in force) and s.2.10(1) of NI 31-103</u> | <u>ss.26(2)(c) and 26.1 of Securities Act (not yet in force) and s.2.10(1) of NI 31-103</u> | <u>s.87 of Securities Act (not yet in force) and s.2.10(1) of NI 31-103</u> | <u>s.87 of Securities Act (not yet in force) and s.2.10(1) of NI 31-103</u> | <u>s.87 of Securities Act (not yet in force) and s.2.10(1) of NI 31-103</u> | <u>s.21(5) of Securities Act (not yet in force) and s.2.10(1) of NI 31-103</u> |         |         |

| Provision                                       | British Columbia | Alberta                     | Saskatchewan | Manitoba | Québec   | Nova Scotia                | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut | Ontario |
|---|------------------|-----------------------------|--------------|----------|--|----------------------------|---------------|----------------------|---------------------------|-------|-----------------------|---------|---------|
| <u>MFDA membership for mutual fund dealers</u>  |                  | <u>s.3.2 of NI 31-103</u>   |              |          | n/a  | <u>s.3.2 of NI 31-103</u>  |               |                      |                           |       |                       |         |         |
| <u>Insurance – scholarship plan dealer only</u> |                  | <u>s. 4.21 of NI 31-103</u> |              |          | n/a  | <u>s.4.21 of NI 31-103</u> |               |                      |                           |       |                       |         |         |
| <u>Complaint handling</u>                       |                  | <u>s. 5.28 of NI 31-103</u> |              |          | <u>s.168.1.1 of Securities Act and s.5.28 of NI 31-103</u> | <u>s.5.28 of NI 31-103</u> |               |                      |                           |       |                       |         |         |
| <u>Complaint handling</u>                       |                  | <u>s. 5.29 of NI 31-103</u> |              |          | <u>s.168.1.3 of Securities Act and s.5.29 of NI 31-103</u> | <u>s.5.29 of NI 31-103</u> |               |                      |                           |       |                       |         |         |
| <u>Complaint handling</u>                       |                  | <u>s.5.30 of NI 31-103</u>  |              |          | <u>s.168.1.1 of Securities Act and s.5.30 of NI 31-103</u> | <u>s.5.30 of NI 31-103</u> |               |                      |                           |       |                       |         |         |

| Provision                          | British Columbia                     | Alberta | Saskatchewan | Manitoba | Québec   | Nova Scotia                | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut                            | Ontario |
|------------------------------------|--------------------------------------|---------|--------------|----------|--|----------------------------|---------------|----------------------|---------------------------|-------|-----------------------|------------------------------------|---------|
| <u>Complaint handling</u>          | <u>s.5.31 of NI 31-103</u>           |         |              |          | <u>s.168.1.2 of Securities Act and s.5.31 of NI 31-103</u> | <u>s.5.31 of NI 31-103</u> |               |                      |                           |       |                       |                                    |         |
| <u>Suspension of IDA approval</u>  | <u>s. 7.3 of NI 31-103</u>           |         |              |          |  |                            |               |                      |                           |       |                       | <u>s.30(1), paragraphs 2 and 3</u> |         |
| <u>Suspension of MFDA approval</u> | <u>s. 7.4 of NI 31-103</u>           |         |              |          | <u>n/a</u>   | <u>s. 7.4 of NI 31-103</u> |               |                      |                           |       |                       | <u>s.30(1), paragraphs 2 and 3</u> |         |
| <u>Advising generally</u>          | <u>s.8.14(2) of NI 31-103</u>        |         |              |          |  |                            |               |                      |                           |       |                       | <u>s.34(2)</u>                     |         |
| Underwriting conflicts             | NI 33-105                            |         |              |          |  |                            |               |                      |                           |       |                       |                                    |         |
| Registrant information             | NI 33-109                            |         |              |          |  |                            |               |                      |                           |       |                       |                                    |         |
| Prospectus disclosure requirements | NI 41-101<br>(except as noted below) |         |              |          |  |                            |               |                      |                           |       |                       |                                    |         |
| Certificate of issuer              | s.5.3(1) of NI 41-101                |         |              |          |  |                            |               |                      |                           |       |                       | s.58                               |         |
| Certificate of corporate issuer    | s.5.4(1) of NI 41-101                |         |              |          |  |                            |               |                      |                           |       |                       | s.58                               |         |



| Provision  | British Columbia  | Alberta | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut | Ontario      |
|--|---|---------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|---------|--------------|
| Distribution of preliminary prospectus and distribution list | s.16.1 of NI 41-101   |         |              |          |        |             |               |                      |                           |       |                       |         | ss.66 and 67 |
| <u>Lapse date</u>  | s.17.2 of NI 41-101   |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.62</u>  |
| Statement of rights  | s.18.1 of NI 41-101   |         |              |          |        |             |               |                      |                           |       |                       |         | s.60         |
| Disclosure standards for mineral projects                    | NI 43-101   |         |              |          |        |             |               |                      |                           |       |                       |         |              |
| Short form prospectus distribution requirements              | NI 44-101   |         |              |          |        |             |               |                      |                           |       |                       |         |              |
| Shelf prospectus requirements                                | NI 44-102   |         |              |          |        |             |               |                      |                           |       |                       |         |              |
| Post receipt pricing   | NI 44-103   |         |              |          |        |             |               |                      |                           |       |                       |         |              |
| Rights offering requirements                                 | NI 45-101   |         |              |          |        |             |               |                      |                           |       |                       |         |              |
| Resale of securities   | NI 45-102   |         |              |          |        |             |               |                      |                           |       |                       |         |              |
| Standards of disclosure for oil and gas activities           | NI 51-101 n/a NI 51-101   |         |              |          |        |             |               |                      |                           |       |                       |         |              |
| Continuous disclosure obligations                            | NI 51-102<br>(except as noted below)<br>n/a NI 51-102 (except as noted below) |         |              |          |        |             |               |                      |                           |       |                       |         |              |

| Provision   | British Columbia                              | Alberta | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut | Ontario   |
|---|---|---------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|---------|---|
| Publication of material change  | s. 7.1 of NI 51-102- <del>n/a</del>           |         |              |          |        |             |               |                      |                           |       |                       |         | s.75 of <i>Securities Act</i> and s.3(1.1) of Regulation 1015 (General) |
| Accounting principles, auditing standards and reporting currency requirements | NI 52-107<br>( <u>except as noted below</u> ) |         |              |          |        |             |               |                      |                           |       |                       |         |   |
| <u>Acceptable accounting principles</u>                                       | <u>s.3.1 of NI 52-107</u>                     |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.2(1) of Regulation 1015 (General) and s.3.1 of NI 52-107</u>       |
| Auditor oversight   | NI 52-108                                     |         |              |          |        |             |               |                      |                           |       |                       |         |   |
| Certification of disclosure in annual and interim filings                     | NI 52-109                                     |         |              |          |        |             |               |                      |                           |       |                       |         |   |
| Audit committees  | NI 52-110                                     |         |              |          |        |             |               |                      |                           |       |                       |         |   |

| Provision  | British Columbia        | Alberta                 | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut            | Ontario |
|--|-------------------------|-------------------------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|--------------------|---------|
| Communication with beneficial owners   | NI 54-101 n/a NI 54-101 |                         |              |          |        |             |               |                      |                           |       |                       |                    |         |
| System for electronic disclosure by insiders (SEDI)                                | NI 55-102 n/a NI 55-102 |                         |              |          |        |             |               |                      |                           |       |                       |                    |         |
| Insider reporting for certain derivative transactions (EM) - Reporting requirement | ss. 87(2), (5) and (6)  | s. 2.1 of MI 55-103 n/a |              |          |        |             |               |                      |                           |       |                       | s.2.1 of MI 55-103 |         |
| EM – Existing agreements which continue in force                                   | s.87.1                  | s.2.3 of MI 55-103 n/a  |              |          |        |             |               |                      |                           |       |                       | s.2.3 of MI 55-103 |         |
| EM – Existing agreements entered into prior to becoming insider                    | s.87(2) and (6)         | s.2.4 of MI 55-103 n/a  |              |          |        |             |               |                      |                           |       |                       | s.2.4 of MI 55-103 |         |

| Provision   | British Columbia  | Alberta                | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut            | Ontario |
|---|---|------------------------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|--------------------|---------|
| EM – Form and timing of report  | s. 87(2), (5) and (6) of <i>Securities Act</i> and s. 155.1(1), (2) and (3) of Securities Rules | s.3.1 of MI 55-103-n/a |              |          |        |             |               |                      |                           |       |                       | s.3.1 of MI 55-103 |         |
| EM – Form and timing of report for existing agreements  | s. 87.1 of <i>Securities Act</i> and s. 155.1(4) of Securities Rules                            | s.3.2 of MI 55-103-n/a |              |          |        |             |               |                      |                           |       |                       | s.3.2 of MI 55-103 |         |
| EM – Form and timing of report for existing agreements entered into prior to becoming insider | s. 87 (2) and (6) of <i>Securities Act</i> and s. 155.1(1) and (3) of Securities Rules          | s.3.3 of MI 55-103-n/a |              |          |        |             |               |                      |                           |       |                       | s.3.3 of MI 55-103 |         |
| Disclosure of corporate governance practices  | NI 58-101n/aNI-58-101   |                        |              |          |        |             |               |                      |                           |       |                       |                    |         |

| Provision   | British Columbia        | Alberta | Saskatchewan | Manitoba | Québec    | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut | Ontario   |
|---|-------------------------|---------|--------------|----------|-----------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|---------|-----------|
| Protection of minority security holders in special transactions   |                         |         | n/a          |          | MI 61-101 |             |               |                      | n/a                       |       |                       |         | MI 61-101 |
| Early warning reports and other take-over bid and insider reporting requirements                        | NI 62-103 n/a NI 62-103 |         |              |          |           |             |               |                      |                           |       |                       |         |           |
| Take-over bids and issuer bid requirements (TOB/IB) – Restrictions on acquisitions during take-over bid | s.2.2(1) of MI 62-104   |         |              |          |           |             |               |                      |                           |       |                       |         | s.93.1(1) |
| TOB/IB – Restrictions on acquisitions during issuer bid   | s.2.3(1) of MI 62-104   |         |              |          |           |             |               |                      |                           |       |                       |         | s.93.1(4) |
| TOB/IB – Restrictions on acquisitions before take-over bid  | s.2.4(1) of MI 62-104   |         |              |          |           |             |               |                      |                           |       |                       |         | s.93.2(1) |



| <b>Provision</b>                                   | <b>British Columbia</b> | <b>Alberta</b> | <b>Saskatchewan</b> | <b>Manitoba</b> | <b>Québec</b> | <b>Nova Scotia</b> | <b>New Brunswick</b> | <b>Prince Edward Island</b> | <b>Newfoundland and Labrador</b> | <b>Yukon</b> | <b>Northwest Territories</b> | <b>Nunavut</b> | <b>Ontario</b>         |   |
|--|-------------------------|----------------|---------------------|-----------------|---------------|--------------------|----------------------|-----------------------------|----------------------------------|--------------|------------------------------|----------------|------------------------|---|
| TOB/IB – Notice of change                          |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.11(4) of MI 62-104 | s.94.3(4) of <i>Securities Act</i> and s.3.4 of OSC Rule 62-504 |
| TOB/IB – Variation of terms                        |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.12(1) of MI 62-104 | s.94.4(1)   |
| TOB/IB – Notice of variation                       |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.12(2) of MI 62-104 | s.94.4(2) of <i>Securities Act</i> and s.3.4 of OSC Rule 62-504 |
| TOB/IB – Expiry date of bid if notice of variation |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.12(3) of MI 62-104 | s.94.4(3)   |
| TOB/IB – No variation after expiry                 |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.12(5) of MI 62-104 | s.94.4(5)   |

| Provision   | British Columbia | Alberta | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut | Ontario                |   |
|---|------------------|---------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|---------|------------------------|---|
| TOB/IB – Filing and sending notice of change or notice of variation |                  |         |              |          |        |             |               |                      |                           |       |                       |         | s.2.13 of MI 62-104    | s.94.5  |
| TOB/IB – Change or variation in advertised take-over bid            |                  |         |              |          |        |             |               |                      |                           |       |                       |         | s.2.14(1) of MI 62-104 | s.94.6(1)   |
| TOB/IB – Consent of expert – bid circular                           |                  |         |              |          |        |             |               |                      |                           |       |                       |         | s.2.15(2) of MI 62-104 | s.94.7(1)   |
| TOB/IB – Delivery and date of bid documents                         |                  |         |              |          |        |             |               |                      |                           |       |                       |         | s.2.16(1) of MI 62-104 | s.94.8(1)   |
| TOB/IB – Duty to prepare and send directors’ circular               |                  |         |              |          |        |             |               |                      |                           |       |                       |         | s.2.17 of MI 62-104    | s.95(1) – (4) of <i>Securities Act</i> and s.3.2 of OSC Rule 62-504 |

| <b>Provision</b>   | <b>British Columbia</b> | <b>Alberta</b> | <b>Saskatchewan</b> | <b>Manitoba</b> | <b>Québec</b> | <b>Nova Scotia</b> | <b>New Brunswick</b> | <b>Prince Edward Island</b> | <b>Newfoundland and Labrador</b> | <b>Yukon</b> | <b>Northwest Territories</b> | <b>Nunavut</b> | <b>Ontario</b>         |   |
|--|-------------------------|----------------|---------------------|-----------------|---------------|--------------------|----------------------|-----------------------------|----------------------------------|--------------|------------------------------|----------------|------------------------|---|
| TOB/IB – Notice of change  |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.18 of MI 62-104    | s.95.1(1) and (2) of <i>Securities Act</i> and s.3.4 of OSC Rule 62-504 |
| TOB/IB – Filing directors’ circular or notice of change                                |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.19 of MI 62-104    | s.95.2  |
| TOB/IB – Change in information in director’s or officer’s circular or notice of change |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.20(2) of MI 62-104 | s.96(2)   |
| TOB/IB – Form of director’s or officer’s circular                                      |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.20(3) of MI 62-104 | s.96(3) of <i>Securities Act</i> and s.3.3 of OSC Rule 62-504           |



| <b>Provision</b>   | <b>British Columbia</b> | <b>Alberta</b> | <b>Saskatchewan</b> | <b>Manitoba</b> | <b>Québec</b> | <b>Nova Scotia</b> | <b>New Brunswick</b> | <b>Prince Edward Island</b> | <b>Newfoundland and Labrador</b> | <b>Yukon</b> | <b>Northwest Territories</b> | <b>Nunavut</b> | <b>Ontario</b>         |           |
|--|-------------------------|----------------|---------------------|-----------------|---------------|--------------------|----------------------|-----------------------------|----------------------------------|--------------|------------------------------|----------------|------------------------|-----------|
| TOB/IB – Delivery and date of offeree issuer’s documents |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.22(1) of MI 62-104 | s.96.2(1) |
| TOB/IB – Consideration                                   |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.23(1) of MI 62-104 | s.97(1)   |
| TOB/IB – Variation of consideration                      |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.23(3) of MI 62-104 | s.97(3)   |
| TOB/IB – Prohibition against collateral agreements       |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.24 of MI 62-104    | s.97.1(1) |
| TOB/IB – Proportionate take up and payment               |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.26(1) of MI 62-104 | s.97.2(1) |
| TOB/IB – Financing arrangements                          |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.27(1) of MI 62-104 | s.97.3(1) |
| TOB/IB – Minimum deposit period                          |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.28 of MI 62-104    | s.98(1)   |
| TOB/IB – Prohibition on take up                          |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.29 of MI 62-104    | s.98(2)   |

| <b>Provision</b>  | <b>British Columbia</b> | <b>Alberta</b> | <b>Saskatchewan</b> | <b>Manitoba</b> | <b>Québec</b> | <b>Nova Scotia</b> | <b>New Brunswick</b> | <b>Prince Edward Island</b> | <b>Newfoundland and Labrador</b> | <b>Yukon</b> | <b>Northwest Territories</b> | <b>Nunavut</b> | <b>Ontario</b>        |   |
|---|-------------------------|----------------|---------------------|-----------------|---------------|--------------------|----------------------|-----------------------------|----------------------------------|--------------|------------------------------|----------------|-----------------------|---|
| TOB/IB – Obligation to take up and pay for deposited securities |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.32 of MI 62-104   | s.98.3  |
| TOB/IB – Return of deposited securities                         |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.33 of MI 62-104   | s.98.5  |
| TOB/IB – News release on expiry of bid                          |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.2.34 of MI 62-104   | s.98.6  |
| TOB/IB – Language of bid documents                              |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.3.1 of MI 62-104    | n/a   |
| TOB/IB – Filing of documents by offeror                         |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.3.2(1) of MI 62-104 | s.98.7 of <i>Securities Act</i> and s.5.1(1) of OSC Rule 62-504 |
| TOB/IB – Filing of documents by offeree issuer                  |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.3.2(2) of MI 62-104 | s.5.1(2) of OSC Rule 62-504                                     |
| TOB/IB – Time period for filing                                 |                         |                |                     |                 |               |                    |                      |                             |                                  |              |                              |                | s.3.2(3) of MI 62-104 | s.5.1(3) of OSC Rule 62-504                                     |



| Provision   | British Columbia      | Alberta | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut | Ontario   |
|---|-----------------------|---------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|---------|---|
| TOB/IB – Application of <i>Canada Business Corporations Act</i> | s.3.4(2) of MI 62-104 |         |              |          |        |             |               |                      |                           |       |                       |         | s.99.1(2)   |
| TOB/IB – Early Warning  | s.5.2 of MI 62-104    |         |              |          |        |             |               |                      |                           |       |                       |         | s.102.1(1) – (4) of <i>Securities Act</i> and s.7.1 of OSC Rule 62-504      |
| TOB/IB – Acquisitions during bid                                | s.5.3 of MI 62-104    |         |              |          |        |             |               |                      |                           |       |                       |         | s.102.2(1) and (2) of <i>Securities Act</i> and s.7.2(1) of OSC Rule 62-504 |
| TOB/IB – Copies of news release and report                      | s.5.5 of MI 62-104    |         |              |          |        |             |               |                      |                           |       |                       |         | s.7.2(3) of OSC Rule 62-504   |
| Multi-jurisdictional disclosure system                          | NI 71-101             |         |              |          |        |             |               |                      |                           |       |                       |         |   |

| Provision  | British Columbia                     | Alberta | Saskatchewan | Manitoba | Québec | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon | Northwest Territories | Nunavut | Ontario                     |
|--|--------------------------------------|---------|--------------|----------|--------|-------------|---------------|----------------------|---------------------------|-------|-----------------------|---------|-----------------------------|
| Mutual fund prospectus disclosure  | NI 81-101<br>(except as noted below) |         |              |          |        |             |               |                      |                           |       |                       |         |                             |
| <u>Amendment to a preliminary simplified prospectus</u>                        | <u>s.2.2.1(1) of NI 81-101</u>       |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.57(1)</u>              |
| <u>Delivery of amendments</u>  | <u>s.2.2.2 of NI 81-101</u>          |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.57(3)</u>              |
| <u>Amendment to a simplified prospectus</u>                                    | <u>s.2.2.3(1) of NI 81-101</u>       |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.57(1)</u>              |
| <u>Amendment to a simplified prospectus</u>                                    | <u>s.2.2.3(2) of NI 81-101</u>       |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.57(2)</u>              |
| <u>Regulator must issue receipt</u>  | <u>s.2.2.3(3) of NI 81-101</u>       |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.57(2.1)</u>            |
| <u>Regulator must not refuse a receipt</u>                                     | <u>s.2.2.3(4) of NI 81-101</u>       |         |              |          |        |             |               |                      |                           |       |                       |         | <u>ss.57(2.1) and 61(3)</u> |
| <u>Lapse date</u>  | <u>s.2.5 of NI 81-101</u>            |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.62</u>                 |
| <u>Statement of rights</u>   | <u>s.2.8 of NI 81-101</u>            |         |              |          |        |             |               |                      |                           |       |                       |         | <u>s.60</u>                 |
| <u>Distribution of preliminary simplified prospectus and distribution list</u> | <u>s.3.2(3) of NI 81-101</u>         |         |              |          |        |             |               |                      |                           |       |                       |         | <u>ss.66 and 67</u>         |

| Provision   | British Columbia                                    | Alberta   | Saskatchewan                         | Manitoba  | Québec   | Nova Scotia                          | New Brunswick                                 | Prince Edward Island                               | Newfoundland and Labrador            | Yukon   | Northwest Territories                              | Nunavut   | Ontario  |
|---|---|---|--------------------------------------|---|--|--------------------------------------|---|--|--------------------------------------|---|--|---|--|
| <u>Certificate of mutual fund</u>                     | <u>s.5.1.3(1) of NI 81-101</u>                      |   |                                      |   |  |                                      |   |  |                                      |   |  |   | <u>s.58</u>                                    |
| <u>Certificate of promoter</u>                        | <u>s.5.1.6(1) of NI 81-101</u>                      |   |                                      |   |  |                                      |   |  |                                      |   |  |   | <u>s.58</u>                                    |
| <u>Certificate of corporate mutual fund</u>           | <u>s.5.1.7(1) of NI 81-101</u>                      |   |                                      |   |  |                                      |   |  |                                      |   |  |   | <u>s.58</u>                                    |
| Mutual fund requirements                              | NI 81-102   |   |                                      |   |  |                                      |   |  |                                      |   |  |   |  |
| Commodity pools                                       | NI 81-104   |   |                                      |   |  |                                      |   |  |                                      |   |  |   |  |
| Mutual fund sales practices                           | NI 81-105   |   |                                      |   |  |                                      |   |  |                                      |   |  |   |  |
| Investment fund continuous disclosure                 | NI 81-106   |   |                                      |   |  |                                      |   |  |                                      |   |  |   |  |
| Independent review committee                          | NI 81-107   |   |                                      |   |  |                                      |   |  |                                      |   |  |   |  |
| <b>Registration</b>                                   |   |   |                                      |   |  |                                      |   |  |                                      |   |  |   |  |
| Dealer/<br>underwriter<br>registration<br>requirement | <u>sss.34(1)(a) and 34(1)(d) (not yet in force)</u> | <u>sss. 75(1) (a) and 75(2)(a) (not yet in force)</u> | <u>s.27(1)(a) (not yet in force)</u> | <u>sss.6(1)(a) and 6(1)(d) (not yet in force)</u> | <u>ss.148 &amp; 149 (not yet in force, as amended)</u> | <u>s.31(1)(a) (not yet in force)</u> | <u>sss.45(a) and 45(d) (not yet in force)</u> | <u>sss. 86(1) (a) and 86(2) (not yet in force)</u> | <u>s.26(1)(a) (not yet in force)</u> | <u>sss. 86(1)(a) and 86(2) (not yet in force)</u> | <u>sss.-486(1)(a) and 86(2) (not yet in force)</u> | <u>sss.-486(1) (a) and 86(2) (not yet in force)</u> | <u>s.25(1) (<del>a</del>)not yet in force)</u> |
| Underwriter<br>registration<br>requirement            | <u>s.34(1)(b)</u>                                   | <u>s. 75(1)(a)</u>                                    | <u>n/a</u>                           | <u>s.6(1)</u>                                     | <u>s.148</u>   | <u>s.31(1)(b)</u>                    | <u>n/a</u>                                    | <u>s. 86(2)</u>                                    | <u>s.26(1)(b)</u>                    | <u>s.86(2)</u>                                    | <u>n/a</u>   | <u>n/a</u>  | <u>s. 25(1)(a)</u>                             |

| Provision  | British Columbia               | Alberta  | Saskatchewan                   | Manitoba                         | Québec  | Nova Scotia                       | New Brunswick              | Prince Edward Island          | Newfoundland and Labrador      | Yukon                         | Northwest Territories           | Nunavut                         | Ontario                            |
|--|--------------------------------|--|--------------------------------|----------------------------------|---|-----------------------------------|----------------------------|-------------------------------|--------------------------------|-------------------------------|---------------------------------|---------------------------------|------------------------------------|
| Adviser registration requirement                               | s.34(1)(eb) (not yet in force) | sss. 75(1) (b) and 75(2)(b) (not yet in force) | s.27(e1)(b) (not yet in force) | sss.6(7)1)(b) (not yet in force) | ss.148 & 149 (not yet in force, as amended)                   | s.31(4)(e2)(a) (not yet in force) | s.45(b) (not yet in force) | s.86(1)(b) (not yet in force) | s.26(1)(eb) (not yet in force) | s.86(1)(b) (not yet in force) | s.-486(1)(b) (not yet in force) | s.-486(1)(b) (not yet in force) | s.25(12)(e) not yet in force)      |
| Investment fund manager registration requirement               | s.34(1)(c) (not yet in force)  | s.75(1)(c) (not yet in force)                  | s.27(1)(c) (not yet in force)  | s.6(1)(c) (not yet in force)     | s.148 (not yet in force, as amended)                          | s.31(3)(a) (not yet in force)     | s.45(c) (not yet in force) | s.86(3) (not yet in force)    | s.26(1)(c) (not yet in force)  | s.86(3) (not yet in force)    | s.86(3) (not yet in force)      | s.86(3) (not yet in force)      | s.25(3) (not yet in force)         |
| Compensation or contingency trust fund                         | s.23 of Securities Rules       | s.28 of ASC Rules (General)                    | s.23 of Regulations            | n/a                              | s.196 of Securities Regulation (not yet in force, as amended) | s.27 of General Securities Rules  | n/a                        | n/a                           | s.98 of Regulation             | n/a                           |                                 |                                 | s.110 of Regulation 1015 (General) |
| <b>Requirements when using registration exemptions</b>         |                                |  |                                |                                  |   |                                   |                            |                               |                                |                               |                                 |                                 |                                    |
| Offering memorandum in required form                           | s.3.9(5) of NI 45-106          |  |                                |                                  |   |                                   |                            |                               |                                |                               |                                 |                                 | n/a                                |
| Requirement to file offering memorandum within prescribed time | s.3.9(14) of NI 45-106         |  |                                |                                  |   |                                   |                            |                               |                                |                               |                                 |                                 | n/a                                |

| Provision  | British Columbia | Alberta         | Saskatchewan | Manitoba | Québec   | Nova Scotia | New Brunswick                   | Prince Edward Island | Newfoundland and Labrador | Yukon     | Northwest Territories     | Nunavut                   | Ontario |
|--|------------------|-----------------|--------------|----------|--|-------------|---------------------------------|----------------------|---------------------------|-----------|---------------------------|---------------------------|---------|
| <b>Trading in Securities Generally</b>                         |                  |                 |              |          |  |             |                                 |                      |                           |           |                           |                           |         |
| Registered dealer acting as principal                          | s.51             | s.94 n/a        | s.45         | s.70     | s.163 of <i>Securities Act</i> and s.234.3 of <i>Securities Regulation</i> n/a | s.45        | s.59 n/a                        |                      | s.40                      | n/an/an/a |                           |                           | s.39    |
| Disclosure of investor relations activities                    | s.52             | n/an/an/an/an/a |              |          |  |             | s.62                            | n/an/an/an/an/a      |                           |           |                           |                           |         |
| Use of name of another registrant                              | s.53             | s.99            | s.49         | s.73     | n/a  | s.49        | s.63                            | n/a                  | s.44                      | n/an/an/a |                           |                           | s.43    |
| <b>Trading in Exchange Contracts</b>                           |                  |                 |              |          |  |             |                                 |                      |                           |           |                           |                           |         |
| Trading exchange contracts on an exchange in jurisdiction      | s.58             | s.106 & 107     | s.40         | n/a      |  |             | n/an/as.70.1 (not yet in force) | n/an/an/an/an/an/a   |                           |           |                           |                           |         |
| Trading exchange contracts on an exchange outside jurisdiction | s.59             | s.108 & 109     | s.41         | n/a      |  |             | n/an/as.70.2 (not yet in force) | n/an/an/an/an/an/a   |                           |           |                           |                           |         |
| <b>Prospectus</b>  |                  |                 |              |          |  |             |                                 |                      |                           |           |                           |                           |         |
| Prospectus requirement   | s.61             | s.110           | s.58         | s.37     | ss.11 and 12   | s.58        | s.71(1)                         | s.94                 | s.54                      | s.94      | s.2794 (not yet in force) | s.2794 (not yet in force) | s.53    |

| Provision   | British Columbia               | Alberta  | Saskatchewan                     | Manitoba              | Québec  | Nova Scotia           | New Brunswick  | Prince Edward Island  | Newfoundland and Labrador | Yukon                 | Northwest Territories                    | Nunavut                                  | Ontario    |
|---|--------------------------------|--|----------------------------------|-----------------------|---|-----------------------|--|-----------------------|---------------------------|-----------------------|--|--|------------|
| Contents of prospectus (full, true & plain disclosure)                | s.63                           | s.113  | s.61                             | s.41                  | ss.13 and 20  | s.61                  | s.74   | s. 99                 | s.57                      | s.99                  | <u>n/as.99</u><br>(not yet in force)     | <u>n/as.99</u><br>(not yet in force)     | s.56       |
| Waiting period communications   | s.78                           | s.123  | s.73                             | s.38                  | ss.21 & 22  | s.70                  | s.82   | s. 97                 | s.66                      | s.97                  | <u>n/as.97</u><br>(not yet in force)     | <u>n/as.97</u><br>(not yet in force)     | s.65(2)    |
| Obligation to send prospectus   | s.83                           | s.129  | s.79                             | s.64                  | ss.29, 30, 31 and 32                                      | s.76                  | s.88   | s. 101(1)             | s.72                      | s.101 (1)             | <u>s.-28101(1)</u><br>(not yet in force) | <u>s.-28101(1)</u><br>(not yet in force) | s.71(1)    |
| <b>Requirements when using prospectus exemptions</b>                  |                                |  |                                  |                       |   |                       |  |                       |                           |                       |  |  |            |
| Filing disclosure documents in connection with exemption              | s.2.9(5) of NI 45-106          | s.127.2 of ASC Rules and s.2.9(5) of NI 45-106 | s.80.1 and s.2.9(5) of NI 45-106 | s.2.9(5) of NI 45-106 | s.37.2 of Securities Regulation and s.2.9(5) of NI 45-106 | s.2.9(5) of NI 45-106 | s.2.3 of Local Rule 45-802 and s.2.9(5) of NI 45-106 | s.2.9(5) of NI 45-106 | n/a                       | s.2.9(5) of NI 45-106 | s.6.4 of OSC Rule 45-501                 |  |            |
| <u>Offering memorandum in required form</u>                           | <u>s.2.9(5) of NI 45-106</u>   |  |                                  |                       |   |                       |  |                       |                           |                       |  |  | <u>n/a</u> |
| <u>Requirement to file offering memorandum within prescribed time</u> | <u>s. 2.9(14) of NI 45-106</u> |  |                                  |                       |   |                       |  |                       |                           |                       |  |  | <u>n/a</u> |

| Provision   | British Columbia  | Alberta  | Saskatchewan                | Manitoba   | Québec                      | Nova Scotia  | New Brunswick               | Prince Edward Island        | Newfoundland and Labrador   | Yukon                               | Northwest Territories                    | Nunavut                                  | Ontario   |
|---|---|--|-----------------------------|--|-----------------------------|--|-----------------------------|-----------------------------|-----------------------------|-------------------------------------|--|--|---|
| Filing report of exempt distribution                                    | s.139 of Securities Rules and ss. 6.1 and 6.3 of NI 45-106          | s.129.1 of ASC Rules ( <u>General</u> ) and ss. 6.1 and 6.3 of NI 45-106 | ss.6.1 and 6.3 of NI 45-106 | s.7 of Regulation and ss. 6.1 and 6.3 of NI 45-106 | ss.6.1 and 6.3 of NI 45-106 | ss.6.1 and 6.3 of NI 45-106  | ss.6.1 and 6.3 of NI 45-106 | ss.6.1 and 6.3 of NI 45-106 | ss.6.1 and 6.3 of NI 45-106 | ss.6.1 and 6.3 of NI 45-106 n/a/n/a |  |  | s. 7.1 of OSC Rule 45-501 and ss.6.1 and 6.3 of NI 45-106 |
| <b>Continuous Disclosure</b>  |   |  |                             |  |                             |  |                             |                             |                             |                                     |  |  |   |
| Voting if proxies provided  | s.118   | s.157  | s.96                        | s.105  | n/a                         | s.93   | ss.102 and 103(2)           | n/a                         | s.88                        | n/a/n/a/n/a                         |  |  | s 87  |
| Shares in name of registrant not to be voted                            | s. 182 of Securities Rules  | s.104  | s.55                        | s.79   | s.164 and 165               | s.55   | s.103(3) – (7)              | s.163                       | s.50                        | s.163                               | n/a s.163 (not yet in force)             | n/a s.163 (not yet in force)             | s.49  |
| <b>Insider Reporting</b>  |   |  |                             |  |                             |  |                             |                             |                             |                                     |  |  |   |
| Insider reports – filing upon becoming an insider of a reporting issuer | s.87(2) other than as it applies to a related financial instrument  | s.182(1)   | s.116(1)                    | s.109  | s.96                        | ss.113(1) of <i>Securities Act</i> and 172 of General Securities Rules | s.135(1)                    | s.1(1) of Local Rule 55-501 | s.108(1)                    | n/a s.1(1) of Local Rule 55-501     | n/a Local Rule 55-501 (not yet in force) | n/a Local Rule 55-501 (not yet in force) | s.107(1)  |
| Insider reports – filing upon acquisition or change in securities       | s.87 (5) other than as it applies to a related financial instrument | s.182(2)   | s.116(2)                    | s.109  | s.97                        | s.113(2)   | s.135(2)                    | s.1(2) of Local Rule 55-501 | s.108(2)                    | n/a s.1(2) of Local Rule 55-501     | n/a Local Rule 55-501 (not yet in force) | n/a Local Rule 55-501 (not yet in force) | s.107(2)  |

| Provision   | British Columbia   | Alberta                      | Saskatchewan            | Manitoba | Québec  | Nova Scotia | New Brunswick            | Prince Edward Island        | Newfoundland and Labrador | Yukon                                      | Northwest Territories                               | Nunavut   | Ontario   |
|---|--|------------------------------|-------------------------|----------|---|-------------|--------------------------|-----------------------------|---------------------------|--|---|---|---|
| Insider reports – filing upon being deemed an insider | s.87 (6) other than as it applies to a related financial instrument                    | s.182(3)                     | s.116(3)                | s.109    | s.98  | s.113(4)    | s.135(3)                 | s.1(3) of Local Rule 55-501 | s.108(3)                  | <del>n/a</del> s.1(3) of Local Rule 55-501 | <del>n/a</del> Local Rule 55-501 (not yet in force) | <del>n/a</del> Local Rule 55-501 (not yet in force) | s.107(3)  |
| Time periods for filing insider reports               | s.155.1 of Securities Rules other than as it applies to a related financial instrument | s.190 of ASC Rules (General) | s.165(1) of Regulations | s.109    | ss.171, 171.1, 172 & 174 of Securities Regulation | s.113       | s.5 of Local Rule 11-502 | s.1(4) of Local Rule 55-501 | s.108                     | <del>n/a</del> s.1(4) of Local Rule 55-501 | <del>n/a</del> Local Rule 55-501 (not yet in force) | <del>n/a</del> Local Rule 55-501 (not yet in force) | s.107   |
| Transfer reports                                      | n/a  | s.182(2)                     | s.117                   | n/a      | s.102   | s.116       | s.136                    | n/a                         | s.109                     | n/a  |   |   | s.108 of Securities Act and s. 167 of Regulation 1015 (General) |
| Nominee reports                                       | n/a  | s.183                        | s.118                   | n/a      | s.103   | s.117       | n/a                      |                             | s.110                     | n/a  |   |   | s.109 of Securities Act and s.168 of Regulation 1015 (General)  |

| Provision   | British Columbia | Alberta | Saskatchewan | Manitoba                          | Québec       | Nova Scotia | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon     | Northwest Territories                  | Nunavut                                 | Ontario      |
|---|------------------|---------|--------------|-----------------------------------|--------------|-------------|---------------|----------------------|---------------------------|-----------|--|---|--------------|
| <b>Take-Over Bids and Issuer Bids</b>                 |                  |         |              |                                   |              |             |               |                      |                           |           |  |   |              |
| Directors must make recommendation on bid             | s.99(1)(a)       | s.160   | s.100        | s.90                              | ss.113 & 114 | s.105(2)    | s.124         | s. 108               | s.92                      | s.108     | <del>n/as.108</del> (not yet in force) | <del>n/a s.108</del> (not yet in force) | ss.95 and 96 |
| <b>Investment Funds – Self Dealing</b>                |                  |         |              |                                   |              |             |               |                      |                           |           |  |   |              |
| Investments of mutual funds                           | s.121            | s.185   | s.120        | n/as.236 of Securities Regulation |              | s.119       | s.137         | n/a                  | <del>n/as.112</del>       | n/an/an/a |  |   | s.111        |
| Indirect investment                                   | s.122            | s.186   | s.121        | n/an/a                            |              | s.120       | s.138         | n/a                  | <del>n/as.113</del>       | n/an/an/a |  |   | s.112        |
| Fees on investment for mutual fund                    | s.124            | s.189   | s.124        | n/an/a                            |              | s.123       | s.141         | n/a                  | <del>n/as.116</del>       | n/an/an/a |  |   | s.115        |
| Report of mutual fund manager                         | s.126            | s.191   | s.126        | n/an/a                            |              | s.125       | s.143         | n/a                  | <del>n/as.118</del>       | n/an/an/a |  |   | s.117        |
| Restrictions on transactions with responsible persons | s.127            | s.192   | s.127        | n/as.236 of Securities Regulation |              | s.126       | s.144         | n/a                  | <del>n/as.119</del>       | n/an/an/a |  |   | s.118        |

| Provision  | British Columbia            | Alberta | Saskatchewan | Manitoba | Québec                                  | Nova Scotia    | New Brunswick | Prince Edward Island | Newfoundland and Labrador | Yukon          | Northwest Territories                 | Nunavut                               | Ontario                              |
|--|-----------------------------|---------|--------------|----------|---|----------------|---------------|----------------------|---------------------------|----------------|---------------------------------------|---------------------------------------|--------------------------------------|
| <b>General</b>   |                             |         |              |          |   |                |               |                      |                           |                |                                       |                                       |                                      |
| Confidentiality  | s.169                       | s.221   | s.152        | s.149(q) | s.296                                   | s.148          | s.198         | s. 26                | s.140                     | s.25 <u>26</u> | s. 44 <u>26</u><br>(not yet in force) | s. 44 <u>26</u><br>(not yet in force) | s.140                                |
| Accounting principles, auditing standards and reporting requirements (other than in NI 52-107) | s. 3(3) of Securities Rules | n/a     | n/a          | n/a      | ss.116 and 121 of Securities Regulation | s.3(4) of Reg. | n/a           | n/a                  | n/a                       | n/a            | n/a                                   | n/a                                   | s. 2(1) of Regulation 1015 (General) |

## Schedule C

### Companion Policy 11-102CP *Passport System*

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- 1.1 Definitions
- 1.2 Additional definitions
- 1.3 Purpose
- 1.4 Language of documents – Québec

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- ~~2.1 Exemption from non-harmonized continuous disclosure provisions~~

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- 3.2 Discretionary change in principal regulator for prospectus
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- 3.4 Exemption from non-harmonized prospectus provisions (Repealed)
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#### **Appendix A**

- CD requirements under MI 11-101

**Companion Policy 11-102CP**  
*Passport System*

**PART 1 GENERAL**

**1.1 Definitions**

In this ~~policy~~, Policy,

“alternate format” means a format, other than NRD format, as defined in National Instrument 31-102 National Registration Database, for submitting information;

“CP 33-109” means Companion Policy 33-109CP Registration Information;

“domestic firm” means a firm whose head office is in Canada;

“domestic individual” means an individual whose working office is in Canada;

“MI 11-101” means Multilateral Instrument 11-101 Principal Regulator System;

“non-principal jurisdiction” means, for a person or company, a jurisdiction other than the principal jurisdiction;

“non-principal regulator” means, for a person or company, the securities regulatory authority or regulator of a jurisdiction other than the principal jurisdiction;

“NP 11-202” means National Policy 11-202 Process for Prospectus Reviews in Multiple Jurisdictions; and

“NP 11-203” means National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions;

“NP 11-204” means National Policy 11-204 Process for Registration in Multiple Jurisdictions; and

“NRD” has the same meaning as in NI 31-102;

“T&C” means a term, condition, restriction or requirement imposed by a securities regulatory authority or regulator on the registration of a firm or an individual.

**1.2 Additional definitions**

Terms used in this policy and that are defined in NP 11-202 ~~and~~ 202, NP 11-203 and NP 11-204 have the same meanings as in those national policies.

### 1.3 Purpose

(1) **General** – Multilateral Instrument 11-102 *Passport System* (the Instrument) and this policy implement ~~part of~~ the passport system contemplated by the Provincial/Territorial Memorandum of Understanding Regarding Securities Regulation.

The Instrument gives each market participant a single window of access to the capital markets in multiple jurisdictions. It enables a person or company to deal only with its principal regulator to

- get deemed receipts in other jurisdictions (except Ontario) for a preliminary prospectus and prospectus, ~~and~~
- obtain automatic exemptions in other jurisdictions (except Ontario) equivalent to most types of discretionary exemptions granted by the principal regulator, ~~or~~

~~(2) **Ontario** – The Ontario Securities Commission (OSC) has not adopted the Instrument, but the Instrument provides that the OSC can be a principal regulator for purposes of a prospectus filing under Part 3 or a discretionary exemption application under Part 4. Consequently, when the OSC issues a receipt for a prospectus to an issuer whose principal jurisdiction is Ontario, a deemed receipt is automatically issued in each passport jurisdiction where the market participant filed the prospectus under the Instrument. Similarly, a market participant whose principal jurisdiction is Ontario obtains an automatic exemption from the equivalent provision of securities legislation of each passport jurisdiction for which the person who makes the application gives the notice described in section 4.7(1)(c) of the Instrument if the OSC grants the discretionary exemption.~~

- register automatically in other jurisdictions (except Ontario).

~~(3) **Process** – NP 11-~~202~~202, NP 11-~~203~~203 and NP 11-~~203~~204 set out the processes for a market participant in any jurisdiction to obtain a deemed prospectus receipt ~~or~~, an automatic exemption or automatic registration in a passport jurisdiction. These policies also set out processes for a market participant in a passport jurisdiction to get a prospectus receipt or a discretionary exemption from the OSC or to register in Ontario.~~

NP 11-203 also sets out the process for seeking exemptive relief in multiple jurisdictions that falls outside the scope of the Instrument. NP 11-203 applies to a broad range of exemptive relief applications, not just to discretionary exemption applications from the provisions listed in Appendix D of the Instrument. For example, NP 11-203 applies to an application to be designated a reporting issuer, mutual fund, non-redeemable investment fund or insider. It also applies to an application for a discretionary exemption from a provision not listed in Appendix D of the Instrument.

Please refer to NP 11-~~202~~202, NP 11-~~203~~203 and NP 11-~~203~~204 for more details on these processes.

(4) **Interpretation of the Instrument** – As with all national or multilateral instruments, you should read the Instrument from the perspective of the local jurisdiction in which you ~~want to obtain~~ seek a deemed prospectus receipt or an automatic exemption or registration. For example,

if the Instrument does not specify where you file a document, it means that you must file it in the local jurisdiction. In this policy, we generally use the term ‘non-principal jurisdiction’ instead of ‘local jurisdiction’.

To get a deemed receipt for a prospectus in the ~~local~~non-principal jurisdiction, a filer must file the prospectus in the jurisdiction through SEDAR. Similarly, to get an automatic exemption based on a discretionary exemption granted in the principal jurisdiction, a filer must give notice under section 4.7(1)(c) of the Instrument to the securities regulatory authority or regulator in the ~~local~~non-principal jurisdiction. Under section 4.7(2) of the Instrument, a filer can satisfy the latter requirement by giving notice to the principal regulator instead of the securities regulatory authority or regulator in the ~~local~~non-principal jurisdiction.

To register in the non-principal jurisdiction, a firm or individual must make the required submission in the non-principal jurisdiction. To streamline the process, section 6.3(3) of the Instrument allows a firm to make its submission in its principal jurisdiction instead of the non-principal jurisdiction. Section 6.4(b) of the Instrument requires an individual’s sponsoring firm to make the individual’s submission on NRD. If the principal regulator imposes a T&C on a firm’s or individual’s registration, or suspends, terminates or accepts the surrender of registration of the firm or individual, that decision applies automatically in the non-principal jurisdiction, whether or not the firm or individual registered in the non-principal jurisdiction under the Instrument.

(54) Operation of law – The provisions of the Instrument on prospectus receipt ~~and~~, discretionary exemptions, ~~and~~ registration produce automatic legal outcomes in the ~~local~~non-principal jurisdiction that result from a decision made by the principal regulator. The effect is to make the law of the ~~local~~non-principal jurisdiction apply to a market participant as if the non-principal regulator had made the same decision as the principal regulator.

(6) — Harmonized laws and their interpretation — Most of the (5) Applicable requirements – A market participant must comply with the law of each jurisdiction in which it files a prospectus, is a reporting issuer, seeks registration or is registered.

- Most prospectus, continuous disclosure and ~~prospectus~~ registration requirements are harmonized and are in rules or regulations, commonly referred to as ‘national instruments’. The securities regulatory authorities and regulators intend to interpret and apply ~~these~~ the harmonized requirements in national instruments in a consistent way, and we have put practices and procedures in place ~~practices and procedures so this will be the ease.~~ to achieve this objective.
- Some jurisdictions have unique requirements in Securities Acts or local rules or regulations. In addition, some national instruments contain requirements or carve-outs for specific jurisdictions, which are apparent on the face of the instruments.

(6) Ontario – The OSC has not adopted the Instrument, but the Instrument provides that the OSC can be a principal regulator for purposes of a prospectus filing under Part 3, a discretionary exemption application under Part 4 or registration under Part 6. Consequently, Ontario market participants have direct access to passport as follows:

~~(7) — Exemptions from non-harmonized requirements — The Instrument contains exemptions from most non-harmonized continuous disclosure requirements and prospectus requirements that exist in a local jurisdiction. These exemptions apply in all jurisdictions, including the principal jurisdiction, for issuers that are reporting issuers, or file a prospectus, in multiple jurisdictions.~~

- ~~• When the OSC issues a receipt for a prospectus to an issuer whose principal jurisdiction is Ontario, a deemed receipt is automatically issued in each passport jurisdiction where the market participant filed the prospectus under the Instrument.~~
- ~~• (8) — **Discretionary exemptions** — The Instrument provides When the OSC grants a discretionary exemption to a market participant whose principal jurisdiction is Ontario, the person obtains an automatic exemption from an the equivalent provision of securities legislation in the local jurisdiction if the principal regulator grants the discretionary exemption and the filer gives the required notice of each passport jurisdiction for which the person gives the notice described in section 4.7(1)(c) of the Instrument~~
- ~~• A firm or individual whose principal jurisdiction is Ontario and who is registered in a category in Ontario is automatically registered in the same category in a passport jurisdiction when the firm or individual makes the required submission under the Instrument.~~

#### 1.4 Language of documents – Québec

The Instrument does not relieve issuers filing in Québec from the linguistic obligations prescribed by Québec law, including the specific obligations in the Québec *Securities Act* (e.g. section 40.1). For example, where a prospectus is filed in several jurisdictions including Québec, the prospectus must be in French or in French and English.

### ~~PART 2 — CONTINUOUS DISCLOSURE~~ PART 2 CONTINUOUS DISCLOSURE (Repealed)

#### ~~2.1 — Exemption from non-harmonized continuous disclosure provisions~~

~~Section 2.1 of the Instrument exempts a reporting issuer from the non-harmonized continuous disclosure provisions listed in Appendix A of the Instrument opposite the name of the local jurisdiction if the issuer is reporting in other jurisdictions. Consequently, the provisions that apply to the reporting issuer in the local jurisdiction are the harmonized continuous disclosure provisions and any non-harmonized continuous disclosure provisions from which the securities regulatory authority or regulator in the local jurisdiction has not provided an exemption under section 2.1 of the Instrument.~~

~~An issuer must continue to pay the fees related to the filing of any continuous disclosure document in each jurisdiction where it is a reporting issuer.~~

~~Although a reporting issuer does not have to identify a principal regulator to benefit from the exemption in section 2.1 of the Instrument, the securities regulatory authorities or regulators will continue to assign each reporting issuer a principal regulator for continuous disclosure review~~

~~purposes under CSA Notice 51-312 *Harmonized Continuous Disclosure Review Program*. The principal regulator will deal with the reporting issuer on continuous disclosure related matters and would generally take action in the event of non-compliance.~~

## **PART 3 PROSPECTUS**

### **3.1 Principal regulator for prospectus**

For a prospectus filing subject to Part 3 of the Instrument, the principal regulator is the principal regulator identified under section 3.1 of the Instrument. Under this section, the principal regulator must be the securities regulatory authority or regulator in a specified jurisdiction. Section 3.1(1) of the Instrument specifies the following jurisdictions for purposes of that section: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia.

Section 3.4 of NP 11-202 gives guidance on how to identify the principal regulator for a prospectus filing subject to Part 3 of the Instrument.

### **3.2 Discretionary change in principal regulator for prospectus**

Section 3.2 of the Instrument permits the securities regulatory authority or regulator to change the principal regulator for a prospectus filing subject to Part 3 of the Instrument on its own motion or on application. Section 3.5 of NP 11-202 gives guidance on the process for, and considerations leading to, a discretionary change in principal regulator for a prospectus filing subject to Part 3 of the Instrument.

### **3.3 Deemed issuance of receipt**

Section 3.3 of the Instrument deems a receipt to be issued for a preliminary prospectus or prospectus in the ~~local~~non-principal jurisdiction if certain conditions are met. A deemed receipt in the ~~local~~non-principal jurisdiction has the same legal effect as a receipt issued in the principal jurisdiction.

To rely on section 3.3 of the Instrument in the ~~local~~non-principal jurisdiction, a filer must file on SEDAR the preliminary prospectus or the pro forma prospectus, and the prospectus, in both the ~~local~~non-principal jurisdiction and the principal jurisdiction. When filing, the filer must also indicate that it is filing the preliminary prospectus or pro forma prospectus under the Instrument. Under the law of the ~~local~~non-principal jurisdiction, these filings trigger the obligation to file supporting documents (e.g., consents and material contracts).

To rely on section 3.3 of the Instrument in the ~~local~~non-principal jurisdiction, the filer must ~~also comply with all applicable requirements of the non-principal jurisdiction including the obligation to pay the fees required for the preliminary prospectus, pro forma prospectus or prospectus in the local jurisdiction. The effect of section 3.3 of the Instrument is that the law of the local jurisdiction, including the obligation to pay fees, applies to the filing of a preliminary~~

~~prospectus, pro forma prospectus or prospectus in the jurisdiction. Section 3.4 of the Instrument does not exempt a filer from the obligation to pay fees in the local jurisdiction.~~

NP 11-202 sets out the process for making a waiver application for a prospectus filing subject to Part 3 of the Instrument.

If the principal regulator refuses to issue a receipt for a prospectus, it will notify the filer and the non-principal regulators by sending a refusal letter through SEDAR. In these circumstances, the Instrument will no longer apply to the filing and the filer may deal separately with the local securities regulatory authority or regulator in any non-principal jurisdiction in which the prospectus was filed to determine if the local securities regulatory authority or regulator would issue a local receipt.

### ~~3.4 Exemption from non-harmonized prospectus provisions~~ 3.4 Exemption from non-harmonized prospectus provisions *(Repealed)*

~~Section 3.4 of the Instrument provides an exemption from the non-harmonized prospectus provisions listed in Appendix C of the Instrument opposite the name of the local jurisdiction. The exemption is available if a person or company files a preliminary prospectus, pro forma prospectus or prospectus under a provision set out in Appendix B to the Instrument and under a national prospectus instrument in multiple jurisdictions, including its principal jurisdiction. Consequently, the provisions that apply in the local jurisdiction where a preliminary prospectus, pro forma prospectus or prospectus is filed are the harmonized prospectus provisions and any non-harmonized prospectus provisions from which the securities regulatory authority or regulator in the local jurisdiction has not provided an exemption under section 3.4 of the Instrument.~~

### **3.5 Transition for section 3.3**

Section 3.3 of the Instrument applies to a preliminary prospectus or pro forma prospectus and their related prospectus, and to an amendment to a prospectus, filed on or after March 17, 2008.

Section 3.5(1) of the Instrument removes the deemed receipt that would otherwise be available in the ~~local~~non-principal jurisdiction under section 3.3 of the Instrument if a preliminary prospectus amendment is filed after March 17, 2008 and the related preliminary prospectus was filed before March 17, 2008.

Section 3.5(2) provides an exemption from the requirement in section 3.3(2)(b) of the Instrument to indicate on SEDAR, at the time of filing the preliminary prospectus or pro forma prospectus, that the preliminary prospectus or pro forma prospectus is filed under Instrument. This means there is a deemed receipt in the ~~local~~non-principal jurisdiction for a prospectus amendment if the related preliminary prospectus or pro forma prospectus was filed before March 17, 2008 and the filer indicated on SEDAR that it filed the amendment under the Instrument at the time of filing the amendment.

The exemption from non-harmonized prospectus requirements in section 3.4 of the Instrument is available in the ~~local non-principal~~ jurisdiction for a prospectus filed on or after March 17, 2008 even though the related preliminary prospectus or pro forma prospectus was filed in the ~~local non-principal~~ jurisdiction before that date and there is no deemed receipt for the prospectus in the ~~local non-principal~~ jurisdiction.

## **PART 4 DISCRETIONARY EXEMPTIONS**

### **4.1 Application**

Part 4 of the Instrument applies to an application for discretionary exemption from a provision listed in Appendix D of the Instrument made in multiple jurisdictions. Part 4 does not apply to a discretionary exemption application from a provision not listed in Appendix D of the Instrument or to other types of exemptive relief applications. For example, Part 4 does not apply to an application to designate a person to be a reporting issuer, mutual fund, non-redeemable investment fund or insider.

### **4.2 Principal regulator for discretionary exemption applications**

For purposes of a discretionary exemption application under Part 4 of the Instrument, the principal regulator is the principal regulator identified under sections 4.1 to 4.5 of the Instrument. ~~Under these sections,~~ Except under section 4.4.1, the principal regulator must be the securities regulatory authority or regulator in a specified jurisdiction. Section 4.1 of the Instrument specifies the following jurisdictions for ~~purposes of Part 4~~ this purpose: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia.

Section 4.4.1 of the Instrument provides that the principal regulator for an application for exemption from a requirement in Part 4 of NI 31-103 and Part 2 of NI 33-109 made in connection with an application for registration in the principal jurisdiction is the principal regulator as determined under section 6.1 of the Instrument. The securities regulatory authority or regulator of each jurisdiction may be a principal regulator under section 6.1 of the Instrument.

Section 3.6 of NP 11-203 gives guidance on how to identify the principal regulator for a discretionary exemption application under Part 4 of the Instrument.

### **4.3 Discretionary change of principal regulator for discretionary exemption applications**

Section 4.6 of the Instrument permits the securities regulatory authority or regulator to change the principal regulator for a discretionary exemption application under Part 4 of the Instrument on its own motion or on application. Section 3.7 of NP 11-203 gives guidance on the process for, and considerations leading to, a discretionary change in principal regulator for a discretionary exemption application under Part 4 of the Instrument.

#### 4.4 Passport application of discretionary exemptions

Section 4.7(1) of the Instrument exempts a person or company from an equivalent provision of securities legislation in the ~~local~~non-principal jurisdiction if the principal regulator for the application grants the discretionary exemption, the filer gives the notice required under paragraph (c) of that section and other conditions are met. The equivalent provisions from which an automatic exemption is available under section 4.7(1) of the Instrument are set out in Appendix D of the Instrument.

A discretionary exemption under section 4.7(1) of the Instrument is available in the passport jurisdictions for which the filer gives the required notice when filing the application. However, the discretionary exemption can become available later in other passport jurisdictions if the circumstances warrant. For example, if a reporting issuer obtains a discretionary exemption from a national continuous disclosure requirement in its principal jurisdiction and an automatic exemption under section 4.7(1) in three non-principal jurisdictions in 2008 and the issuer becomes a reporting issuer in a fourth non-principal jurisdiction in 2009, the issuer could obtain an automatic exemption in the new jurisdiction. To obtain the automatic exemption in the new jurisdiction, the issuer would have to give the notice referred to in section 4.7(1)(c) of the Instrument in respect of that jurisdiction and meet the other condition of the exemption.

Under section 4.7(2) of the Instrument the filer may give the required notice to the principal regulator instead of the non-principal regulator.

A filer should identify in the application all the exemptions required and give notice for all the jurisdictions in which section 4.7(1) of the Instrument is intended to be relied upon. If an exemption is required in a non-principal jurisdiction when the filer files the application, but the filer does not give the required notice for that jurisdiction until after the principal regulator grants the exemption, the securities regulatory authority or regulator of the non-principal jurisdiction will take appropriate action. This could include removing the exemption, in which case the filer may have an opportunity to be heard in that jurisdiction in appropriate circumstances.

A principal regulator's decision to revoke or vary a decision the principal regulator previously made under the Instrument to exempt a person or company from a provision set out in Appendix D of the Instrument has automatic effect in a non-principal jurisdiction if

- the person or company applied in the principal jurisdiction to have the decision revoked or varied and gave the notice required under section 4.7(1)(c) of the Instrument in respect of the non-principal jurisdiction,
- the principal regulator grants the application, and
- the other conditions of section 4.7(1) of the Instrument are met.

If the principal regulator for an application for exemption from a filing requirement under section 6.1 of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) grants

an exemption under section 4.7(1) of the Instrument, a person or company has an automatic exemption in a non-principal jurisdiction under the section only if

- the filing requirement arises from the person or company relying on one of the provisions referred to in section 6.1 of NI 45-106 in the principal jurisdiction,
- the person or company is relying on the equivalent exemption in the non-principal jurisdiction, and
- the person or company complies with the conditions of section 4.7(1) of the Instrument.

Because, under the Instrument, a person or company files an application for a discretionary exemption only in the principal jurisdiction to obtain an automatic exemption in multiple jurisdictions, the filer is required to pay fees only in the principal jurisdiction.

NP 11-203 sets out the process for seeking exemptive relief in multiple jurisdictions, including the process for seeking a discretionary exemption under Part 4 of the Instrument.

#### **4.5 Availability of passport for discretionary exemptions applied for before March 17, 2008**

Under section 4.8(1) of the Instrument, an exemption from the equivalent provision is automatically available in the local jurisdiction if

- an application was made in a specified jurisdiction before March 17, 2008 for an exemption from a provision of securities legislation that is now listed in Appendix D of the Instrument,
- the securities regulatory authority or regulator in the specified jurisdiction granted the exemption before, on or after March 17, 2008, and
- certain other conditions are met.

These conditions include giving the notice required under section 4.8(1)(c). Section 4.8(2) permits the filer to give the required notice to the securities regulatory authority or regulator that would be the principal regulator for the application under Part 4 if an application were to be made under that Part at the time the notice is given, instead of to the non-principal regulator.

Under section 4.1, the specified jurisdictions are British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia.

A specified jurisdiction for purposes of section 4.8 of the Instrument is a principal jurisdiction under MI 11-101. Therefore, under section 4.8(1) of the Instrument, an exemption from the equivalent provision is automatically available in the ~~local~~ non-principal jurisdiction if

- an application was made before March 17, 2008 in the principal jurisdiction, as defined in MI 11-101, for an exemption from a CD requirement, as defined in that Instrument, which is now listed in Appendix D of the Instrument,

- the securities regulatory authority or regulator in the principal jurisdiction granted the exemption before March 17, 2008, and
- the other conditions of section 4.8(1) of the Instrument are met, including giving notice.

Section 4.8(3) of the Instrument provides an exemption from the notice requirement in section 4.8(1)(c) of the Instrument if, before March 17, 2008, the principal regulator under MI 11-101 granted the exemption and the reporting issuer filed the notice of principal regulator under section 2.2 or 2.3 of that Instrument.

The combined effect of sections 4.8(1) and 4.8(3) is to make the exemption from a CD requirement granted by the principal regulator under MI 11-101 automatically available in the ~~local~~non-principal jurisdiction, even though the decision of the principal regulator under MI 11-101 does not refer to the ~~local~~non-principal jurisdiction. To benefit from this, however, the reporting issuer must comply with the terms and conditions of the decision of the principal regulator under MI 11-101. Only exemptions granted from CD requirements that are now listed in Appendix D of the Instrument become available in the ~~local~~non-principal jurisdiction in this way.

Appendix A of this policy lists the CD requirements from which a reporting issuer could get an exemption under section 3.2 of MI 11-101. Appendix D of the Instrument sets out the list of equivalent provisions.

## **PART 5 EFFECTIVE DATE**

### **5.1 Effective date**

The Instrument applies to continuous disclosure documents, prospectuses and discretionary exemption applications filed on or after March 17, 2008.

## **PART 6 REGISTRATION**

### **6.1 Application**

The Instrument permits a firm or individual to register automatically in a non-principal jurisdiction based on its principal jurisdiction registration. It also makes some types of regulatory decisions by a firm's or individual's principal regulator apply automatically in each non-principal jurisdiction where the firm or individual is registered, whether or not the firm or individual is registered automatically under the Instrument.

#### ***Permitted individual***

The Instrument does not apply to "permitted individuals" under NI 33-109 because these individuals are not registered under securities legislation. The Instrument applies to a permitted individual only if the permitted individual becomes registered in a category in his or her principal jurisdiction and seeks registration in the same category in a non-principal jurisdiction.

### **Restricted dealers and their representatives**

Section 6.3 of the Instrument does not apply to a firm registered in the category of “restricted dealer” under NI 31-103. To register in a non-principal jurisdiction, a restricted dealer must apply directly to the non-principal regulator. Automatic registration under the Instrument does not apply to restricted dealers because there are no standard requirements for this category and most firms registered as restricted dealers operate in a single jurisdiction. However, if a restricted dealer registers directly in the same category in a non-principal jurisdiction, the provisions of the Instrument relating to T&Cs (section 6.5), suspension (section 6.6), termination (section 6.7) and surrender (section 6.8) apply to the firm.

All the provisions of the Instrument apply to the dealing representatives of a restricted dealer. This includes automatic registration under section 6.4 of the Instrument if the representative’s sponsoring firm is registered as a restricted dealer in the representative’s principal jurisdiction and the non-principal jurisdiction in which the representative seeks registration. It also includes the provisions of the Instrument relating to T&Cs (section 6.5), suspension (section 6.6), termination (section 6.7) and surrender (section 6.8).

### **6.2 Registration by SRO**

The securities regulatory authority or regulator in some jurisdictions has delegated, assigned or authorized an SRO to perform all or part of its registration function. The instrument applies to the decisions made by SROs under these arrangements. For more details, refer to section 3.5 of NP 11-204.

### **6.3 Principal regulator for registration**

The principal regulator of a firm or individual is the securities regulatory authority or regulator identified under section 6.1 of the Instrument. The securities regulatory authority or regulator of any jurisdiction can be a principal regulator for registration.

Section 3.6 of NP 11-204 gives guidance on how to identify the principal regulator of a firm or individual under Part 6 of the Instrument.

### **6.4 Discretionary change of principal regulator for registration**

Section 6.2 of the Instrument permits the securities regulatory authority or regulator to change the principal regulator for the purpose of Part 6 of the Instrument. Section 3.7 of NP 11-204 gives guidance on the process for a discretionary change of principal regulator for registration under Part 6 of the Instrument.

### **6.5 Registration**

Sections 6.3 and 6.4 of the Instrument are available for firms or individuals required to be registered under NI 31-103, except for firms registering as restricted dealers.

A firm or individual who registers in a non-principal jurisdiction under section 6.3 or 6.4 of the Instrument must comply with all applicable requirements of the non-principal jurisdiction, including the obligation to pay the required fees in that jurisdiction.

**To register in a non-principal jurisdiction**

Before making a submission under section 6.3 or 6.4, the firm or individual's sponsoring firm should ensure that the firm's or individual's principal regulator is correctly identified in the firm's or individual's latest submission under NI 33-109 or the Instrument. Unless the regulators have given notice of a discretionary change under section 6.2 of the Instrument, the principal regulator of

- a firm, except a foreign firm that is registered in the same category in multiple jurisdictions on [insert effective date of Part 6 of the Instrument], is identified in item A Contact Information of Form 33-109F6,
- a domestic individual is identified in item 9 Location of Employment of Form 33-109F4,
- a foreign firm that is registered in the same category in multiple jurisdictions on [insert effective date of Part 6 of the Instrument] is identified in the Form 33-109F5 the firm must submit under section 6.10 of the Instrument, and
- a foreign individual is the same as for the individual's sponsoring firm.

**Firm**

Under section 6.3(1) of the Instrument, if a firm is registered in its principal jurisdiction in a category set out in NI 31-103, other than the category of "restricted dealer", the firm is registered in the same category in a non-principal jurisdiction if

- (a) the firm has submitted a completed Form 33-109F6 in accordance with NI 33-109, and
- (b) receipt of the submission has been acknowledged.

A firm should refer to Part 4 and section 5.2 of NP 11-204 for guidance on how to make its submission under the Instrument.

Under section 6.3(3) of the Instrument, a firm may make the relevant submission by giving it to its principal regulator instead of the non-principal regulator. In a jurisdiction where the principal regulator has delegated, assigned or authorized an SRO to register firms, the firm should make the submission by giving it to the relevant office of the SRO.

**Individual**

Under section 6.4 of the Instrument, if an individual acting on behalf of a sponsoring firm is registered in his or her principal jurisdiction in a category set out in NI 31-103, the individual is registered in the same category in a non-principal jurisdiction if

- (a) the individual's sponsoring firm is registered in the non-principal jurisdiction in the same category as in the firm's principal jurisdiction, and

- (b) the individual submitted a completed Form 33-109F2 or Form 33-109F4 in accordance with NI 33-109.

An individual's sponsoring firm should refer to Part 4 and section 5.2 of NP 11-204 for guidance on how to make a submission for the individual under the Instrument.

For greater certainty, if an individual is registered in a category in his or her principal jurisdiction for more than one sponsoring firm, each sponsoring firm must be registered in the same category in the non-principal jurisdiction in which the individual seeks registration under section 6.4 of the Instrument.

## **6.6 Terms and conditions of registration**

Section 6.5 (1) of the Instrument provides that, if a firm or individual is registered in the same category in the principal jurisdiction and in the non-principal jurisdiction, a T&C imposed on the registration in the principal jurisdiction applies to the firm or individual as if it were imposed in the non-principal jurisdiction (i.e., by operation of law). Under section 6.5(2) of the Instrument, a T&C continues to apply until the earlier of the date the securities regulatory authority or regulator that imposed it, cancels or revokes it, or it expires.

Under section 6.5 of the Instrument, if the principal regulator amends or adds a T&C to a category in which a firm or individual is registered, the amended or additional T&C automatically applies to the firm's or individual's registration in the same category in the non-principal jurisdiction.

In the event of a change of principal regulator, and for each category in which a firm or an individual is registered in the non-principal jurisdiction under section 6.3 or 6.4 of the Instrument, the firm's or individual's

- original principal regulator will revoke any T&C it had initially imposed, and
- new principal regulator will adopt any T&C the original principal regulator had initially imposed.

This will enable the new principal regulator to amend the firm's or individual's T&Cs in appropriate circumstances and result in any T&C amended by the new principal regulator applying automatically in a non-principal jurisdiction as if it had been imposed in that jurisdiction (i.e., by operation of law).

## **6.7 Suspension**

Under section 6.6 of the Instrument, if a firm's or an individual's registration in the principal jurisdiction is suspended, the firm's or individual's registration is automatically suspended in any non-principal jurisdiction where the firm or individual is registered. For greater certainty, a suspension of registration is a suspension of a firm's or individual's trading or advising privileges and the firm or individual remains registered under securities legislation. A firm's or

individual's registration is suspended on the same day in the principal jurisdiction and the non-principal jurisdiction. NRD will show the same suspension date in each relevant jurisdiction.

A firm's or individual's registration is suspended in the non-principal jurisdiction for as long as the firm's or individual's registration is suspended in the principal jurisdiction. If the principal regulator lifts a firm's or individual's suspension, the firm or individual may resume trading or advising in the non-principal jurisdiction on the date NRD shows that the suspension has been lifted. Any T&C imposed by the principal regulator when it lifts a suspension applies automatically in the non-principal jurisdiction under section 6.5 of the Instrument.

## **6.8 Termination**

Under section 6.7 of the Instrument, if a firm's or individual's registration in the principal jurisdiction is cancelled, revoked or terminated, as applicable, the firm's or individual's registration in the non-principal jurisdiction is automatically cancelled, revoked or terminated, as applicable. A firm's or individual's registration is terminated on the same date in the principal jurisdiction and the non-principal jurisdiction. NRD will show the same termination date in each relevant jurisdiction.

## **6.9 Surrender**

Under section 6.8 of the Instrument, a firm's or individual's registration is automatically cancelled, revoked or terminated, as applicable, in a category in **all** non-principal jurisdictions in which the firm or individual is registered if the firm or individual applies to surrender registration in the category in its principal jurisdiction and the principal regulator accepts the surrender. See the last two paragraphs of this section if this is not the result intended.

A firm should submit an application to surrender registration in one or more categories in the firm's principal jurisdiction in alternate format. The application should identify any non-principal jurisdiction where the firm is registered in the same category(ies). In a jurisdiction where the principal regulator has delegated, assigned or authorized an SRO to perform registration functions, a firm should submit its application to surrender to the relevant office of the SRO. A firm should refer to Appendix B of CP 33-109 for guidance on how to submit its application for surrender to the principal regulator or the relevant office of the SRO in alternate format.

The sponsoring firm of an individual should make the relevant NRD submission under NI 33-109 to surrender one or all of an individual's categories.

- If an individual's sponsoring firm made the relevant NRD submission to surrender the individual's registration in one category, the relevant NRD submission should identify all non-principal jurisdictions where the individual is registered in the same category. If the principal regulator accepts the individual's surrender, NRD will record the surrender of category for the individual in the principal jurisdiction and each non-principal jurisdiction where the individual was registered in that category. If this was the individual's last

category in a non-principal jurisdiction, NRD will show the individual's registration as 'Suspended (Surrender)' in that jurisdiction.

- If an individual's sponsoring firm made the relevant NRD submission to surrender the individual's registration in all categories, NRD will automatically identify the non-principal jurisdictions where the individual is registered in the same categories. If the principal regulator accepts the surrender, NRD will show the individual's registration as 'Suspended (Employment Termination)' in all jurisdictions where the individual was registered.

If a firm or individual applies to surrender a category in the principal jurisdiction, the principal regulator may suspend registration in the category pending surrender, or impose a T&C on the category. See section 6.7 of this Policy for guidance on suspension of registration.

If the principal regulator imposes a T&C on a category, section 6.5 of the Instrument provides that the T&C applies in each non-principal jurisdiction where a firm or individual is registered in the same category as if the T&C had been imposed in the non-principal jurisdiction.

If a firm seeks to surrender registration in its principal jurisdiction because the firm is moving its head office (for a domestic firm) or its principal Canadian office (for a foreign firm) to another jurisdiction or the jurisdiction where a foreign firm has the highest number of clients as of the end of its most recently completed financial year changes, the firm should submit its application for surrender **after** the change has taken place and the firm has given notice of it to its principal regulator under NI 33-109. If a domestic individual seeks to surrender registration in its principal jurisdiction because the individual is moving his or her working office to another jurisdiction, the individual's sponsoring firm should make the NRD submission after the individual has moved his or her working office and given notice of the change under NI 33-109.

The Instrument does not deal with a firm or individual that seeks to surrender a category in a non-principal jurisdiction only. If a firm or individual seeks to surrender a category in a non-principal jurisdiction, other than Ontario,

- the firm may still submit its application by giving it to the principal regulator only or, if the principal regulator has delegated, assigned or authorized an SRO to perform registration functions, the relevant office of the SRO in the principal jurisdiction,
- the individual's sponsoring firm should make the relevant NRD submission under NI 33-109,
- the firm's or individual's submission should indicate the non-principal jurisdiction where the firm or individual is applying to surrender registration, and
- the fact that a securities regulatory authority, regulator or SRO accepts the surrender of registration of a firm or individual in the non-principal jurisdiction does not affect the registration of the firm or individual in another jurisdiction.

## **6.10 Transition – terms and conditions in non-principal jurisdiction**

The purpose of section 6.9(1) of the Instrument is to delay until [insert the date 30 days after the effective date of Part 6 of the Instrument] the automatic application of section 6.5 of the

Instrument in a non-principal jurisdiction in which a firm or individual is registered on [insert effective date of Part 6 of the Instrument]. This gives the firm or individual time to make an application under section 6.9(2) of the Instrument for an exemption from having a T&C imposed by the principal regulator apply automatically in the non-principal jurisdiction.

A firm or individual should apply for the exemption contemplated in section 6.9(2) of the Instrument separately in each non-principal jurisdiction because the purpose of the exemption application is to give the firm or individual an opportunity to be heard on the automatic application in the non-principal jurisdiction of a T&C imposed by the principal regulator. For this reason, a firm or individual should not make the application under NP 11-203.

If a firm or individual does not apply for an exemption under section 6.9(2) of the Instrument in a non-principal jurisdiction,

- a T&C imposed by the principal regulator automatically applies on [insert the date 30 days after the effective date of Part 6 of the Instrument] in the non-principal jurisdiction, and
- a T&C previously imposed by the non-principal regulator ceases to apply unless it is enforcement related.

#### **6.11 Transition – notice of principal regulator for foreign firm**

Under section 6.10(1) of the Instrument, a foreign firm registered in a category in multiple jurisdictions before [insert effective date of Part 6 of the Instrument] is required to submit the information required in item A of Form 33-309F6 in accordance with NI 33-109. This information will identify the foreign firm's principal regulator under section 6.1 of the Instrument.

Section 6.10(2) of the Instrument permits the foreign firm to make this submission to a non-principal regulator by giving it only to its principal regulator. The submission should be made in alternate format. In a jurisdiction where the principal regulator has delegated, assigned or authorized an SRO to perform registration functions, the foreign firm should make the submission to the relevant office of the SRO. Foreign firms should refer to Appendix B of CP 33-109 for guidance on how to make a submission in alternate format.

Because the principal regulator for a foreign individual is the same as the principal regulator for the individual's sponsoring firm, the Instrument does not require the sponsoring firm of a foreign individual to make a submission to identify the individual's principal regulator.

**Companion Policy 11-102CP**  
*Passport System*

**Appendix A**

**CD requirements under MI 11-101**

For ease of reference, this appendix reproduces the definition of CD requirements in MI 11-101 even though some references might no longer be relevant because sections were repealed after September 19, 2005 when MI 11-101 came into force.

**British Columbia:**

*Securities Act:* section 85 and 117  
*Securities Rules:* section 144 (except as it relates to fees), 145 (except as it relates to fees, 152 and 153  
sections 2, 3 and 189 as they relate to a filing under another CD requirement, as defined in MI 11-101

**Alberta:**

*Securities Act:* sections 146, 149 (except as it relates to fees), 150, 152 and 157.1  
*Securities Commission Rules (General):* except as it relates to a prospectus, section 143 – 169, 196 and 197

**Saskatchewan:**

*The Securities Act, 1988:* section 84, 86 – 88, 90, 94 and 95  
*The Securities Regulations:* section 117 – 138.1 and 175 as it relates to a filing under another CD requirement, as defined under MI 11-101

**Manitoba:**

*Securities Act:* sections 101(1), 102(1), 104, 106(3), 119, 120 (except as it relates to fees) and 121– 130  
*Securities Regulation:* sections 38 – 40 and 80 – 87

**Québec:**

*Securities Act:* sections 73 excluding the filing requirement of a statement of material change, 75 excluding the filing requirement, 76, 77 excluding the filing requirement, 78, 80 – 82.1, 83.1, 87, 105 excluding the filing requirement, 106 and 107 excluding the filing requirement  
*Securities Regulation:* sections 115.1 – 119, 119.4, 120 – 138 and 141 – 161  
*Regulations:* No. 14, No. 48, Q-11, Q-17 (Title IV) and 62 – 102

A document filed with or delivered to the Autorité des marchés financiers, delivered to securityholder in Québec or disseminated in Québec under section 3.2 of the Instrument, is deemed, for the purposes of securities legislation in Québec, to be a document

filed, delivered or disseminated under Chapter II of Title III or section 84 of the *Securities Act* (Québec).

**New Brunswick:**

*Securities Act:* sections 89(1) – (4), 90, 91, 100 and 101

**Nova Scotia:**

*Securities Act:* section 81, 83, 84 and 91

*General Securities Rules:* sections 9, 140(2), 140(3) and 141

**Newfoundland  
and Labrador:**

*Securities Act:* except as they relate to fees, sections 76, 78 – 80, 82, 86 and 87

*Securities Regulations:* sections 4 – 14 and 71 – 80

**Yukon:**

*Securities Act:* section 22(5) except as it relates to filing a new or amended prospectus

**All jurisdictions:**

- (a) National Instrument 43-101 *Standards of Disclosure for Mineral Projects*, except as it relates to a prospectus,
- (b) National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*, except as it relates to a prospectus,
- (c) National Instrument 51-102 *Continuous Disclosure Obligations*,
- (d) National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* as it applies to a document filed under National Instrument 51-102 *Continuous Disclosure Obligations*,
- (e) National Instrument 52-108 *Auditor Oversight*,
- (f) National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*,
- (g) National Instrument 52-110 *Audit Committees*, except in British Columbia
- (h) BC Instrument 52-509 *Audit Committees*, only in British Columbia
- (i) National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*,
- (j) National Instrument 58-101 *Disclosure of Corporate Governance Practices*,

- (k) section 8.5 of National Instrument 81-104 *Commodity Pools*, and
- (l) National Instrument 81-106 *Investment Fund Continuous Disclosure*.

## **Schedule D**

### **National Policy 11-204** *Process for Registration in Multiple Jurisdictions*

#### **PART 1 APPLICATION**

- 1.1 Application

#### **PART 2 DEFINITIONS**

- 2.1 Definitions
- 2.2 Further definitions
- 2.3 Interpretation

#### **PART 3 OVERVIEW AND PRINCIPAL REGULATOR**

- 3.1 Overview
- 3.2 Passport registration
- 3.3 Interface registration
- 3.4 Registration in passport jurisdictions and Ontario
- 3.5 Registration by SRO
- 3.6 Principal regulator
- 3.7 Discretionary change of principal regulator

#### **PART 4 GENERAL GUIDANCE FOR FIRMS AND INDIVIDUALS**

- 4.1 Effect of submission
- 4.2 Fees
- 4.3 Firm submissions

#### **PART 5 PASSPORT REGISTRATION**

- 5.1 Application
- 5.2 Filing of materials
- 5.3 Registration

#### **PART 6 INTERFACE REGISTRATION**

- 6.1 Application
- 6.2 Filing materials
- 6.4 Decision
- 6.5 Opportunity to be heard

**National Policy 11-204**  
***Process for Registration in Multiple Jurisdictions***

**PART 1 APPLICATION**

**1.1 Application**

This policy describes procedures for a firm or individual to register in more than one Canadian jurisdiction.

**PART 2 DEFINITIONS**

**2.1 Definitions**

In this policy,

“interface registration” means a registration described in section 3.3 of this policy;

“IIROC” means the Investment Industry Regulatory Organization of Canada;

“MI 11-102” means Multilateral Instrument 11-102 *Passport System*;

“NI 31-102” means National Instrument 31-102 *National Registration Database*;

“NRD” has the same meaning as in NI 31-102;

“NRD submission” has the same meaning as in NI 31-102;

“OSC” means the regulator in Ontario;

“passport jurisdiction” means the jurisdiction of a passport regulator;

“passport registration” means a registration described in section 3.2 of this policy;

“passport regulator” means a regulator that has adopted MI 11-102;

“permitted individual” has the same meaning as in NI 33-109;

“regulator” means a securities regulatory authority or regulator; and

“SRO” means self-regulatory organization.

**2.2 Further definitions**

Terms used in this policy and that are defined in National Instrument 14-101 *Definitions*, MI 11-102 or Companion Policy 11-102CP *Passport System* have the same meanings as in those instruments and policy.

### **2.3 Interpretation**

Unless the context indicates otherwise, a reference in this policy to a ‘regulator’, ‘principal regulator’, or the OSC is a reference to the SRO to whom the regulator, principal regulator, or OSC has delegated, assigned or authorized the performance of all or part of its registration function or to the relevant office of that SRO for the jurisdiction of the regulator or principal regulator.

## **PART 3 OVERVIEW AND PRINCIPAL REGULATOR**

### **3.1 Overview**

This policy deals with a firm’s or individual’s registration in multiple jurisdictions in the following circumstances:

- (i) The firm or individual is seeking registration or is registered in the firm’s or individual’s principal jurisdiction (including Ontario) and the firm or individual seeks registration in another jurisdiction (excluding Ontario). This is a “passport registration.”
- (ii) The firm or individual is seeking registration or is registered in the firm’s or individual’s principal jurisdiction, the principal regulator is a passport regulator, and the firm or individual seeks registration in Ontario. This is an “interface registration.”

### **3.2 Passport registration**

Under MI 11-102, if a firm or individual seeks registration or is registered in the firm’s or individual’s principal jurisdiction (including Ontario) and seeks registration in another jurisdiction (excluding Ontario), the firm or individual makes a submission to register in the other jurisdiction. Only the principal regulator reviews the firm’s or individual’s submission and the firm or individual’s sponsoring firm deals only with the firm’s or individual’s principal regulator. The principal regulator reviews the firm’s or individual’s submission to register in the other jurisdiction only to ensure that it is complete. The other regulator does not conduct a review of the firm or individual.

### **3.3 Interface registration**

If a firm or individual seeks registration or is registered in the firm’s or individual’s principal jurisdiction, the principal regulator is a passport regulator, and the firm or individual seeks registration in Ontario, the firm or individual submits an application to register in Ontario. The principal regulator will review the firm’s or individual’s application to register in Ontario and the OSC will decide whether to opt in or opt out of the principal regulator’s determination. The firm or the individual’s sponsoring firm will generally deal only with the firm’s or the individual’s principal regulator.

### **3.4 Registration in passport jurisdictions and Ontario**

If a firm or individual seeks registration or is registered in the firm’s or individual’s principal passport jurisdiction, the principal regulator is a passport regulator, and the firm or individual seeks registration in a non-principal passport jurisdiction and in Ontario, the firm or individual should refer to the processes for

- a passport registration, to register in the non-principal passport jurisdiction, and
- an interface registration, to register in Ontario.

### **3.5 Registration by SRO**

In some jurisdictions, the regulator has delegated, assigned or authorized an SRO to perform all or part of its registration function. The SRO continues to perform these functions in the relevant jurisdictions for a passport registration and an interface registration under this policy. At the date of this policy, this means that if,

- (a) Alberta, British Columbia or Newfoundland and Labrador is the principal jurisdiction of a firm that is a member of IIROC or an individual whose sponsoring firm is a member of IIROC, the firm or the individual's sponsoring firm should deal with the office of IIROC, instead of the regulator, in that jurisdiction,
- (b) Ontario or Québec is the principal jurisdiction of an individual whose sponsoring firm is a member of IIROC, the individual's sponsoring firm should deal with the office of IIROC, instead of the regulator, in that jurisdiction in respect of the individual.

### **3.6 Principal regulator**

(1) For purposes of a passport registration and an interface registration under this policy, the principal regulator of a firm or individual is identified in the same manner as in section 6.1 of MI 11-102. This section summarizes section 6.1 of MI 11-102 and provides guidance for identifying a firm's or individual's principal regulator. The regulator of any jurisdiction can be a principal regulator for registration under this policy.

If a firm or individual makes an application for exemptive relief from a requirement in Part 4 of NI 31-103 or Part 2 of NI 33-109 in connection with an application for registration in the principal jurisdiction, the principal regulator for the application for exemptive relief is identified in the same manner as in section 4.4.1 of MI 11-102. If a firm or individual makes any other application for exemptive relief from a registration requirement, the principal regulator is identified in the same manner as in sections 4.1 to 4.4 of MI 11-102. If a firm or individual is not seeking the relief, or is seeking more than one item of relief and not all of the items of relief, in its principal jurisdiction, the principal regulator is identified in the same manner as in section 4.5 of MI 11-102. A firm or individual should refer to section 3.6 of NP 11-203 for further guidance on how to identify the principal regulator for exemptive relief application purposes.

(2) Subject to subsection (5) of this section and section 3.7 of this policy, the principal regulator of a firm is the regulator in the jurisdiction where the firm has its head office, unless the firm's head office is outside Canada. A domestic firm identifies its head office in item A *Contact Information* of Form 33-109F6. This information is on NRD for a domestic firm registered on [insert effective date of Part 6 of MI 11-102].

(3) For greater certainty, a firm is a domestic firm if it is a legal entity and has a head office in Canada. For example, a US subsidiary of a foreign firm is a domestic firm. A Canadian branch office of a foreign firm is not.

(4) Subject to subsection (7) of this section and section 3.7 of this policy, the principal regulator of an individual is the regulator in the jurisdiction where the individual has his or her working office, unless the individual's working office is outside Canada. The working office of a domestic individual is the office of the sponsoring firm where the individual does most of his or her business. A domestic individual identifies his or her working office in item 9 *Location of Employment* of Form 33-109F4. This information is on NRD for a domestic individual registered on [insert effective date of Part 6 of MI 11-102].

(5) Subject to section 3.7 of this policy, if the head office of a firm is outside Canada, the principal regulator for the foreign firm is the regulator in the jurisdiction of Canada the firm identified in its most recently filed Form 33-109F5 or Form 33-109F6. These forms requires a foreign firm to identify as its principal regulator the regulator in the jurisdiction with which the foreign firm has the most significant connection.

(6) The factors a foreign firm should consider in identifying the principal regulator based on its most significant connection are, in order of influential weight, the jurisdiction in which the firm has or expects to have

- its principal Canadian office, and
- the highest number of clients as of the end of the firm's most recently completed or first financial year.

(7) Subject to section 3.7 of this policy, if the working office of an individual is outside Canada, the principal regulator of the foreign individual is the principal regulator of the individual's sponsoring firm.

(8) A firm should notify the regulator by providing the information required in item A *Contact Information* of Form 33-109F6 in accordance with NI 33-109 if

- in the case of a domestic firm, the firm changes the jurisdiction of its head office,
- in the case of a foreign firm, the firm changes the jurisdiction of its principal Canadian office, or
- the jurisdiction where the firm has the highest number of clients as of the end of its most recently completed financial year changes.

CP 33-109 provides that the firm may make this submission to a non-principal regulator by giving it only to its principal regulator. The submission should be made in alternate format (i.e., by e-mail, fax or sending the submission to the regulator's address). A firm should refer to Appendix B of CP 33-109 for guidance on how to make this submission in alternate format.

(9) In the event of a change in a domestic individual's working office, the individual's sponsoring firm should make the NRD Submission for a *Location of Employment Change* for the individual in accordance with NI 33-109.

(10) Under MI 11-102, a foreign firm registered in a non-principal passport jurisdiction before [insert effective date of Part 6 of MI 11-102] must submit on or before [insert date that is 30 days after effective date of Part 6 of MI 11-102] the information required in item A *Contact Information* of Form 33-109F6 in accordance with NI 33-109 to identify its principal regulator. A foreign firm may make its submission to a non-principal passport regulator by giving it only to its principal regulator. The submission should be made in alternate format. Foreign firms should refer to Appendix B of CP 33-109 for guidance on how to make this submission in alternate format.

(11) Under MI 11-102, the principal regulator for a foreign individual is the same as the principal regulator for the individual's sponsoring firm. For that reason, the sponsoring firm of a foreign individual is not required to make a submission to identify the individual's principal regulator.

### **3.7 Discretionary change of principal regulator**

(1) If a regulator thinks that the principal regulator identified under section 3.6 of this policy is inappropriate, the regulator will give the firm or individual written notice of the appropriate principal regulator for the firm or individual and the reasons for the change. The regulator specified in the notice will be the firm or individual's principal regulator as of the later of the date the firm or individual receives the notice and the effective date specified in the notice, if any. To streamline the process, the regulators will give the written notice relating to the principal regulator of an individual to the individual's sponsoring firm.

(2) Regulators do not generally expect changing the principal regulator for a domestic firm or domestic individual. Regulators anticipate changing the principal regulator for a foreign firm only in exceptional circumstances. Regulators may change the principal regulator for a foreign individual if the foreign individual is not registered in his or her sponsoring firm's principal jurisdiction or if the individual's principal regulator under this policy does not correspond to his or her principal regulator as shown on NRD. Regulators will give written notice of a change in principal regulator.

## **PART 4 GENERAL GUIDANCE FOR FIRMS AND INDIVIDUALS**

### **4.1 Effect of submission**

(1) If an individual's sponsoring firm makes an NRD submission for the individual in relation to a passport registration or an interface registration in a non-principal jurisdiction, this has the effect of submitting the individual's entire Form 33-109F4 in the jurisdiction.

(2) Because firms do not file or submit their Form 33-109F6 on NRD, the form requires instead that the firm make a solemn declaration or affirmation that, among other things,

- the information provided on the form is true and contains all facts necessary to prevent the information from being false or misleading in the circumstances, and

- with respect to a submission made in respect of a non-principal jurisdiction, at the date of the submission,
  - the firm has filed or submitted all the information required to be filed or submitted in relation to the firm's registration in its principal jurisdiction,
  - the information is true and contains all facts necessary to prevent the information from being false or misleading in the circumstances.

In addition, the form requires the firm to authorize its principal regulator to give each non-principal regulator access to any information the firm has filed or submitted to the principal regulator under securities legislation of the principal jurisdiction in relation to the firm's registration in that jurisdiction.

Should a regulator discover that a firm made a false declaration or affirmation, the regulator may take appropriate enforcement action against the firm.

#### **4.2 Fees**

(1) A firm or an individual's sponsoring firm must submit any required fees for the firm or the individual under applicable securities legislation in the principal jurisdiction and the non-principal passport jurisdiction when making the relevant submission. A submission is not considered complete unless the required fees are submitted under applicable securities legislation in relevant jurisdictions.

(2) A firm may pay the fee related to a submission by sending a cheque to the relevant regulator or submitting payment to each relevant regulator directly on NRD. A sponsoring firm must pay the fee for a domestic individual's submission to each relevant regulator by submitting it on NRD. A sponsoring firm may pay the fee for a foreign individual's submission by sending a cheque to the relevant regulator or submitting payment to each relevant regulator directly on NRD.

#### **4.3 Firm submissions**

A firm should make a submission under section 5.2(1) to (3) or section 6.2(1) or (2) of this policy in alternate format. Firms should refer to Appendix B of CP 33-109 for guidance on how to make a submission in alternate format.

## **PART 5 PASSPORT REGISTRATION**

### **5.1 Application**

(1) This part applies to a firm or individual seeking registration in any category (other than a firm seeking registration as a restricted dealer) in a non-principal passport jurisdiction. To register in a non-principal jurisdiction, a restricted dealer must apply directly to the non-principal passport regulator. This part applies to an individual seeking registration in a non-principal passport jurisdiction to act on behalf of a restricted dealer if the restricted dealer is registered as such in that jurisdiction and its principal jurisdiction.

(2) A firm seeking registration as a restricted dealer must complete the entire Form 33-109F6 and submit it, along with all supporting materials, in each jurisdiction where it seeks registration as such.

### **5.2 Filing of materials**

#### ***For a firm***

(1) Under MI 11-102, a firm that seeks registration in a non-principal passport jurisdiction in a category for which it is concurrently seeking registration in its principal jurisdiction (including Ontario) should complete the entire Form 33-109F6 and submit it together with all supporting materials.

(2) If the firm is registered in a category in its principal jurisdiction (including Ontario) and subsequently seeks registration in the same category in the non-principal passport jurisdiction, the firm should complete the items of Form 33-109F6 specified in the General Instructions to the form and submit the form. The relevant items of Form 33-109F6 are:

- A. *Contact information*
- B. *Jurisdictions where firm is seeking registration*
- C. *Categories of registration*
- K. *Collection of personal information*
- L. *Submission to jurisdiction and appointment of agent for service of process*
- M. *Signatures*

(3) If the firm seeks to add a category in the principal jurisdiction (including Ontario) and in a non-principal passport jurisdiction, the firm should complete the items of Form 33-109F6 specified in the General Instructions to the form and submit the form. The relevant items of Form 33-109F6 are

- A *Contact Information* (item 7 ultimate designated person and chief compliance officer)
- B. *Jurisdictions where firm is seeking registration*
- C. *Categories of registration*
- D. *Business structure and history* (item 7 business plan)
- E. *Capital requirements* (attachment for calculation of excess working capital)
- F *Financial Information* (item 3 insurance)

- *G Operations* (attachment for policies and procedures manual and client-related documents)
- *K. Collection or personal information*
- *M. Signatures*

(4) Making a submission under subsections (1) to (3), including submitting any supporting materials required under Form 33-109F6, by giving it to the principal regulator satisfies the firm's obligation under MI 11-102 to make the submission to the regulator in the non-principal passport jurisdiction. Making a submission under subsections (2) and (3) satisfies the firm's obligation to submit a completed Form 33-109F6.

#### ***For an individual***

(5) Under MI 11-102, the sponsoring firm of an individual who seeks registration in a non-principal passport jurisdiction in a category for which the individual is registered or is concurrently seeking registration in his or her principal jurisdiction (including Ontario) should submit a completed Form 33-109F4, or in some cases a completed Form 33-109F2, for the individual in accordance with NI 33-109.

(6) NI 33-109 requires a completed Form 33-109F4 or completed Form 33-109F2 to be submitted on NRD. NRD automatically submits the relevant form to the appropriate regulators. In some circumstances, it is not necessary to complete the entire form. For example, it is not necessary to complete the entire form for an individual to seek registration in the same category in an additional jurisdiction, to add or remove a category of registration, or to register in a category with an additional or a new sponsoring firm. In those circumstances, the relevant NRD submission indicates which items of the form to complete.

(7) Making an NRD submission under subsection (6) satisfies the individual's obligation under MI 11-102 to submit a completed Form 33-109F4.

#### ***Fees in non-principal jurisdiction***

(8) Fees required for a firm or individual to register automatically in a non-principal passport jurisdiction under MI 11-102 are annual registration fees. If the principal regulator refuses to register the firm or individual, the regulator in any non-principal passport jurisdiction in respect of which a submission was made will return the fees submitted in relation to the submission.

### **5.3 Registration**

(1) NRD will record a firm's or an individual's category of registration in the principal jurisdiction, any T&C imposed by the principal regulator, and any exemption from Part 4 of NI 31-103 or Part 2 of NI 33-109 granted by the principal regulator.

(2) Under MI 11-102, a firm or individual that is registered in a category in the firm's or individual's principal jurisdiction is automatically registered in a non-principal passport jurisdiction in the same category as in the firm's or the individual's principal jurisdiction if

- (a) in the case of a firm,

- (i) the firm submitted a completed Form 33-109F6 in accordance with NI 33-109, and
  - (ii) receipt of the submission has been acknowledged; and
- (b) in the case of an individual,
- (i) the individual's sponsoring firm is registered in the non-principal passport jurisdiction in the same category as in the firm's principal jurisdiction, and
  - (ii) the individual's sponsoring firm submitted a completed Form 33-109F4, or in some cases a completed Form 33-109F2, in accordance with NI 33-109 for the individual.

A firm's submission under section 5.2 of this policy has been acknowledged in a non-principal passport jurisdiction if NRD shows that a firm is registered in the non-principal passport jurisdiction.

If a firm or individual is registered in the same category in the principal jurisdiction and in the non-principal passport jurisdiction, MI 11-102 provides that a T&C imposed on the registration in the principal jurisdiction applies as if it were imposed in the non-principal passport jurisdiction. The T&C applies until the earlier of the date that the regulator that imposed it cancels or revokes it, or the T&C expires.

(3) NRD will record for each non-principal passport jurisdiction in respect of which the firm or individual made the relevant submission

- the firm's or the individual's automatic registration in the same category as in the principal jurisdiction,
- any T&C imposed by the principal regulator that apply automatically to the firm or individual in the non-principal jurisdiction, and
- any exemption from Part 4 of NI 31-103 or Part 2 of NI 33-109 granted by the principal regulator that applies automatically in the non-principal jurisdiction.

If a firm or individual made the relevant submission to register concurrently in the principal jurisdiction and one or more non-principal passport jurisdictions, NRD will show the same registration date in the principal jurisdiction and the non-principal jurisdiction(s). If a firm or individual is already registered in the principal jurisdiction when the firm or individual makes the relevant submission in respect of a non-principal jurisdiction, NRD will show the date of automatic registration in the non-principal passport jurisdiction (which will be different from the date of registration in the principal jurisdiction).

(4) The principal regulator may grant or have granted a discretionary exemption application from a requirement of Part 4 of NI 31-103 or Part 2 of NI 33-109 in connection with an application to

register in the principal jurisdiction. In that case, the exemption applies automatically in the non-principal passport jurisdiction in which the firm or individual is registered automatically under MI 11-102 if certain conditions are met. The conditions are set out section 4.7 of MI 11-102. Among other things, section 4.7(1)(c) of MI 11-102 requires the applicant to give notice of intention to rely on the exemption in the non-principal jurisdiction.

## **PART 6      INTERFACE REGISTRATION**

### **6.1    Application**

(1) This part applies to a firm or an individual seeking registration in any category (other than a firm seeking registration as a restricted dealer) in Ontario when Ontario is a non-principal jurisdiction. To register in Ontario, a restricted dealer must apply directly to the OSC. This part applies to an individual seeking registration in Ontario to act on behalf of a restricted dealer if the restricted dealer is registered as such in Ontario and its principal jurisdiction.

(2) A firm seeking registration as a restricted dealer in Ontario must complete the entire Form 33-109F6 and submit it, along with all supporting materials, directly to the OSC whether Ontario is the firm's principal jurisdiction or non-principal jurisdiction.

### **6.2    Filing materials**

#### ***For a firm***

(1) If a firm seeks registration in Ontario in a category for which it is concurrently seeking registration in its principal jurisdiction, the firm should complete the entire Form 33-109F6 and submit it to its principal regulator and the OSC. Supporting materials that are required under Form 33-109F6 may be submitted to the OSC by giving them to the principal regulator.

(2) If a firm is registered in a category in its principal jurisdiction and subsequently seeks registration in the same category in Ontario, the firm should complete the items of Form 33-109F6 specified in the General Instructions to the form and submit the form to the principal regulator and the OSC. The relevant items of Form 33-109F6 are:

- *A. Contact information*
- *B. Jurisdictions where firm is seeking registration*
- *C. Categories of registration*
- *K. Collection of personal information*
- *L. Submission to jurisdiction and appointment of agent for service of process*
- *M. Signatures.*

Supporting materials that are required under Form 33-109F6 may be submitted to the OSC by giving them to the principal regulator.

(3) If a firm seeks to add a category in its principal jurisdiction and in Ontario, the firm must complete the items of Form 33-109F6 specified in the General Instructions to the form and submit the form to its principal regulator and the OSC. The relevant items of Form 33-109F6 are:

- A *Contact Information* (item 7 ultimate designated person and chief compliance officer)
- B. *Jurisdictions where firm is seeking registration*
- C. *Categories of registration*
- D. *Business structure and history* (item 7 business plan)
- E. *Capital requirements* (attachment for calculation of excess working capital)
- F *Financial Information* (item 3 insurance)
- G *Operations* (attachment for policies and procedures manual and client-related documents)
- K. *Collection or personal information*
- M. *Signatures*

Supporting materials that are required under Form 33-109F6 may be submitted to the OSC by giving them to the principal regulator.

***For an individual***

(4) Under NI 33-109, the sponsoring firm of an individual who seeks registration is required to submit a completed Form 33-109F4, or in some cases a completed Form 33-109F2, for the individual through NRD. NRD automatically submits the relevant form to the appropriate regulators. In some circumstances, it is not necessary to complete the entire form. For example, it is not necessary to complete the entire form for an individual to seek registration in the same category in an additional jurisdiction, to add or remove a category of registration, or to register in a category with an additional or a new sponsoring firm. In those circumstances, the relevant NRD submission indicates which items of the form to complete.

(5) Making an NRD submission under subsection (4) satisfies the individual's obligation to submit a completed Form 33-109F4.

**6.3 Decision-making process**

(1) If a firm or individual seeks registration in the principal jurisdiction and in Ontario, the firm or the individual's sponsoring firm will generally deal only with the principal regulator.

(2) The principal regulator will submit to the OSC (or the Ontario office of IIROC, for an individual seeking registration as a representative of an investment dealer) an interface document containing its proposed determination. The OSC will advise the principal regulator whether it opts in to, or opts out of, the principal regulator's proposed determination generally within one business day from receiving the interface document. The Ontario office of IIROC will generally do this within [\*] business days from receiving the interface document.

(3) The OSC may impose a local T&C on a firm's or an individual's registration without opting out.

(4) If the OSC opts out, it will give the principal regulator written reasons for its decision and the principal regulator will forward the reasons to the firm or the individual's sponsoring firm and use its best efforts to resolve the opt-out issues with the firm or the sponsoring firm of the individual and the OSC.

(5) If the principal regulator is able to resolve the OSC's opt-out issues with the firm or the individual's sponsoring firm before NRD shows the firm or individual as being registered in the principal jurisdiction, the OSC may opt back into the interface registration. In that case, the OSC will notify the principal regulator and the firm or the individual's sponsoring firm that it has opted back in. If the principal regulator is unable to resolve the OSC's opt-out issues, the firm or individual's sponsoring firm should deal with the OSC directly to resolve them.

#### **6.4 Decision**

(1) NRD will record a firm or individual's category of registration in the principal jurisdiction, any T&C that applies in the principal jurisdiction, and any exemption from Part 4 of NI 31-103 or Part 2 of NI 33-109 granted by the principal regulator. If the OSC opts in, NRD will also record that the firm or individual is registered in the same category in Ontario and that the OSC has adopted the same T&C and granted the same exemption from Part 4 of NI 31-103 or Part 2 of NI 33-109 as the principal regulator.

(2) If the OSC imposes a local T&C on a firm's or an individual's registration, NRD will also record any T&C applicable in Ontario only.

#### **6.5 Opportunity to be heard**

(1) If the principal regulator of a firm or an individual that seeks registration in the principal jurisdiction and, concurrently, in Ontario is not prepared to grant registration or is prepared to grant registration with a T&C, the principal regulator will

- send the firm or the individual's sponsoring firm a copy of the principal regulator's proposed T&C, if applicable, and
- notify the firm or the individual's sponsoring firm that it has the right to request an opportunity to be heard from the principal regulator.

If the OSC opts in to the determination of the principal regulator to refuse registration or impose a T&C, the principal regulator will forward to the firm or the individual's sponsoring firm the OSC's notification that the firm or individual has the right to request an opportunity to be heard from the OSC.

(2) If a firm or individual exercises the right to request an opportunity to be heard from the principal regulator or from the principal regulator and the OSC, the principal regulator will notify the OSC.

(3) If the firm or the individual's sponsoring firm also requests an opportunity to be heard in Ontario, the principal regulator and the OSC will decide whether to provide an opportunity to be heard separately, jointly or concurrently. After the firm or individual had an opportunity to be heard and the principal regulator makes a decision, the principal regulator will send to the OSC a new interface document setting out its proposed determination, if applicable.

(4) If a firm or individual is registered in the principal jurisdiction and, subsequently, applies to register in Ontario, and the OSC decides to refuse registration or impose a local T&C, the OSC will send the principal regulator for the firm or the individual

- a copy of the T&C, if applicable, and
- the OSC's notification that the firm or individual has the right to request an opportunity to be heard in Ontario.

The principal regulator will forward these documents to the firm or individual's sponsoring firm. Thereafter, the firm or individual will deal directly with the OSC.

**Schedule E**  
**Amendments**  
**to**  
**National Policy 11-202 Process for Prospectus Reviews in Multiple Jurisdictions**

- 1** *This Instrument amends National Policy 11-202 Process for Prospectus Reviews in Multiple Jurisdictions.*
- 2** *Section 4.1 is amended by striking out “under this policy” and substituting “under this policy and MI 11-102”.*
- 3** *Section 7.1(1) is amended by striking out the last sentence and substituting “To assist filers, the principal regulator will list in its receipt the passport jurisdictions where the prospectus has been filed under MI 11-102 and indicate that a receipt is deemed to be issued in each of those jurisdictions, if the conditions of MI 11-102 have been satisfied.”.*
- 4** *Section 7.1 is amended by adding the following:*
  - (3) If a pro forma prospectus or an amended and restated preliminary prospectus is filed in the principal jurisdiction and a preliminary prospectus is filed in a non-principal jurisdiction, the principal regulator will issue a document that evidences that the regulator in the non-principal jurisdiction issued a receipt for the preliminary prospectus.
- 5** *These amendments come into effect on \*\*, 2009.*

## **Schedule F**

### **National Policy 11-203** *Process for Exemptive Relief Applications in Multiple Jurisdictions*

#### **PART 1 APPLICATION**

- 1.1 Application

#### **PART 2 DEFINITIONS**

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**PART 7 DECISION-MAKING PROCESS**

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**PART 8 DECISION**

- 8.1 Effect of decision made under passport application
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- 8.4 Listing non-principal jurisdictions
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**PART 9 EFFECTIVE DATE AND TRANSITION**

- 9.1 Effective date
- 9.2 Exemptive relief applications filed before March 17, 2008
- 9.3 Availability of passport for exemptions applied for before March 17, 2008
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**Annex A**

Form of decision for passport application

**Annex B**

Form of decision for a dual application

**Annex C**

Form of decision for coordinated review application

**Annex D**

Form of decision for hybrid application

**National Policy 11-203**  
*Process for Exemptive Relief Applications in Multiple Jurisdictions*

**PART 1 APPLICATION**

**1.1 Application** – This policy describes the process for the filing and review of an application for exemptive relief in more than one Canadian jurisdiction.

**PART 2 DEFINITIONS**

**2.1 Definitions** – In this policy

“AMF” means the regulator in Québec;

“application” means a request for exemptive relief other than a pre-filing or waiver application as those terms are defined in NP 11-202;

“coordinated review application” means an application described in section 3.4 of this policy;

“coordinated review” means the review under this policy of a coordinated review application;

“CP 11-102” means Companion Policy 11-102CP *Passport System* to MI 11-102;

“dual application” means an application described in section 3.3 of this policy;

“dual review” means the review under this policy of a dual application;

“exemption” means any discretionary exemption to which Part 4 of MI 11-102 applies;

“exemptive relief” means any approval, decision, declaration, designation, determination, exemption, extension, order, ruling, permission, recognition, revocation, waiver or other relief sought under securities legislation or securities directions;

“filer” means

- (a) a person or company filing an application, or
- (b) an agent of a person or company referred to in paragraph (a);

“hybrid application” means an application comprised of both

- (a) a passport application or dual application, and
- (b) a coordinated review application;

“MI 11-102” means Multilateral Instrument 11-102 *Passport System*;

“notified passport jurisdiction” means a passport jurisdiction for which a filer gave the notice referred to in section 4.7(1)(c) of MI 11-102

“NP 11-202” means National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*;

“NP 11-204” means National Policy 11-204 *Process for Registration in Multiple Jurisdictions*;

“OSC” means the regulator in Ontario;

“passport application” means an application described in section 3.2 of this policy;

“passport jurisdiction” means the jurisdiction of a passport regulator;

“passport regulator” means a regulator that has adopted MI 11-102;

“pre-filing” means a consultation with the principal regulator for an application, initiated before the filing of the application, regarding the interpretation of securities legislation or securities directions or their application to a particular transaction or matter or proposed transaction or matter; and

“regulator” means a securities regulatory authority or regulator.

**2.2 Further definitions** – Terms used in this policy that are defined in MI 11-102 or National Instrument 14-101 *Definitions* have the same meanings as in those instruments.

## **PART 3 OVERVIEW, PRINCIPAL REGULATOR AND GENERAL GUIDELINES**

### **3.1 Overview**

This policy applies to any application for exemptive relief in multiple jurisdictions. These are the possible types of applications:

- (a) The principal regulator is a passport regulator and the filer does not seek an exemption in Ontario. This is a “passport application.”
- (b) The principal regulator is the OSC and the filer also seeks an exemption in a passport jurisdiction. This is also a “passport application.”
- (c) The principal regulator is a passport regulator and the filer also seeks an exemption in Ontario. This is a “dual application.”
- (d) An application for any type of exemptive relief not covered by Part 4 of MI 11-102. This is a “coordinated review application.”

### **3.2 Passport application**

(1) If the principal regulator is a passport regulator and the filer does not seek an exemption in Ontario, the filer files the application only with, and pays fees only to, the principal regulator. Only the principal regulator reviews the application. The principal regulator's decision to grant an exemption automatically results in an equivalent exemption in the notified passport jurisdictions.

(2) If the principal regulator is the OSC and the filer also seeks an equivalent exemption in a passport jurisdiction, the filer files the application only with, and pays fees only to, the OSC. Only the OSC reviews the application. The OSC's decision to grant the exemption automatically results in an equivalent exemption in the notified passport jurisdictions.

**3.3 Dual application** – If the principal regulator is a passport regulator and the filer also seeks an exemption in Ontario, the filer files the application with, and pays fees to, both the principal regulator and the OSC. The principal regulator reviews the application and the OSC, as a non-principal regulator, coordinates its review with the principal regulator. The principal regulator's decision to grant the exemption automatically results in an equivalent exemption in the notified passport jurisdictions and, if the OSC has made the same decision as the principal regulator, evidences the decision of the OSC.

**3.4 Coordinated review application** – If the application is outside the scope of MI 11-102 (see section 4.1 of CP 11-102 for details on the types of applications that fall outside the scope of MI 11-102), the filer files the application and pays fees in each jurisdiction where the exemptive relief is required. The principal regulator reviews the application, and each non-principal regulator coordinates its review with the principal regulator. The decision of the principal regulator to grant exemptive relief evidences the decision of each non-principal regulator that has made the same decision as the principal regulator.

**3.5 Hybrid applications** – The processes and outcomes applicable to a passport application, dual application or a coordinated review application under this policy also apply to a hybrid application. For a hybrid application, the filer should follow the processes for both a coordinated review application and either a passport application or dual application, as appropriate.

### **3.6 Principal regulator**

(1) For any application under this policy, the principal regulator is identified in the same manner as in sections 4.1 to 4.5 of MI 11-102. This section summarizes sections 4.1 to 4.5 of MI 11-102 and provides guidance on identifying the principal regulator for an application under this policy.

(2) For the purpose of this section, a specified jurisdiction is one of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick or Nova Scotia.

(3) Except as provided in subsections (4) to (89) of this section and in section 3.7 of this policy, the principal regulator for an exemptive relief application is

- (a) for an application made for an investment fund, the regulator of the jurisdiction in which the investment fund manager's head office is located; or
- (b) for an application made for a person or company other than an investment fund, the regulator of the jurisdiction in which the person or company's head office is located.

~~(4) For~~ Except as provided in subsection (6) to (9) of this section and in section 3.7 of this policy, the principal regulator for an application for exemptive relief from a provision of securities legislation related to insider reporting, the principal regulator is the regulator in the jurisdiction in which the head office of the reporting issuer, not the insider, is located.

~~(5) For~~ Except as provided in subsection (6) to (9) of this section and in section 3.7 of this policy, the principal regulator for an application for exemptive relief from a provision of securities legislation related to take-over bids, the principal regulator is the regulator in the jurisdiction in which the head office of the issuer whose securities are subject to the take-over bid, not the person or company that is making the take-over bid, is located.

~~(6) If~~ Except as provided in subsections (7), (8) and (9) of this section and section 3.7 of this policy, if the jurisdiction identified under subsection (3), (4) or (5) is not a specified jurisdiction, the principal regulator for the application is the regulator of the specified jurisdiction with which

- (a) in the case of an application for exemptive relief from a provision of securities legislation related to insider reporting, the reporting issuer has the most significant connection,
- (b) in the case of an application for exemptive relief from a provision of securities legislation related to take-over bids, the issuer whose securities are subject to the take-over bid has the most significant connection, or
- (c) in any other case, the person or company or, in the case of an investment fund, the investment fund manager, has the most significant connection.

(7) Except as provided in subsections (8) and (9) of this section and section 3.7 of this policy, if a firm or individual makes an application for exemptive relief from a requirement in Part 4 of NI 31-103 or Part 2 of NI 33-109 in connection with an application for registration in the principal jurisdiction, the principal regulator for the exemptive relief application is the principal regulator as determined under section 3.6 of NP 11-204. Under section 3.6 of NP 11-204 the securities regulatory authority or regulator of any jurisdiction can be a principal regulator.

(8) Except as provided in subsection (8)9) of this section, and section 3.7 of this policy, if a person or company is not seeking exemptive relief in the jurisdiction of the principal regulator, as determined under subsections (3), (4), (5), (6) or (67), the principal regulator for the application is the regulator in the specified jurisdiction

- (a) in which the person or company is seeking exemptive relief, and
- (b) with which
  - (i) in the case of an application for exemptive relief from a provision of securities legislation related to insider reporting, the reporting issuer has the most significant connection,
  - (ii) in the case of an application for exemptive relief from a provision of securities legislation related to take-over bids, the issuer whose securities are subject to the take-over bid has the most significant connection, or
  - (iii) in any other case, the person or company or, in the case of an investment fund, the investment fund manager, has the most significant connection.

~~(8)~~ (9) Except as provided in section 3.7 of this policy, if at any one time a person or company is seeking more than one item of exemptive relief and not all of the exemptive relief is needed in the jurisdiction of the principal regulator, as determined under subsection (3), (4), (5), ~~(6)~~, ~~(7)~~ or ~~(68)~~, the person or company may make an application to the regulator in the specified jurisdiction

- (a) in which the person or company is seeking all of the exemptive relief, and
- (b) with which
  - (i) in the case of an application for exemptive relief from a provision of securities legislation related to insider reporting, the reporting issuer has the most significant connection,
  - (ii) in the case of an application for exemptive relief from a provision of securities legislation related to take-over bids, the issuer whose securities are subject to the take-over bid has the most significant connection, or
  - (iii) in any other case, the person or company or, in the case of an investment fund, the investment fund manager, has the most significant connection.

That regulator will be the principal regulator for the application.

(910) The factors a filer should consider in identifying the principal regulator for the application based on the most significant connection test are, in order of influential weight:

- (a) location of reporting issuer status or registration status,
- (b) location of management,

- (c) location of assets and operations,
- (d) location of majority of security holders or clients, and
- (e) location of trading market or quotation system in Canada.

### **3.7 Discretionary change in principal regulator**

(1) If the principal regulator identified under section 3.6 of this policy thinks it is not the appropriate principal regulator, it will first consult with the filer and the appropriate regulator and then give the filer a written notice of the new principal regulator and the reasons for the change.

(2) A filer may request a discretionary change of principal regulator for an application if

- (a) the filer believes the principal regulator identified under section 3.6 of this policy is not the appropriate principal regulator,
- (b) the location of the head office changes over the course of the application,
- (c) the most significant connection to a specified jurisdiction changes over the course of the application, or
- (d) the filer withdraws its application in the principal jurisdiction because no exemptive relief is required in that jurisdiction.

(3) Regulators do not anticipate changing a principal regulator except in exceptional circumstances.

(4) A filer should submit a written request for a change in principal regulator to its current principal regulator and include the reasons for requesting the change.

### **3.8 General guidelines**

(1) A filer should identify the exemptive relief that is appropriate and necessary in the principal jurisdiction and each non-principal jurisdiction to which the filer applies or for which it gives notice under section 4.7(1)(c) of MI 11-102.

(2) The terms, conditions, restrictions and requirements of a decision will reflect the securities legislation and securities directions of the principal jurisdiction.

(3) A decision will generally provide exemptive relief for the entire transaction or matter that is the subject of the application to ensure the transaction or matter gets uniform treatment in all jurisdictions. This means that, if the transaction or matter is comprised of a series of trades, the decision will generally exempt all the trades in the series and the filer will not rely on statutory exemptions for some trades and on the decision for others.

(4) The regulators are not prepared to extend the availability of a non-harmonized exemption set out in National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) to a non-principal jurisdiction where the non-harmonized exemption is not available under that rule. If a filer makes a passport application or a dual application that would have that effect, the principal regulator will request that the filer provide a representation that no person or company will rely on the exemption in that non-principal jurisdiction. For example, jurisdictions have adopted two types of offering memorandum exemptions under NI 45-106. A principal regulator would not grant an exemption that would have the effect of allowing the use of a type of offering memorandum exemption that is not available under NI 45-106 in a non-principal jurisdiction, unless the filer gave a representation that no person or company would offer the securities relying on that type of offering memorandum exemption in the non-principal jurisdiction.

(5) Regulators will generally send communications to filers by e-mail or facsimile.

## **PART 4 PRE-FILINGS**

### **4.1 General**

(1) A filer should submit a pre-filing sufficiently in advance of an application to avoid any delays in the issuance of a decision on the application.

(2) The principal regulator will treat the pre-filing as confidential except that it:

- (a) may provide copies or a description of the pre-filing to other regulators for discussion purposes if the pre-filing involves a novel and substantive issue or raises a novel policy concern, and
- (b) may have to release the pre-filing under freedom of information and protection of privacy legislation.

**4.2 Procedure for passport application pre-filing** – A filer should submit a pre-filing for a passport application by letter to the principal regulator and should

- (a) identify in the pre-filing the principal regulator for the application and each passport jurisdiction for which the filer intends to give the notice referred to in section 4.7(1)(c) of MI 11-102, and
- (b) submit the pre-filing to the principal regulator only.

### **4.3 Procedure for dual application pre-filing**

(1) A filer submitting a pre-filing for a dual application should identify in the pre-filing the principal regulator, each passport jurisdiction for which the filer intends to give the notice referred to in section 4.7(1)(c) of MI 11-102, and Ontario.

(2) The filer should submit the pre-filing only to the principal regulator. If the pre-filing is routine, the filer will deal only with the principal regulator to resolve the pre-filing.

(3) If the principal regulator determines that a pre-filing submitted as a routine pre-filing involves a novel and substantive issue or raises a novel policy concern, it will advise the filer and direct the filer to submit the pre-filing to the OSC.

(4) If it is apparent to the filer that a pre-filing involves a novel and substantive issue or raises a novel policy concern, the filer may accelerate this process by submitting the pre-filing to both the principal regulator and the OSC.

(5) If a pre-filing involves a novel and substantive issue or raises a novel policy concern, the principal regulator will arrange with the OSC to discuss it within seven business days, or as soon as practicable after the OSC receives the pre-filing.

#### **4.4 Procedure for coordinated review application pre-filing**

(1) A filer submitting a pre-filing for a coordinated review application should identify in the pre-filing the principal regulator and all non-principal jurisdictions where the filer intends to file the application.

(2) The filer should submit the pre-filing only to the principal regulator. If the pre-filing is routine, the filer will deal only with the principal regulator to resolve the pre-filing.

(3) If the principal regulator determines that a pre-filing submitted as a routine pre-filing involves a novel and substantive issue or raises a novel policy concern, it will advise the filer and direct the filer to submit the pre-filing to each non-principal regulator.

(4) If it is apparent to the filer that a pre-filing involves a novel and substantive issue or raises a novel policy concern, the filer may accelerate this process by submitting the pre-filing to the principal regulator and each non-principal regulator with whom the filer intends to file the application.

(5) If a pre-filing involves a novel and substantive issue or raises a novel policy concern, the principal regulator will arrange with the non-principal regulators to discuss the pre-filing within seven business days, or as soon as practicable after all non-principal regulators receive the pre-filing.

**4.5 Disclosure in related application** – The filer should include in the application that follows a pre-filing,

- (a) a description of the subject matter of the pre-filing and the approach taken by the principal regulator, and
- (b) any alternative approach proposed by a non-principal regulator that was involved in discussions and that disagreed with the principal regulator.

## **PART 5 FILING MATERIALS**

**5.1 Election to file under this policy and identification of principal regulator** – In its application, the filer should indicate whether it is filing a passport application, dual application, coordinated review application or hybrid application under this policy and identify the principal regulator for the application. If submitting a hybrid application, the filer should indicate whether it includes a passport application or a dual application.

### **5.2 Materials to be filed with application**

(1) For a passport application, the filer should remit to the principal regulator the fees payable under the securities legislation of the principal regulator, and file the following materials with the principal regulator only:

- (a) a written application drafted in accordance with the procedures of the principal regulator as to format and content in which the filer:
  - (i) states the basis for identifying the principal regulator under section 3.6 of this policy,
  - (ii) identifies whether another application in connection with the same transaction or matter has been filed in one or more jurisdictions, the reasons for that application, and the principal regulator for that application,
  - (iii) sets out, for any related pre-filing, the information referred to in section 4.5 of this policy,
  - (iv) sets out, under separate headings, each provision of securities legislation listed in Appendix D of MI 11-102 below the name of the principal jurisdiction from which the filer and other relevant party seek an exemption,
  - (v) gives notice of the non-principal passport jurisdictions for which section 4.7(1) of MI 11-102 is intended to be relied upon for each equivalent provision of the local jurisdiction,
  - (vi) sets out any request for confidentiality,
  - (vii) sets out references to previous decisions of the principal regulator or other regulators that would support granting the exemption, or indicates that the exemption sought is novel and has not been previously granted;
  - (viii) includes a verification statement that authorizes the filing of the application and confirms the truth of the facts in the application; and
  - (ix) states that the filer and other relevant party is not in default of securities legislation in any jurisdiction or, if the filer is in default, the nature of the default;

- (b) supporting materials; and
- (c) a draft form of decision with terms, conditions, restrictions or requirements, including
  - (i) a representation stating that the filer and other relevant party are not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, the nature of the default; and
  - (ii) resale restrictions, if applicable, based on the securities legislation and securities directions of the principal jurisdiction.

(2) For a dual application, the filer should remit the fees payable under the securities legislation of the principal regulator and the OSC to each of them, as appropriate, and file the following materials with both the principal regulator and the OSC:

- (a) a written application drafted in accordance with the procedures of the principal regulator as to format and content in which the filer:
  - (i) states the basis for identifying the principal regulator under section 3.6 of this policy,
  - (ii) identifies whether another application in connection with the same transaction or matter has been filed in one or more jurisdictions, the reasons for the application, and the principal regulator for that application,
  - (iii) sets out, for any related pre-filing, the information referred to in section 4.5 of this policy,
  - (iv) sets out, under separate headings, each provision of securities legislation listed in Appendix D of MI 11-102 below the name of the principal jurisdiction from which the filer and other relevant party seek an exemption, the relevant provisions of securities legislation in Ontario and an analysis of any differences between the applicable provisions in the principal jurisdiction and Ontario,
  - (v) gives notice of the non-principal passport jurisdictions for which section 4.7(1) of MI 11-102 is intended to be relied upon for each equivalent provision of the local jurisdiction,
  - (vi) sets out any request for confidentiality,
  - (vii) sets out any request to shorten the review period (see section 6.2(3) of this policy) or the opt-out period (see section 7.2(4) of this policy) and provides supporting reasons,

- (viii) sets out references to previous decisions of the principal regulator or other regulators that would support granting the exemption, or indicates that the exemption sought is novel and has not been previously granted;
  - (ix) includes a verification statement that authorizes the filing of the application and confirms the truth of the facts in the application; and
  - (x) states that the filer and any relevant party are not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, the nature of the default;
- (b) supporting materials; and
- (c) a draft form of decision with terms, conditions, restrictions or requirements, including
- (i) a representation stating that the filer and other relevant party are not in default of securities legislation in any jurisdiction or if the filer or relevant party is in default, the nature of the default; and
  - (ii) resale restrictions, if applicable, based on the securities legislation and securities directions of the principal jurisdiction.

(3) For a coordinated review application, the filer should remit the fees payable under the securities legislation of the principal regulator and each non-principal regulator from whom the filer or other relevant parties seek exemptive relief to each of them, as appropriate, and file the following materials with the principal regulator and each of the non-principal regulators:

- (a) a written application drafted in accordance with the procedures of the principal regulator as to format and content in which the filer:
  - (i) states the basis for identifying the principal regulator section 3.6 of this policy,
  - (ii) identifies whether another application in connection with the same transaction or matter has been filed in one or more jurisdictions, the reasons for the application, and the principal regulator for that application,
  - (iii) sets out, for any related pre-filing, the information referred to in section 4.5 of this policy,
  - (iv) sets out, under separate headings, each provision of securities legislation in the principal jurisdiction from which the filer and other relevant party are seeking exemptive relief, the relevant provisions of securities legislation in each non-principal jurisdiction, and an analysis of any differences between the applicable provisions in the principal jurisdiction and each non-principal jurisdiction,
  - (v) sets out any request for confidentiality,

- (vi) sets out any request to shorten the review period (see section 6.2(3) of this policy) or the opt-out period (see section 7.2(4) of this policy) and provides supporting reasons,
  - (vii) sets out references to previous decisions of the principal regulator or other regulators that would support granting the exemptive relief, or indicates that the exemptive relief sought is novel and has not been previously granted;
  - (viii) includes a verification statement that authorizes the filing of the application and confirms the truth of the facts in the application; and
  - (ix) states that the filer and any other relevant party are not in default of securities legislation in any jurisdiction or if the filer or other relevant party is in default, the nature of the default;
- (b) supporting materials; and
- (c) a draft form of decision with terms, conditions, restrictions or requirements, including
- (i) a representation stating that the filer and any other relevant party are not in default of securities legislation in any jurisdiction or if the filer or other relevant party is in default, the nature of the default; and
  - (ii) resale restrictions, if applicable, based on the securities legislation and securities directions of the principal jurisdiction.
- (4) For a hybrid application, the filer should pay the fees, file the application with each regulator and, for each type of application, set out the exemption or exemptive relief sought and submit the relevant information and materials, all as described in this section.
- (5) A filer should file an application sufficiently in advance of any deadline to ensure that staff have a reasonable opportunity to complete the review and make recommendations for a decision.
- (6) A filer making a passport application or a dual application should identify in the application all the exemptions required and give the required notice for all the passport jurisdictions for which section 4.7(1) of MI 11-102 is intended to be relied upon. The notice given under subsection (1)(a)(v) or (2)(a)(v) above satisfies the notice requirement of section 4.7(1)(c) of MI 11-102.
- (7) A filer seeking exemptive relief in Québec should file a French language version of the draft decision when the AMF is acting as principal regulator.

**5.3 Materials to be filed to make an exemption available in an additional passport jurisdiction under sections 4.7 and 4.8 of MI 11-102**

(1) Under section 4.7(1) of MI 11-102, an exemption from a provision of securities legislation listed in Appendix D of that Instrument granted by the principal regulator under a passport application or dual application can become available in a non-principal passport jurisdiction for which the filer did not give the notice referred to in section 5.2(1)(a)(v) or 5.2(2)(a)(v) of this policy in the initial application if certain conditions are met. One of the conditions is that the filer give the notice under section 4.7(1)(c) of MI 11-102 for the additional non-principal passport jurisdiction.

(2) Under section 4.8(1) of MI 11-102, an exemption from a provision of securities legislation that is now listed in Appendix D of that Instrument and that was granted before March 17, 2008 by the regulator in a specified jurisdiction, as defined in that section, can also become available in a non-principal passport jurisdiction if certain conditions are met. One of the conditions is that the filer gives the notice under section 4.8(1)(c) of MI 11-102 for the non-principal passport jurisdiction. Under section 4.8(3), the filer is not required to give this notice if the exemption relates to a CD requirement, as defined in Multilateral Instrument 11-101 *Principal Regulator System*, that is now listed in Appendix D of MI 11-102 and other conditions are met. For more guidance on section 4.8(1) of MI 11-102, refer to section 9.3 of this policy and section 4.5 of CP 11-102.

(3) For greater certainty, a filer may not rely on section 4.7 or 4.8 of MI 11-102 to obtain an automatic exemption from a provision of Ontario's securities legislation listed in Appendix D of MI 11-102. A filer may rely on section 4.7 and 4.8 of MI 11-102 only in a passport jurisdiction.

(4) The filer should give the notice referred to in subsection (1) to the principal regulator for the initial application and the notice referred to in subsection (2) to the regulator that would be the principal regulator under Part 4 of MI 11-102 if an application were to be made under that Part at the time the notice is given. The notice should

- (a) list each relevant non-principal passport jurisdiction for which notice is given that section 4.7(1) or 4.8(1) of MI 11-102 is intended to be relied upon,
- (b) include the date of the decision of
  - (i) the principal regulator for the initial application, if the notice is given under section 4.7(1)(c) of MI 11-102, or
  - (ii) the regulator of the specified jurisdiction that granted the application, if the notice is given under section 4.8(1)(c) of MI 11-102,
- (c) include the citation for the regulator's decision,
- (d) describe the exemption the regulator granted, and
- (e) confirm that the exemption is still in effect.

(5) If an exemption sought in a passport application or a dual application is required in a non-principal jurisdiction at the time the filer files the application, but the filer does not give the notice required under section 4.7(1)(c) of MI 11-102 for that jurisdiction until after the principal regulator grants the exemption, the regulator of the non-principal passport jurisdiction will take appropriate action. This could include removing the exemption, in which case the filer would have an opportunity to be heard in that jurisdiction in appropriate circumstances.

(6) The regulator that receives the notice referred to in subsection (1) or (2) will send a copy of the notice and its decision to the regulator in the relevant non-principal passport jurisdiction.

#### **5.4 Request for confidentiality**

(1) A filer requesting that the regulators hold an application and supporting materials in confidence during the application review process should provide a substantive reason for the request in its application.

(2) If a filer is requesting that the regulators hold the application, supporting materials, or decision in confidence after the effective date of the decision, the filer should describe the request for confidentiality separately in its application, and pay any required fee:

- (a) in the principal jurisdiction, if the filer is making a passport application,
- (b) in the principal jurisdiction and in Ontario, if the filer is making a dual application, or
- (c) in each jurisdiction, if the filer is making a coordinated review application.

(3) Any request for confidentiality should explain why the request is reasonable in the circumstances and not prejudicial to the public interest and when any decision granting confidentiality could expire.

(4) Communications on requests for confidentiality will normally take place by e-mail. If a filer is concerned with this practice, the filer may request in the application that all communications take place by facsimile or telephone.

**5.5 Filing** – A filer should send the application materials in paper together with the fees to

- (a) the principal regulator, in the case of a passport application,
- (b) the principal regulator and the OSC, in the case of a dual application, or
- (c) each regulator from which the filer seeks exemptive relief, in the case of a coordinated review application.

The filer should also provide an electronic copy of the application materials, including the draft decision document, by e-mail or on CD ROM. Filing the application concurrently in all required jurisdictions will make it easier for the principal regulator and non-principal regulators, if

applicable, to process the application expeditiously. In British Columbia, an electronic filing system is available for filing and tracking exemptive relief applications. Filers should file an application in British Columbia using that system instead of e-mail. Filers should file applications related to National Instrument 81-102 *Mutual Funds* on SEDAR.

Filers should send pre-filing and application materials by e-mail using the relevant address or addresses listed below:

|                           |  |
|---------------------------|--|
| British Columbia          | <a href="http://www.bcsc.bc.ca">www.bcsc.bc.ca</a> (click on BCSC e-services and follow the steps) |
| Alberta                   | <a href="mailto:legalapplications@seccom.ab.ca">legalapplications@seccom.ab.ca</a>                 |
| Saskatchewan              | <a href="mailto:exemptions@sfsc.gov.sk.ca">exemptions@sfsc.gov.sk.ca</a>                           |
| Manitoba                  | <a href="mailto:exemptions.msc@gov.mb.ca">exemptions.msc@gov.mb.ca</a>                             |
| Ontario                   | <a href="mailto:applications@osc.gov.on.ca">applications@osc.gov.on.ca</a>                         |
| Québec                    | <a href="mailto:Dispenses-Passeport@lautorite.qc.ca">Dispenses-Passeport@lautorite.qc.ca</a>       |
| New Brunswick             | <a href="mailto:Passport-passeport@nbsc-cvmnb.ca">Passport-passeport@nbsc-cvmnb.ca</a>             |
| Nova Scotia               | <a href="mailto:nsscexemptions@gov.ns.ca">nsscexemptions@gov.ns.ca</a>                             |
| Prince Edward Island      | <a href="mailto:CCIS@gov.pe.ca">CCIS@gov.pe.ca</a>   |
| Newfoundland and Labrador | <a href="mailto:securitiesexemptions@gov.nl.ca">securitiesexemptions@gov.nl.ca</a>                 |
| Yukon                     | <a href="mailto:Corporateaffairs@gov.yk.ca">Corporateaffairs@gov.yk.ca</a>                         |
| Northwest Territories     | <a href="mailto:SecuritiesRegistry@gov.nt.ca">SecuritiesRegistry@gov.nt.ca</a>                     |
| Nunavut                   | <a href="mailto:legalregistries@gov.nu.ca">legalregistries@gov.nu.ca</a>                           |

**5.6 Incomplete or deficient material** – If the filer’s materials are deficient or incomplete, the principal regulator may ask the filer to file an amended application. This will likely delay the review of the application.

### **5.7 Acknowledgment of receipt of filing**

(1) After the principal regulator receives a complete and adequate application, the principal regulator will send the filer an acknowledgment of receipt of the application. The principal regulator will send a copy of the acknowledgement to any other regulator with whom the filer has filed the application. The acknowledgement will identify the name, phone number, fax number and e-mail address of the individual reviewing the application.

(2) For a dual application, coordinated review application or hybrid application, the principal regulator will tell the filer, in the acknowledgement, the end date of the review period identified in section 6.2(3) of this policy.

### **5.8 Withdrawal or abandonment of application**

(1) If a filer withdraws an application at any time during the process, the filer is responsible for notifying the principal regulator and any non-principal regulator with whom the filer filed the application and for providing an explanation of the withdrawal.

(2) If at any time during the review process, the principal regulator determines that a filer has abandoned an application, the principal regulator will notify the filer that it will mark the application as “abandoned”. In that case, the principal regulator will close the file without further

notice to the filer unless the filer provides acceptable reasons not to close the file in writing within 10 business days. If the filer does not, the principal regulator will notify the filer and any non-principal regulator with whom the filer filed the application that the principal regulator has closed the file.

## **PART 6 REVIEW OF MATERIALS**

### **6.1 Review of passport application**

(1) The principal regulator will review any passport application in accordance with its securities legislation and securities directions and based on its review procedures, analysis and considering previous decisions.

(2) The filer will deal only with the principal regulator, who will provide comments to and receive responses from the filer.

### **6.2 Review and processing of dual application or coordinated review application**

(1) The principal regulator will review any dual application or coordinated review application in accordance with its securities legislation and securities directions, based on its review procedures, analysis and considering previous decisions. The principal regulator will consider any comments from a non-principal regulator with whom the filer filed the application. Please refer to section 5.2(2) of this policy for guidance on the non-principal regulator with whom a filer should file a dual application, and to section 5.2(3) for similar guidance for a coordinated review application.

(2) The filer will generally deal only with the principal regulator, who will be responsible for providing comments to the filer once it has considered the comments from the non-principal regulators and completed its own review. However, in exceptional circumstances, the principal regulator may refer the filer to a non-principal regulator with whom the filer has filed the application.

(3) A non-principal regulator with whom the filer has filed the application will have seven business days from receiving the acknowledgement referred to in section 5.7(1) of this policy to review the application. In exceptional circumstances, if the filer filed the dual application or coordinated review application concurrently in the non-principal jurisdictions and shows that it is necessary and reasonable in the circumstances for the application to receive immediate attention, the principal regulator may abridge the review period. A non-principal regulator that disagrees with abridging the review period may notify the filer and the principal regulator and request the filer to withdraw the application in that jurisdiction. In that case, the application will proceed as a local application without the need to file a new application and pay any additional related fees.

(4) Exceptional circumstances when the principal regulator may abridge the review period include:

- (a) where exemptive relief is sought for a contested take-over bid and delay would prejudice the filer's position, and

- (b) other situations in which the filer is responding to a critical event beyond its control and could not have applied for the exemptive relief earlier.
- (5) Unless the filer provides compelling reasons as to why it did not start the application process sooner, the principal regulator will not consider the following circumstances as exceptional:
- (a) the mailing of a management information circular for a scheduled meeting of security holders to consider a transaction,
  - (b) the filing of a prospectus where the receipt for the prospectus cannot evidence the exemptive relief,
  - (c) the closing of a transaction,
  - (d) the filing of a continuous disclosure document shortly before the date on which its filing is required, or
  - (e) other situations in which the deadline was known before filing the application and the filer could have filed the application earlier.

While staff will attempt to accommodate transaction timing where possible, filers planning time-sensitive transactions should build sufficient regulatory approval time into their transaction schedules.

The fact that a filer may consider an application as routine is not a compelling argument for requesting an abridgement.

(6) Filers should provide sufficient information in an application to enable staff to assess how quickly they should handle the application. For example, if the filer has committed to take certain steps by a specific date and needs to have staff's view or a decision by that date, the filer should explain why staff's view or the exemptive relief is required by the specific date and identify these time constraints in its application.

(7) A non-principal regulator with whom the filer has filed the dual application or coordinated review application will advise the principal regulator, before the expiration of the review period, of any substantive issues that, if left unresolved, would cause staff to recommend that the non-principal regulator opt out of the review. The principal regulator may assume that a non-principal regulator does not have comments on the application if the principal regulator does not receive them within the review period.

(8) A non-principal regulator with whom the filer has filed the dual application or coordinated review application will notify the filer and the principal regulator and request that the filer withdraw the application if staff of the non-principal regulator think that no exemptive relief is required under its securities legislation.

## **PART 7 DECISION-MAKING PROCESS**

### **7.1 Passport application**

(1) After completing the review process and after considering the recommendation of its staff, the principal regulator will determine whether to grant or deny the exemption a filer sought in a passport application.

(2) If the principal regulator is not prepared to grant the exemption a filer sought in its passport application based on the information before it, it will notify the filer accordingly.

(3) If a filer receives a notice under subsection (2) and this process is available in the principal jurisdiction, the filer may request the opportunity to appear before, and make submissions to, the principal regulator.

### **7.2 Dual application or coordinated review application**

(1) After completing the review process and after considering the recommendation of its staff, the principal regulator will determine whether to grant or deny the exemption a filer sought in a dual application or the exemptive relief the filer sought in a coordinated review application and immediately circulate its decision to the non-principal regulators with whom the filer filed the application.

(2) Each non-principal regulator with whom the filer filed the dual application or coordinated review application will have five business days from receipt of the principal regulator's decision to confirm whether it has made the same decision and is opting in or is opting out of the dual review or coordinated review.

(3) If the non-principal regulator is silent, the principal regulator will consider that the non-principal regulator has opted out.

(4) If the filer shows that it is necessary and reasonable in the circumstances, the principal regulator may request, but cannot require, the non-principal regulators to abridge the opt-out period. In some circumstances, abridging the opt-out period may not be feasible. For example, in many jurisdictions, only a panel of the regulator that convenes according to a schedule can make some types of decisions.

(5) The principal regulator will not send the filer a decision for a dual application or coordinated review application before the earlier of

- (a) the expiry of the opt-out period, or
- (b) receipt from a non-principal regulator with whom the filer filed the application of the confirmation referred to in subsection (2).

(6) If the principal regulator is not prepared to grant the exemption a filer sought in its dual application or the exemptive relief the filer sought in its coordinated review application based on

the information before it, it will notify the filer and all non-principal regulators with whom the filer filed the application.

(7) If a filer receives a notice under subsection (6) and this process is available in the principal jurisdiction, the filer may request the opportunity to appear before, and make submissions to, the principal regulator. The principal regulator may hold a hearing on its own, or jointly or concurrently with the non-principal regulators with whom the filer filed the application. After the hearing, the principal regulator will send a copy of the decision to the filer and all non-principal regulators with whom the filer filed the application.

(8) A non-principal regulator electing to opt out will notify the filer, the principal regulator and any other non-principal regulator with whom the filer filed the application and give its reasons for opting out. The filer may deal directly with the non-principal regulator to resolve outstanding issues and obtain a decision without having to file a new application or pay any additional related fees. If the filer and non-principal regulator resolve all outstanding issues, the non-principal regulator may opt back into the dual review or coordinated review by notifying the principal regulator and the other non-principal regulators with whom the filer filed the application within the opt-out period referred to in subsection (2).

## **PART 8 DECISION**

### **8.1 Effect of decision made under passport application**

(1) The decision of the principal regulator under a passport application to grant an exemption from a provision of securities legislation listed below the name of the principal jurisdiction in Appendix D of MI 11-102 is the decision of the principal regulator. Under MI 11-102, a filer is automatically exempt from the equivalent provision of each notified passport jurisdiction as a result of the principal regulator for the application granting the exemption.

(2) Except in the circumstances described in section 5.3(1) or (2) of this policy, the exemption is effective in each notified passport jurisdiction on the date of the principal regulator's decision (even if the regulator in the notified passport jurisdiction is closed on that date). In the circumstances described in section 5.3(1) of this policy, the exemption is effective in the relevant non-principal passport jurisdiction on the date the filer gives the notice under section 4.7(1)(c) or 4.8(1)(c) of MI 11-102 for that jurisdiction (even if the regulator in that jurisdiction is closed on that date).

### **8.2 Effect of decision made under dual application**

(1) The decision of the principal regulator under a dual application to grant an exemption from a provision of securities legislation listed below the name of the principal jurisdiction in Appendix D of MI 11-102 is the decision of the principal regulator. Under MI 11-102, a filer is automatically exempt from an equivalent provision of each notified passport jurisdiction as a result of the principal regulator for the application granting the exemption. The decision of the principal regulator under a dual application also evidences the OSC's decision, if the OSC has confirmed that it has made the same decision as the principal regulator.

(2) The principal regulator will not issue the decision until the earlier of

- (a) the date that the OSC confirms that it has made the same decision as the principal regulator, or
- (b) the date the opt-out period referred to in section 7.2(2) of this policy has expired.

### **8.3 Effect of decision made under coordinated review application**

(1) The decision of the principal regulator under a coordinated review application to grant exemptive relief from a provision of securities legislation in the principal jurisdiction is the decision of the principal regulator and evidences the decision of each non-principal regulator that has confirmed that it has made the same decision as the principal regulator.

(2) The principal regulator will not issue the decision until the earlier of

- (a) the date that the principal regulator has received confirmation from each non-principal regulator that it has made the same decision as the principal regulator, or
- (b) the date the opt-out period referred to in section 7.2(2) of this policy has expired.

### **8.4 Listing non-principal jurisdictions**

(1) For convenience, the decision of the principal regulator on a passport application or a dual application will refer to the notified passport jurisdictions, but it is the filer's responsibility to ensure that it gives the required notice for each jurisdiction for which section 4.7(1) of MI 11-102 is intended to be relied upon.

(2) The decision of the principal regulator on a dual application or a coordinated review application will contain wording that makes it clear that the decision evidences and sets out the decision of each non-principal regulator that has made the same decision as the principal regulator.

(3) For a coordinated review application for which Québec is not the principal jurisdiction, the AMF will issue a local decision concurrently with and in addition to the principal regulator's decision. The AMF decision will contain the same terms and conditions as the principal regulator's decision. No other local regulator will issue a local decision.

### **8.5 Form of decision**

(1) Except as described in subsection (2), the decision will be in the form set out in:

- (a) Annex A, for a passport application,
- (b) Annex B, for a dual application,
- (c) Annex C, for a coordinated review application, or
- (d) Annex D, for a hybrid application.

(2) A principal regulator may issue a less formal decision where it is appropriate.

(3) If the decision is to deny the exemptive relief, the decision will set out reasons.

**8.6 Issuance of decision** – The principal regulator will send the decision to the filer and to all non-principal regulators.

## **PART 9 EFFECTIVE DATE AND TRANSITION**

### **9.1 Effective date**

This policy comes into effect on March 17, 2008.

### **9.2 Exemptive relief applications filed before March 17, 2008**

The process set out in National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications* (MRRS) will continue to apply to an exemptive relief application and any related pre-filing filed in multiple jurisdictions before March 17, 2008.

### **9.3 Availability of passport for exemptions applied for before March 17, 2008**

(1) Section 4.8(1) of MI 11-102 provides that an exemption from the equivalent provision is automatically available in the local jurisdiction if

- (a) an application was made in a specified jurisdiction before March 17, 2008 for an exemption from a provision of securities legislation that is now listed in Appendix D of MI 11-102,
- (b) the regulator in the specified jurisdiction granted the exemption before, on or after March 17, 2008, and
- (c) certain other conditions are met, including giving the required notice for the additional non-principal passport jurisdiction; refer to section 5.3 of this policy for information on where to give the required notice and what information the notice should contain.

(2) A specified jurisdiction for purposes of section 4.8 of MI 11-102 is a principal jurisdiction under Multilateral Instrument 11-101 *Principal Regulator System*. Therefore, section 4.8(1) applies to an exemption from a CD requirement, as defined in Multilateral Instrument 11-101 *Principal Regulator System*, which the principal regulator under that Instrument granted to a reporting issuer before March 17, 2008 if the exemption relates to a CD requirement that is now listed in Appendix D of MI 11-102. In this case, however, section 4.8(3) exempts a reporting issuer from having to give the notice required in section 4.8(1)(c). Refer to section 4.5 of the CP 11-102 for guidance on the effect of section 4.8 of MI 11-102.

(3) For greater certainty, a filer may not rely on section 4.8 of MI 11-102 to obtain an automatic exemption from a provision of Ontario's securities legislation listed in Appendix D of MI 11-102. A filer may rely on section 4.8 of MI 11-102 only in a passport jurisdiction.

#### **9.4 Revocation or variation of MRRS decisions made before March 17, 2008**

(1) A filer that wants the regulators to revoke an MRRS decision made before March 17, 2008 should make a coordinated review application.

(2) A filer that wants the regulators to vary an MRRS decision made before March 17, 2008 should make a coordinated review application. However, in the case of an MRRS decision that gave exemptive relief from a provision set out in Appendix D of MI 11-102, the filer should instead request new relief by making a passport application or dual application and referencing the MRRS decision in the new application and the proposed decision document.

(3) If a filer makes a passport application or a dual application under subsection (2), the filer must give the notice required under section 4.7(1)(c) of MI 11-102 and meet the other conditions of that section for the principal regulator's decision to have effect automatically in a non-principal passport jurisdiction. A filer may give the notice in the application it files with the principal regulator.

*Annex A*

**Form of decision for passport application**

[Citation:[neutral citation]]

[Date of decision]]

In the Matter of  
the Securities Legislation of  
[name of principal jurisdiction] (the Jurisdiction)

and

In the Matter of  
**the Process for Exemptive Relief Applications in Multiple Jurisdictions**

and

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

Decision

**Background**

The principal regulator in the Jurisdiction has received an application from the Filer(s) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) for **[describe the exemption sought (the Exemption Sought ) by referring to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the **[name of the principal regulator]** is the principal regulator for this application, and
- (b) the Filer(s) has(have) provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in **[names of non-principal passport jurisdictions]**.

**Interpretation**

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined. **[Add additional definitions here.]**

**Representations**

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

**[Insert material representations necessary to explain why the principal regulator came to this decision. Include the location of the Filer’s head office and, if appropriate, the connecting factor the filer used to identify the principal regulator for the application. State that the filer and any other relevant party is not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, set out the nature of the default.]**

**Decision**

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

**[Insert numbered terms, conditions, restrictions or requirements. These should include references to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

**[If any exemption has an effective date after the date of the decision, state here.]**

\_\_\_\_\_ (Name of signatory for the principal regulator)

\_\_\_\_\_ (Title)

\_\_\_\_\_ (Name of principal regulator)

*(justify signature block)*

## Annex B

### Form of decision for a dual application

[Citation:[neutral citation]]

[Date of decision]]

In the Matter of  
the Securities Legislation of  
[name of principal jurisdiction] and Ontario (the Jurisdictions)

and

In the Matter of  
**the Process for Exemptive Relief Applications in Multiple Jurisdictions**

and

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

#### Decision

#### **Background**

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer(s) for a decision under the securities legislation of the Jurisdictions (the Legislation) for **[describe the exemption sought (the Exemption Sought) by referring to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the **[name of the principal regulator]** is the principal regulator for this application,
- (b) the Filer(s) has(have) provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in **[names of non-principal passport jurisdictions]**, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

#### **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined. **[Add additional definitions here.]**

**Representations**

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

**[Insert material representations necessary to explain why the Decision Makers came to this decision. Include the location of the Filer’s head office and, if appropriate, the connecting factor the filer used to identify the principal regulator for the application. State that the filer and any other relevant party is not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, set out the nature of the default.]**

**Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

**[Insert numbered terms, conditions, restrictions or requirements. These should include references to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

**[If any exemption has an effective date after the date of the decision, state here.]**

\_\_\_\_\_ (Name of signatory for the principal regulator)

\_\_\_\_\_ (Title)

\_\_\_\_\_ (Name of principal regulator)

*(justify signature block)*

## Annex C

### Form of decision for coordinated review application

[Citation:[neutral citation]]

[Date of decision]]

In the Matter of  
the Securities Legislation of  
[name of jurisdictions participating in decision] (the Jurisdictions)

and

In the Matter of  
**the Process for Exemptive Relief Applications in Multiple Jurisdictions**

and

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

#### Decision

#### **Background**

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer(s) for a decision under the securities legislation of the Jurisdictions (the Legislation) for **[describe the exemptive relief sought (the Exemptive Relief Sought) in words (e.g., that the filer is not a reporting issuer). Do not use statutory references. Include defined terms as necessary.]**

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

- (a) the **[name of the principal regulator]** is the principal regulator for this application, and
- (b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

#### **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined. **[Add additional definitions here.]**

**Representations**

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

**[Insert material representations necessary to explain why the Decision Makers came to this decision. Include the location of the Filer’s head office and, if appropriate, the connecting factor the filer used to identify the principal regulator for the application. State that the filer and any other relevant party is not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, set out the nature of the default. Do not use statutory references.]**

**Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted provided that:

**[Insert numbered terms, conditions, restrictions or requirements. These should be generic and without statutory references to the Legislation of the Jurisdictions.]**

**[If any exemptive relief has an effective date after the date of the decision, state here.]**

\_\_\_\_\_ (Name of signatory for the principal regulator)

\_\_\_\_\_ (Title)

\_\_\_\_\_ (Name of principal regulator)

*(justify signature block)*

**Annex D**

**Form of decision for hybrid application**

[Citation:[neutral citation]]

[Date of decision]]

In the Matter of  
the Securities Legislation of  
[name of principal jurisdiction (for a passport application), or of principal jurisdiction and  
Ontario (for a dual application), and name of each jurisdiction participating in  
coordinated review application decision]

and

In the Matter of  
**the Process for Exemptive Relief Applications in Multiple Jurisdictions**

and

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

Decision

**Background**

**[If you are making a passport application, insert:]**

The securities regulatory authority or regulator in \_\_\_\_\_ has received an application from the Filer(s) for a decision under the securities legislation of the jurisdiction of the principal regulator (the Legislation) for **[describe the exemption sought (the Passport Exemption) by referring to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

**OR**

**[If you are making a dual application, insert:]**

The securities regulatory authority or regulator in \_\_\_\_\_ and Ontario (Dual Exemption Decision Makers) have received an application from the Filer(s) for a decision under the securities legislation of those jurisdictions (the Legislation) for **[describe the exemption sought (the Dual Exemption) by referring to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

**AND**

**[For your coordinated review application, insert:]**

The securities regulatory authority or regulator in each of \_\_\_\_\_ (the Jurisdictions) (Coordinated Exemptive Relief Decision Makers) has received an application from the Filer(s) for a decision under the securities legislation of the Jurisdictions (the Legislation) for **[describe the exemptive relief sought (the Coordinated Exemptive Relief) in words (e.g., that the filer is not a reporting issuer). Do not use statutory references. Include defined terms as necessary.]**

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a hybrid application):

- (a) the **[name of the principal regulator]** is the principal regulator for this application,
- (b) the Filer(s) has(ve) provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in **[names of non-principal passport jurisdictions]**,
- (c) the decision is the decision of the principal regulator, **[if you are making a dual application, insert: “and the decision evidences the decision of the securities regulatory authority or regulator in Ontario,”]** and
- (d) the decision evidences the decision of each Coordinated Exemptive Relief Decision Maker.

**Interpretation**

Terms defined in MI 11-102 and National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined. **[Add additional definitions here.]**

**Representations**

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

**[Insert material representations necessary to explain why the Decision Makers came to this decision. Include the location of the Filer’s head office and, if appropriate, the connecting factor the filer used to identify the principal regulator for the application. State that the filer and any other relevant party is not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, set out the nature of the default. Do not use statutory references.]**

**Decision**

Each of the principal regulator **[if you are making a dual application, insert: “, the securities regulatory authority or regulator in Ontario,”]** and the Coordinated Exemptive Relief Decision Makers is satisfied that the decision meets the test set out in the Legislation for the relevant regulator or securities regulatory authority to make the decision.

**[If you are making a passport application, insert:]**

The decision of the principal regulator under the Legislation is that the Passport Exemption is granted provided that:

**[Insert numbered terms, conditions, restrictions or requirements. These should include references to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

**OR**

**[If you are making a dual application, insert:]**

The decision of the Dual Exemption Decision Makers under the Legislation is that the Dual Exemption is granted provided that:

**[Insert numbered terms, conditions, restrictions or requirements. These should include references to the relevant requirement(s) or provision(s) listed in the first column of Appendix D to MI 11-102.]**

**AND**

**[For your coordinated application, insert:]**

The decision of the Coordinated Review Decision Makers under the Legislation is that the Coordinated Exemptive Relief is granted provided that:

**[Insert numbered terms, conditions, restrictions or requirements. These should be generic and without statutory references to the Legislation of the Jurisdictions.]**

**[If any exemption or exemptive relief has an effective date after the date of the decision, state here.]**

\_\_\_\_\_ (Name of signatory for the principal regulator)

\_\_\_\_\_ (Title)

\_\_\_\_\_ (Name of principal regulator)

*(justify signature block)*

## Schedule G

### MI 11-102 *Passport System*

#### List of Commenters

1. Edward Jones
2. IGM Financial<sup>1</sup>
3. Investment Industry Association of Canada
4. Investment Funds Institute of Canada
5. BMO Nesbitt Burns inc., Private Client Division
6. Canadian Bankers Association
7. Borden, Ladner, Gervais – Toronto Securities and Capital Markets practice group<sup>2</sup>
8. Investment Dealers Association of Canada (IDA)

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<sup>1</sup> Comment letter addressed to passport jurisdictions and similar letter sent to the OSC in response to OSC Notice 11-904 *Request for Comment Regarding the Proposed Passport System*.

<sup>2</sup> Comment letter addressed to passport jurisdictions and OSC in response to OSC Notice 11-904 *Request for Comment Regarding the Proposed Passport System*.

**Summary of Comments and Responses  
on the Registration Part of  
MI 11-102 *Passport System*  
(MI 11-102)**

Passport regulators adopted MI 11-102 on March 17, 2008 to establish the passport system for issuers - covering continuous disclosure, prospectuses and discretionary exemptions. When MI 11-102 was first published for comment on March 28, 2007, it also included provisions to provide a passport for registration. The following summarizes and responds to the comments on the first published version of MI 11-102 that related specifically to passport for registration.<sup>3</sup>

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**Comments**

| #  | Themes                        | Comments  | Responses   |
|----|-------------------------------|---|---|
| 1. | <b>Interface with Ontario</b> | Three commenters expressed concern about the proposed repeal of the national registration system (NRS) particularly given that the OSC is not adopting passport. They suggested either that the improvements of passport should be incorporated into NRS or that we should maintain NRS unless a simple and practical interface can be developed for Ontario. They also suggested that CSA should provide guidance on how the two regimes would interact. | Passport regulators plan to implement the passport system for registration even though the OSC is not planning to adopt MI 11-102. CSA also plans to repeal NRS. However, to make the system as efficient and effective as possible in the circumstances for all market participants who want to gain access to the capital markets in both passport jurisdictions and Ontario, passport regulators and the OSC worked together to develop interfaces between the passport jurisdictions and Ontario. |

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<sup>3</sup> The comment letters are available on the Alberta Securities Commission website at [www.albertasecurities.com](http://www.albertasecurities.com). The summary of comments and CSA responses regarding the passport system generally and the passport system for issuers is also on the ASC website, attached as Schedule J to the CSA's advance notice of implementation of MI 11-102 dated January 25, 2008.

| <b>Comments</b> |  |  |   |
|-----------------|--|--|---|
| <b>#</b>        | <b>Themes</b>                          | <b>Comments</b>  | <b>Responses</b>  |
|                 |  |  | <p>National Policy 11-204 would set out the processes for registration in multiple jurisdictions for market participants based in passport jurisdictions and in Ontario.</p> <p>NP 11-204 would maintain the processes from NRS to give registrants in passport jurisdictions efficient and coordinated access to Ontario. Proposed Part 6 of MI 11-102 would give registrants in Ontario direct access to passport jurisdictions based on the decisions of the OSC as principal regulator (PR). These interface mechanisms are consistent with those that support the passport system for issuers.</p> |
| 2.              | <b>Harmonized Terms and Conditions</b> | <p>One commenter expressed concern about the fact that under the passport system, cancellations, amendments, revocations or other changes to terms and conditions of registration (T&amp;Cs) could vary across jurisdictions because any existing terms and conditions imposed by a non-principal regulator through a settlement or a decision after a hearing would continue to apply only in the non-principal jurisdiction.</p> | <p>We propose a 30-day transition period, after which the T&amp;Cs in effect in a registrant’s principal jurisdiction would apply automatically in the jurisdictions of the registrant’s non-principal regulators (NPRs). At that time, any T&amp;Cs imposed by NPRs would no longer apply, except for T&amp;Cs imposed by an NPR under a settlement agreement or in a decision after a hearing. We have maintained this exception because we believe it would be inappropriate to cancel by ‘operation</p>   |

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| <b>Comments</b> |  |  |   |
|-----------------|--|--|---|
| <b>#</b>        | <b>Themes</b>                                    | <b>Comments</b>  | <b>Responses</b>  |
|                 |  |  | <p>of law' T&amp;Cs that result from illegal conduct or activity in a jurisdiction.</p> <p>We note, however, that it is rare for a registrant to have this type of T&amp;C. In addition, in the rare cases where they exist, a registrant would have different T&amp;Cs in multiple jurisdictions only if, after review, the PR decided not to impose the same T&amp;C as the NPR.</p> <p>We also expect that implementing proposed NI 31-103 <i>Registration Requirements</i> would result in regulators imposing fewer T&amp;Cs and, to the extent any are imposed, in the T&amp;Cs being largely uniform across jurisdictions.</p> |
| 3.              | <b>Consultation among passport jurisdictions</b> | A commenter asked that there not be a mandatory requirement for the principal regulator to consult with a non-principal regulator before making a registration-related decision. | The proposed system would not require consultations between a PR and an NPR in a passport jurisdiction before the PR makes a registration decision.   |
| 4.              | <b>Fees</b>                                      | Four commenters suggested eliminating or reducing fees in non-principal jurisdictions under passport because they believe that non-principal regulators will do no work or less  | The proposed passport for registration would maintain the status quo with respect to fees for registration. With respect to an application for an exemption covered by MI 11-102, a registrant will   |

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**Comments**

| # | Themes | Comments  | Responses   |
|---|--------|---|---|
|   |        | <p>work under passport. One commenter acknowledged that fees support the entire regulatory system and suggested that market participants pay all fees to the principal regulator. Another commenter recommended against that approach for registered firms.</p> | <p>pay fees only in its principal jurisdiction.</p> <p>The intergovernmental (passport) MOU Regarding Securities Regulation contemplates a review of fees to assess whether to change them so they are more consistent with the objectives of the passport system. The Council of Ministers under the Passport MOU asked CSA to review the fee structure of its members and propose changes to the Ministers. CSA is conducting the review and will report to the Ministers.</p> <p>All fees for individuals are submitted through National Registration Database (NRD), which provides a single-window of access for paying fees.</p> <p>When a firm applies for registration or wants to register automatically in a passport jurisdiction, NP 11-204 gives the firm the option to submit the applicable fees in each jurisdiction by cheque or on NRD. Any subsequent fees for firms are submitted on NRD.</p> |

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| Comments |   |  |  |
|----------|---|--|--|
| #        | Themes  | Comments   | Responses  |
| 5.       | <b>Registration implementation issues if Ontario does not adopt MI 11-102</b> | <p>Two commenters asked specific questions about implementing the passport system for registration without Ontario:</p> <ul style="list-style-type: none"><li>a. Could an individual whose firm has its head office in Ontario participate in passport?</li><li>b. If so, which regulator would act as principal regulator for the individual and could the firm have a principal regulator in each jurisdiction where it has representatives?</li><li>c. How will opting in and opting out of passport work for a firm whose head office and a majority of its representatives are in Ontario? If a firm cannot participate because of the location of its head office, will it have to file any documentation?</li></ul> | <ul style="list-style-type: none"><li>a. Yes.</li><li>b. The PR for the individual would generally be the regulator in the jurisdiction where the individual’s working office is located (including Ontario). A firm has only one PR for the purpose of passport, which is generally the regulator in the jurisdiction of its head office (including Ontario).</li><li>c. We have removed the provision for firms to opt-out of passport. Instead, we have included a provision that would make the T&amp;Cs of the PR apply automatically in non-principal jurisdictions and a 30-day period for a firm or individual registered in multiple jurisdictions when MI 11-102 comes into effect to apply for an exemption from the automatic application of the PR’s T&amp;Cs in the non-principal jurisdictions.</li></ul> |

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**Comments**

| #  | Themes | Comments  | Responses  |
|----|--------|---|--|
| d. |        | If a firm opts-out and Ontario decides to join passport, will the firm have the opportunity to revisit its decision?  | As indicated in the response in (c) above, this scenario is no longer contemplated.  |
| e. |        | How would NRD be updated to reflect the automatic registration process under the passport system? How will the system be different especially in light of the fact the Ontario residents will not be able to participate in passport? | When we implemented NRS, we made changes to NRD to enable a PR to record some registration decisions of NPRs affecting individual registrants. Under passport, we would enhance NRD by eliminating the need for NPRs, except the OSC, to opt in before the PR records its decision. We can do this because, under passport, NPRs (other than the OSC) no longer have to opt-in. This will speed up the process for registration in multiple jurisdictions for individuals in Ontario. For individuals outside Ontario, the OSC will be the only regulator that will still opt in. NP 11-204 provides that the OSC will generally do this within one business day from receiving the PR's proposed registration decision. The Ontario office of the Investment Industry Regulatory Organization of Canada (IIROC), the successor to the IDA, is considering what its turn around time will be in those circumstances. |

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| <b>Comments</b> |   |  |  |
|-----------------|---|--|--|
| <b>#</b>        | <b>Themes</b>                             | <b>Comments</b>  | <b>Responses</b>   |
| 6.              | <b>Transition issues for registration</b> | Two commenters submitted that the 30-day transition period proposed for firms to opt out of the passport system is too short and should be at least 180 days.  | As indicated above, we have removed the provision under which a registrant could opt-out of passport.  |
| 7.              | <b>Technical registration issues</b>      | <p>One commenter raised several technical registration issues about</p> <ul style="list-style-type: none"><li>a. the information an individual should provide on NRD to register in additional jurisdictions</li><li>b. whether the IDA will continue to approve individuals before they are registered by their principal regulator in the jurisdictions that do not delegate registration to the IDA</li><li>c. the meaning of the phrase “date on which the filing is made” as being the date of registration in a non-principal jurisdiction in section B2.3 of Appendix B to the companion policy</li></ul> | <ul style="list-style-type: none"><li>a. An individual would provide the same information on NRD as the individual currently does, using existing NRD submissions.</li><li>b. We expect no change to this procedure. The PR would make a registration decision under passport in the same manner as it does currently.</li><li>c. We would delete Form 11-102F1. Instead, a firm would use Form 33-109F6, or a subset of that form, to register in an additional jurisdiction. We have also deleted the reference to the “date on which the filing is made” and made firm registration effective in a non-principal jurisdiction when receipt of the</li></ul> |

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| <b>Comments</b> |   |  |   |
|-----------------|---|--|---|
| <b>#</b>        | <b>Themes</b>   | <b>Comments</b>  | <b>Responses</b>  |
|                 |   | d. where to request a hearing when the IDA registers firms or individuals in a jurisdiction  | submission is acknowledged. Receipt would be acknowledged when NRD shows the firm as registered in the jurisdiction.<br><br>d. We expect no change to the current procedure.  |
| 8.              | <b>Delegation of registration to self-regulatory organizations (SROs)</b> | Three commenters suggested all CSA members should consider delegating their registration function to the IDA to ensure a single point of contact in every jurisdiction and a common and consistent approach. | Delegation is outside the scope of the passport project. Any securities regulatory authority that has delegated registration functions to IIROC, the successor to the IDA, has done so under an enabling provision in its securities legislation. Any future delegation is in the discretion of the concerned regulatory authority and would need to conform to that regulator's statutory power to delegate. |

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## LIST OF COMMENTERS

### Proposed Amendments to Multilateral Instrument 11-102

#### *Passport System*

Request for Comment July 18, 2008

|    | COMMENTER                                 | NAME                 | DATE               |
|----|---|----------------------|--------------------|
| 1. | ITG Canada Corp.                          | Torstein Braaten     | September 10, 2008 |
| 2. | Investment Industry Association of Canada | Ian C.W. Russell     | September 12, 2008 |
| 3. | Baillie Gifford Overseas Ltd.             | Graham Laybourn      | September 16, 2008 |
| 4. | The Investment Fund Institute of Canada   | Joanne De Laurentiis | September 17, 2008 |
| 5. | Financial Executives International Canada | William G. Ross      | October 18, 2008   |



INVESTMENT  
TECHNOLOGY  
GROUP

**ITG Canada Corp.**

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September 10, 2008

Ms. Leigh-Anne Mercier  
Senior Legal Counsel  
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Ms. Anne-Marie Beaudoin  
Directrice du secretariat  
Autorité des marchés financiers  
Tour de la Bourse  
800, square Victoria  
C.P. 246, 22e étage  
Montréal, QC H4Z1G3

Dear Mesdames:

**Re: Proposed National Policy 11-204 *Process for Registration in Multiple Jurisdictions*, Proposed Amendments to National Instrument 11-102 and Companion Policy 11-102CP *Passport System*, National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions***

ITG Canada Corp. ("ITG Canada") is pleased to have the opportunity to offer its comments on the proposed National Instrument 11-102, "Passport System".

ITG Canada is a specialized brokerage and technology firm that provides innovative technology solutions spanning the entire investment process. Our sophisticated solutions include pre-trade analytics, advanced trade execution technologies and post-trade evaluation services.

ITG Canada supports the CSA in its efforts to drive forward the two complementary initiatives of the Passport System and Registration Reform. We believe that these initiatives will enhance the efficiency and integrity of the Canadian Capital Markets. We however suggest that the CSA has not gone far enough by making the new process more complicated than it needs to be. Until Canada evolves to a single National Regulator, which we would support, with one set of Securities Laws and Regulations, we hope that the interim steps like the Passport System would not include regional or situational specific processes for determining a principal regulator. The success of this initiative is also hindered by Ontario's decision not to participate in the same way as the other Provinces and Territories.

ITG Canada contributed to the comment letter submitted by the Investment Industry Association of Canada ("IIAC"). The IIAC comment letter represents our concerns and has our full support.

In spite of our reservations we believe the Passport System is a positive step forward to more effective and efficient regulation in Canada, until we evolve to the point of a single national regulator, which we would be in favour of.

Yours sincerely,

Torstein Braaten  
Vice President, Chief Compliance Officer  
ITG Canada Corp.



INVESTMENT INDUSTRY ASSOCIATION OF CANADA  
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

September 12, 2008

Ms. Leigh-Anne Mercier  
Senior Legal Counsel  
British Columbia Securities Commission  
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701 West Georgia Street  
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Ms. Anne-Marie Beaudoin  
Directrice du secretariat  
Autorité des marchés financiers  
Tour de la Bourse  
800, square Victoria  
C.P. 246, 22<sup>e</sup> étage  
Montréal, QC H4Z1G3

Dear Mesdames:

Re: Proposed National Policy 11-204 *Process for Registration in Multiple Jurisdictions*, Proposed Amendments to National Instrument 11-102 and Companion Policy 11-102CP *Passport System*, National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions*

#### General Comments

The Investment Industry Association of Canada appreciates the opportunity to comment on this critical phase of the Passport initiative. We re-iterate our position expressed in our past submissions on this and other initiatives, that the Passport System represents an important step in the process of restructuring the regulation of the Canadian securities marketplace, but should not be regarded as the end point of the evolution of the multi-jurisdictional Canadian market.

Conceptually, a single point of access underpinned by harmonized regulations would seem to address most of the problems with the existing fragmented marketplace. However, the reality of regional inconsistencies in regulation and the inability or unwillingness of the provinces to fully delegate authority to a principal regulator results in a complex and unwieldy process that materially erodes the objectives of simplicity and the single point of access for many transactions. These problems exist independent of, and are only exacerbated by Ontario's decision not to participate in the Passport System.

It is critical that all members of the CSA (and the governments to which they report) continue to work together to make this a truly national program, while continuing to work toward the further evolution of the Canadian regulatory structure.

#### Specific Concerns

### *1. Inconsistencies and Harmonization*

The overarching concern in respect to the Passport System in general, and this phase relating to registration in particular, is the outstanding inconsistency in regional regulation. This inconsistency significantly undermines the System's purpose and effectiveness.

Proposed National Instrument 31-103 *Registration Requirements* makes significant advances in creating a harmonized base of regulation. The harmonized regulation and the simple "passport registration" provide a good starting point for a streamlined and efficient system. However, the remaining inconsistencies both in regulatory content and processes developed to accommodate them, seriously detract from the effectiveness of this phase of Passport System implementation. Given the size of the Canadian market, and the lack of any truly unique regionally based characteristics, it is difficult to understand why the local requirements cannot be harmonized for registrants that carry on business in more than one jurisdiction.

The effects of regulatory inconsistency are most clearly demonstrated by the complexity of the processes relating to exemptive relief. The proposed Passport System does not exempt registrants from all non-harmonized requirements, and perpetuates further complexities by creating three different methods for ascertaining the principal regulator based on the type of exemptive relief that is being sought. It is difficult to reconcile the Passport System's claims of a simple single point of access in light of these complexities.

### *2. Non Participation of Ontario*

As noted above, Ontario's decision not to fully participate in the Passport System only adds to the existing problems created by these inconsistencies. The decision to allow Ontario to act as a de-facto principal regulator simplifies the process considerably, and allows for a measure of predictability for the many registrants whose principal jurisdiction is Ontario. However, the lack of reciprocity in respect of delegation of authority by Ontario creates significant inefficiencies for the many registrants seeking to register or obtain an exemption from Ontario where their principal jurisdiction is not Ontario.

### *3. Multiple Regulators*

The situation is further complicated by the fact that certain jurisdictions have delegated all or part of their registration functions to an SRO. The complexity of the situation can be illustrated by a scenario where a firm intends to register with Manitoba as its principal jurisdiction, and in Ontario, Alberta British Columbia, and Quebec as its non-principal jurisdictions. The firm would have to make a "passport application" and deal with the MSC in Manitoba, who would work with IIROC in Alberta, British Columbia and the AMF in Quebec. The firm would have to make a second "interface application" with Ontario for registration. To register individuals employed by the firm, there would be a "passport application" made to the MSC for Manitoba employees, to IIROC in Alberta, British Columbia and Quebec for employees based in those provinces. If the individuals sought registration in other non-principal jurisdictions, applications would have to be made through their principal jurisdictions to obtain that approval. A further "interface application" would have to be made with IIROC in Ontario to register the Ontario employees. When viewed from a national firm perspective, this process does not live up to its billing as a single point of access. The concerns are similar in respect to foreign firms.

### *4. Limited Broker Mobility*

The decision to retain limits on the broker mobility through the use of the exemption contained in the National Instrument 31-103 *Registration Requirements* is problematic and inconsistent with the principles of the Passport System. The requirement for firms and individuals to register in separate jurisdictions rather than nationally, remains a costly and inefficient vestige of another era where business was conducted locally rather than nationally and globally, and information was not freely and easily accessible across geographical borders and time zones. The interests of the public and the markets in general do not differ according to the regions in which they reside. Imposing barriers in respect of who can provide services to clients based on regional borders is artificial and arbitrary, and only serves those who administer the rules, fees and general infrastructure of the barriers. Individuals that are subject to the same national education and conduct provisions should be able to serve clients regardless of their location, as the public interests are the same across the country and the ability to serve clients effectively does not change based on their postal code.

Although the ability to register in different jurisdiction through a principal regulator is an improvement over the current situation, a more effective solution would allow one registration to apply to all jurisdictions at the request of the registrant. The responsibility for conduct issues could be managed by the principal jurisdiction or by the jurisdiction in which any issues of concern arise.

#### 5. Fees

Although the Passport System allows market participants to generally deal only with their principal regulator they are required to pay the applicable registration and filing fees in each jurisdiction. Given that the resources devoted to reviewing transactions are reduced, an accompanying reduction of fees should result. At a minimum, the fees paid to non-principal regulators under the Passport System should be substantially reduced.

#### Conclusion

The Investment Industry Association of Canada supports the efforts of the CSA in developing the Passport System and the harmonized regulations that underpin it. We believe that a Passport System that simplifies and streamlines regulatory processes is a positive step in creating a more effective and efficient regulatory structure in Canada. The complexities in the proposed Instrument, and the underlying remaining inconsistencies in National Instrument 31-103 however, serve to highlight the problems with the existing multi-jurisdictional system, and significantly limit the potential benefits of the Passport System. Further regulatory harmonization and, ideally, the inclusion of Ontario is required before the Passport System can be regarded as a material improvement over the status quo.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Ian Russell", with a horizontal line underneath the name.

Ian C.W. Russell FCSI  
President & Chief Executive Officer



**100** YEARS OF  
INVESTING  
1908-2008

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16 September 2008

**Via E-mail**

**British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Autorité des marchés financiers  
New Brunswick Securities Commission  
Nova Scotia Securities Commission  
Office of the Attorney General, Prince Edward Island  
Financial Services Regulation Division, Consumer and Commercial Affairs Branch,  
Department of Government Services, Newfoundland and Labrador  
Registrar of Securities, Government of Yukon  
Registrar of Securities, Department of Justice, Government of the Northwest  
Territories  
Registrar of Securities, Legal Registries Division, Department of Justice, Government  
of Nunavut**

**Delivered to:**

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Montréal, Québec H4Z 1G3  
[consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)**

Dear Sir,

**Subject: Request for Comments - Proposed National Policy 11-204 Process for Registration in Multiple Jurisdictions – Proposed amendments to multilateral instrument 11-102 Passport System, Companion Policy 11-102CP Passport System, National Policy 11-202 Process for Prospectus reviews in multiple jurisdictions and National Policy 11-203 Process for Exemptive relief applications in multiple jurisdictions and other related amendments.**

Baillie Gifford Overseas Limited (BGO) is an independent fund management firm based in Edinburgh with around C\$48 billion under management. BGO has been managing money for clients in Canada for over 16 years. The majority of clients, of BGO, are regulated pension funds, with the average asset size per client being C\$390million. BGO is regulated by the Financial Services Authority in the UK, the Securities & Exchange Commission in the United States of America, the Ontario Securities Commission, the Alberta Securities Commission and the Manitoba Securities Commission.

We appreciate the opportunity to comment on the proposed instrument.

**Support for the aims of the CSA to achieve harmonisation of the registration regime across Canada**

We support the aims of the CSA to harmonise, simplify and streamline the registration regime, by channelling registration through a principal regulator and passporting this registration across other Canadian provinces. We believe that these proposals will facilitate international firms conducting business in Canada, due to the reduced levels of administration and the simplification of the regulatory environment.

**Concerns about the lack of uniformity in approach**

National Instrument 31-103 – “Registration Requirements” indicates that the laws and regulations will not be uniformly implemented and interpreted across all Canadian provinces. We are concerned that this lack of uniformity will obstruct the goals of National Policy 11-204 which aims to allow firms to ‘meet the requirements of one set of harmonised laws’. It appears that as proposed, a firm would adhere to the laws and regulations of its principal regulator, however, it is unclear which rules it would adhere to when operating in other provinces under a ‘passport registration’, where the laws and regulations may have been interpreted and implemented slightly differently. We would encourage the CSA to ensure that each regulator passes uniform legislation and rules, so as to minimise confusion for firms when conducting business with passport regulators.

## **Exemptive relief applications in Multiple Jurisdictions**

We welcome the provisions of National Policy 11-203 regarding the "Process for Exemptive Relief Applications in Multiple Jurisdictions". However, we are concerned as to the proposed local proficiency requirements for foreign registrants. As an international investment manager of segregated, mutual and pooled portfolios, our Chief Compliance Officer is currently registered with the Financial Services Authority in the United Kingdom and the Securities & Exchange Commission in the United States of America, the Ontario Securities Commission, the Alberta Securities Commission and the Manitoba Securities Commission. In the UK, individuals registered with the Financial Services Authority are subject to Approved Person and Training & Competence requirements. We would request that where a foreign registrant is subject to the competency requirements of an equivalent regulatory regime, that those foreign regulatory requirements be recognised by the CSA rather than imposing additional local proficiency requirements on foreign registrants.

Yours sincerely

*pp Emily J. Fiske*

**Graham Laybourn  
Chief Compliance Officer  
Baillie Gifford Overseas Limited**



THE INVESTMENT FUNDS INSTITUTE OF CANADA  
L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA  
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September 17, 2008

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Autorité des marchés financiers  
New Brunswick Securities Commission  
Nova Scotia Securities Commission  
Office of the Attorney General, Prince Edward Island  
Financial Services Regulation Division, Consumer and Commercial Affairs Branch,  
Department of Government Services, Newfoundland and Labrador  
Registrar of Securities, Government of Yukon  
Registrar of Securities, Department of Justice, Government of the Northwest Territories  
Registrar of Securities, Legal Registries Division, Department of Justice, Government of  
Nunavut

Dear Sirs/Mesdames:

**Re: Proposed extension of passport system to registration**

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We are writing to provide the comments of the members of the Investment Funds Institute of Canada ("IFIC") in response to the Notice and Request for Comments on proposed National Policy 11-204 *Process for Registration in Multiple Jurisdictions* ("NP 11-204") and proposed amendments to Multilateral Instrument 11-102 *Passport System* ("MI 11-102") and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* ("NP 11-203"). We have no significant concerns with the proposed amendments to National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*.

General Comments

*Need for Harmonized Approach to NI 31-103*

The CSA has indicated that implementation of passport for registration depends on the adoption of proposed National Instrument 31-103 *Registration Requirements* ("NI 31-103"). We are concerned by the Ontario Ministry of Finance's ("the Ministry") April 24, 2008 proposals to move a substantial number of provisions out of NI 31-103 and into the Ontario *Securities Act*. We appreciate that this is not a CSA initiative but we would like to reiterate the views in our May 29, 2008 submission to the Ministry, particularly in light of the advantage to Ontario market participants under the passport system.

The passport interface already disadvantages market participants from passport jurisdictions in accessing the Ontario market in comparison with Ontario market participants accessing the markets of passport jurisdictions. The Ministry's proposed approach makes matters worse by undermining the CSA's commitment to a harmonized approach to securities regulation across Canada. In our May 29, 2008 submission to the Ministry, we noted that the proposed amendments went beyond what we believed was necessary to implement NI 31-103 and that the Ministry's approach would hamper the Ontario Securities Commission's ("OSC") ability to implement any future changes to the Instrument. We will continue to advocate that the Ministry limit the scope of the Ontario *Securities Act* amendments to those matters which cannot be implemented by the OSC under its rule-making power.

#### *Consistent Interpretation of Harmonized Regulatory Requirements*

We are pleased that the CSA is committed to a set of nationally harmonized regulatory requirements consistently interpreted and applied throughout Canada. As outlined in our October 2007 submission in response to the consultation draft passport interface, we are in support of any CSA initiatives aimed at improving consistent interpretation across jurisdictions.

In particular, we recommend that the CSA consult with market participants on the development of additional guidance concerning the treatment of novel exemptive relief applications as a way of enhancing the transparency of the decision-making process. We support the processes for dealing with novel or substantive issues outlined in NP 11-203 sections 4.2(a), 4.4(5) and 4.3(5) and believe that consistent interpretations are facilitated when the principal regulator (and the OSC in the case of a dual application) consult with other regulators on these matters.

Our understanding is that for purposes other than a coordinated review pre-filing, the principal regulator (and the OSC in the case of a dual application pre-filing) remain as the sole decision maker(s), respectively. Yet, it is not always clear who the ultimate decision-maker is when an application involves a novel issue. It has been the experience of some of our members that as a practical matter, in order to build consensus for decisions before they are issued, the decision makers often pass along the comments of the non-participating regulators to the filer. The net effect is that the filer is effectively dealing with multiple regulators indirectly, and that the principal regulator acts more as a spokesperson for the collective group rather than as the decision maker. From an applicant's perspective, this can result in a lack of transparency (by having to respond to comments where the source of the comments is not apparent) and may result in significant delays in the decision-making process, due to the time required to build consensus or due to delays that occur when new issues are raised late in the process, after the filer believes matters have been settled with the principal regulator. While we support discussion of novel issues by the different regulators we urge the CSA to further clarify and streamline the review and decision-making process for novel exemptive relief applications.

## Proposed National Policy 11-204

### *Delegation to Self Regulatory Organizations for Registration*

Section 3.5 accommodates registration through self-regulatory organizations (“SROs”) in jurisdictions where the necessary arrangements are in place. We note that this is an area where there is a need for a uniform policy across jurisdictions. The current lack of harmonization in the delegation of authority to the Investment Industry Regulatory Organization of Canada (“IIROC”) to grant registration under provincial securities legislation is at odds with the objectives of the passport system. Furthermore, there are also discrepancies among the jurisdictions that have authorized IIROC to perform part of the registration function. A firm or individual may have to deal with two regulators and IIROC depending on the principal jurisdiction, the type of registration sought and the non-principal jurisdictions in which the firm or individual is seeking registration.

For example, if an IIROC regulated Dealer headquartered in Manitoba wishes to register an officer or director across all jurisdictions, separate applications are required to be filed with the Manitoba Securities Commission, the IIROC prairie regional office (which administers IIROC registrations in Manitoba), and the IIROC office in Ontario (to whom registration activities have been delegated by the OSC). This is inconsistent with a system intended to provide “market participants access to capital markets in multiple jurisdictions by dealing with only its principal regulator<sup>1</sup>”. We also note that no delegation of authority has been made with respect to the Mutual Fund Dealers Association (“MFDA”). Given that the registration function is integral to the functioning and oversight of the capital markets we urge the CSA to adopt a uniform policy on the delegation of registration functions to the MFDA and IIROC as a way of further streamlining the registration regime across Canada and potentially generating additional administrative and cost efficiencies.

### *Automatic registration for firms*

Under the proposals, automatic registration for a firm will depend on the non-principal regulator acknowledging receipt by updating the National Registration Database (“NRD”), making the firm’s registration effective on the date shown on NRD. While the CSA considers ways to remove the condition for acknowledgment as a condition of registration, we propose adding a time limit for the non-principal regulator to make the acknowledgement on NRD, for example a requirement that the non-principal regulator make the acknowledgment on NRD within one business day of receiving the submission.

### *Interface Registration – IIROC Decision-making*

Subsection 6.2(2) proposes a requirement for the OSC to advise the principal regulator of any decision relating to an interface registration within one business day of receiving the interface document. We recommend the same time frame for any decisions by the

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<sup>1</sup> CSA “Passport System of Registration Backgrounder”

Canadian Securities Administrators  
Re: *Proposed Passport for Registration*  
September 17, 2008

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Ontario office of IIROC for applications by individuals seeking registration as a representative of an investment dealer.

### *Registration Fees*

We appreciate the administrative efficiencies that will likely result from changes to NRD allowing a firm making a submission to register in more than one jurisdiction to submit each jurisdiction's fees on NRD instead of by cheque as is currently the case. We are concerned, however, that there are no fee reductions under proposed National Policy 11-204 *Process for Registration in Multiple Jurisdictions* and National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*. We are aware that the CSA is currently reviewing its members' fee structures and will report its findings to the Council of Ministers. As outlined in our October 2007 submission, we urge the CSA to eliminate the requirement to pay prospectus filing and registration fees in non-principal jurisdictions, or at a minimum we would appreciate hearing how the CSA will assess the effectiveness and efficiency of the passport system in the absence of fee reductions.

### Proposed Amendments to NP 11-203

*Proposed section 9.4 Revocation or variation of MRRS decisions made before March 17, 2008*

We are concerned by the proposed requirement that filers make coordinated review applications if they want the regulators to revoke or vary an MRRS decision made before March 17, 2008. We do not believe that the fact that the decision was issued prior to March 17, 2008 is sufficient reason to effectively revert back to the procedures under the MRRS. We recommend that the CSA permit revocations and variance applications for pre-March 17, 2008 decisions to be filed pursuant to passport application or dual application provisions to the extent that a similar application for the relief would now be made using a passport or dual application.

### Conclusion

Thank you for the opportunity to provide comments on the extension of the passport system to registration. Please contact the undersigned directly or Ralf Hensel, Director – Policy, Manager Issues, at (416) 309-2314 or [rhensel@ific.ca](mailto:rhensel@ific.ca), with any questions concerning these comments.

Yours truly,

**THE INVESTMENT FUNDS INSTITUTE OF CANADA**



By: Joanne De Laurentiis  
President & Chief Executive Officer

October 18, 2008

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Autorité des marchés financiers  
New Brunswick Securities Commission  
Nova Scotia Securities Commission  
Office of the Attorney General, Prince Edward Island  
Financial Services Regulation Division, Consumer and Commercial Affairs Branch, Department of  
Government Services, Newfoundland and Labrador  
Registrar of Securities, Government of Yukon  
Registrar of Securities, Department of Justice, Government of the Northwest Territories  
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut

Leigh-Anne Mercier  
Senior Legal Counsel  
British Columbia Securities Commission  
P.O. Box 10142, Pacific Centre  
701 West Georgia Street  
Vancouver BC V7Y 1L2

Dear Ms. Mercier,

Financial Executives International Canada (FEIC) is pleased to respond to the Notice and Request for Comment on the proposed National Policy 11-204 from the Canadian Securities Administration to streamline the process for registration in multiple jurisdictions.

In July 2008, we had responded to a request for comment from the Expert Panel on Securities Regulation that was sponsored by the Department of Finance. In our report, we had addressed the need for simplicity and transparency in securities regulation. To this end, we had advocated the need to strengthen the passport system through the participation of the Ontario Securities Commission and the eventual appointment of a common securities regulator. A copy of our report is attached for your consideration.

While we agree that the CSA's proposals will enhance the efficiency of regulation in capital markets, as outlined in our report, we believe that further improvements can be achieved by harmonizing securities regulation across Canada.

We thank CSA for the opportunity to comments on these proposals and we welcome any questions or feedback on our recommendations.

Respectfully,



William G. Ross  
Chair, Capital Markets Subcommittee  
Financial Executives International Canada

# FEI CANADA SUBMISSION TO EXPERT PANEL ON SECURITIES REGULATION IN CANADA

JULY 8, 2008



July 8, 2008

Honorable Thomas A. Hockin, P.C.  
Chair, Expert Panel on Securities Regulation  
Ottawa, Canada  
K1A 0G5

Dear Mr. Hockin,

Financial Executives International Canada (FEI Canada) is pleased to submit the following recommendations regarding the improvement of securities regulation in Canada to the Expert Panel on Securities Regulation (Expert Panel). As an organization representing more than 2,100 senior Canadian financial executives, FEI Canada is well acquainted with the role of Canada's capital markets in securing efficient financing, stimulating economic growth, and providing a competitive advantage to Canadian business globally.

This response has been formulated by FEI Canada's Capital Markets Committee with input derived from a member survey. Survey results are included for your reference in Appendix A.

FEI Canada's submission sets out to examine:

- Identification of the objectives we recommend be used to evaluate the performance of capital markets in Canada.
- Whether principles-based regulation is preferable to a more formalized rules-based framework.
- How enforcement could be better coordinated.
- Advantages and disadvantages of a passport system of regulation (where market participants will adhere to a principal regulator that would oversee compliance throughout Canada) and a single securities regulator.
- Formulation of a common roadmap for legislators to adopt the Expert Panel's proposed changes.

## Objectives

FEI Canada strongly recommends four objectives be used to assess the performance of Canadian capital markets:

*Efficient and Effective Regulation:* Canada's competitive position in world capital markets would be greatly enhanced by a more efficient regulatory regime, in particular one characterized by transparency of regulation and best-in-class processes.

*Simplicity:* FEI Canada favours the creation of an independent national securities regulator to facilitate the adoption of effective and streamlined regulation. FEI Canada supports the implementation of a common securities legislation for the whole of Canada.

*Principles-Based Regulation:* A framework of principles-based regulation is preferable to a rules-based system. FEI Canada believes the former would allow the regulator to define desired outcomes and reporting issuers to design internal processes to meet those outcomes. In concert, this would increase the effectiveness of regulation and reduce the need for regulatory intervention.

*Best Practices:* FEI Canada advocates continuous improvement of the regulatory system through ongoing, and timely, performance measurement and the development of best practices as detailed below.

## Principles-Based Framework

FEI Canada is concerned that increased rules-based regulation has become ineffective in securing the objectives of securities regulation. Recent high-profile prosecutions of individuals and issuers who complied with the rules, but offended the principles of securities and market regulation, underscore this concern. FEI Canada therefore recommends a principles-based approach to securities regulation in Canada. By providing high-level principles for business to guide a desirable regulatory outcome, a national regulatory system is better able to respond to the ongoing changes in Canada's financial marketplace in an efficient and agile manner.

The definition of high-level regulatory principles requires clarity and simplicity in definition.

In a principles-based approach, it is important to note that rules will support the principles and provide reporting issuers with necessary guidance and certainty. It is therefore recommended that regulators apply a hierarchy in determining regulatory compliance as follows:

1. Overriding principles
2. Stated rules
3. Court precedents
4. Industry best practices

We recommend an efficient and reasonable timetable be established and guidance provided to minimize the cost to reporting issuers converting from a rules-based to principles-based regulation. To minimize compliance risks to reporting issuers, we further recommend that these principles be clearly articulated and defined.

## Proportionate Securities Regulation

FEI Canada believes that all reporting issuers should be held to the same standard of securities regulation. Regulations are not as effective if they consist of detailed rules aimed at the lowest common denominator of governance practice. Enforcement should be set to address reporting issuers whose practices fall below the expected norms. The over-reaching principle is that all Canadian businesses need to have efficient and cost-effective access to capital markets.

We favour the adoption of broad regulatory principles applied to all reporting issuers, and recommend that some latitude be given to small-and-medium-sized-enterprises. This latitude could take the form of streamlined filing, reporting and compliance for smaller enterprises, as long as the risks inherent with these limited disclosures are clearly identified.

## Enforcement

Consistency and predictability are important to effective enforcement, as is an appropriate level of resourcing to ensure compliance by all types of market participants from the small regional dealer to the sophisticated multi-national issuer.

FEI Canada believes principles-based regulation provides an efficient framework to judge whether a reporting issuer's disclosures present a true and fair view of their financial condition.

While there is some concern that principles-based regulation may expose reporting issuers to greater enforcement risk, we believe this risk can be mitigated by:

- Clear articulation of principles by the regulator,
- Application of the principles/rules/precedents hierarchy, and
- Appointment of an independent adjudicator with the powers to apply regulation consistently across Canada. Independent adjudication will allow principles to develop autonomously of policy makers and thereby be more objective.

## Regulatory Structure

FEI Canada wishes to highlight several key deliverables that we feel must be embodied in any improved future securities regulatory system:

1. *Single Securities Act:* Consistency and predictability of regulation would be improved through the adoption of a single Securities Act.
2. *Improved Governance of Regulatory Body:* Oversight of an independent regulator would be provided through an independent Board of Directors. This Board would be appointed by the provinces/territories and the federal government on the basis of their business and securities regulation expertise. We consider the format of the Canada Pension Plan Investment Board's Board of Directors (whose members are appointed to staggered terms of fixed length) to be a good model.
3. *Local/Industry Knowledge:* The alignment of regulatory policy-making and the needs of the reporting issuers will best be served through regional offices operating as "Centres of Excellence" in specific industries, i.e. Alberta for Energy.
4. *Cost Effectiveness:* A more cost-effective regime would provide a lower net cost of capital to reporting issuers and ultimately higher returns to investors.
5. *Responsiveness:* The regulatory framework must be highly responsive to dynamic product developments within the Canadian capital markets and the desire of reporting issuers to quickly access the markets when financing opportunities arise.
6. *Particulars of Canadian Financing Market:* The regulatory framework must facilitate the unique needs of the Canadian market. In particular:
  - a. The preponderance of relatively smaller companies that require access to public financing.
  - b. Many larger Canadian issuers who would like to continue to have assured access to the U.S. markets using the Multi-Jurisdictional Disclosure System (MJDS). A common securities jurisdiction would support the maintenance of this financing method.
7. *Performance Evaluations:* FEI Canada recommends that two forms of evaluation be implemented:
  - a. *Annual Evaluations:* An annual performance review should be undertaken to evaluate the above deliverables, the results of which would be publicly disclosed to support the principle of transparency.
  - b. *Mandated Comprehensive Reviews:* A formal, comprehensive and regular mandated review of the securities regulation system to be implemented, similar to that of the current Bank Act review.

# FEI CANADA SUBMISSION TO EXPERT PANEL ON SECURITIES REGULATION IN CANADA

JULY 8, 2008



FEI Canada believes that the degree of achievement of the key objectives of a regulatory system, as outlined above, increases as we review the following spectrum of securities regulation options:

1. Status Quo: Keeping the Canadian Securities Administrators (CSA), with its current passport system implementation plan.
2. Enhancement of the CSA's passport system through expedited implementation.
3. Further enhancement of the CSA, by increasing its powers and enforcement resources, and by strengthening its passport system through the participation of the Ontario Securities Commission.
4. Establishment of a common securities regulator, with representatives of provinces and territories on the Board. Board representation would be achieved either through Federal appointment or through appointment by provinces and territories.
5. Establishment of one federal securities regulator, eliminating all provincial commissions.

A single securities regulator provides clarity in applying a principles-based approach, creates uniformity in interpretation and facilitates foreign investment. The ideal vision, consistent with the system in many other countries throughout the world, is to have one federal securities regulator. However, the speed of implementation of an improved regulatory system is critically important to Canada's long-term economic well-being. Consequently, given the context of our political infrastructure, a common securities regulator would be most pragmatic, in the short term, as long as all participating jurisdictions are represented in an objective manner and this change is implemented quickly. We believe it is feasible for this new structure to be implemented by 2010.

## Conclusion

FEI Canada congratulates the Department of Finance for recognizing the urgent need for securities reform in Canada by initiating this study. We believe this review will lead to better securities regulation in Canada, improve the competitiveness of Canadian business, facilitate economic growth and elevate the stature of the Canadian financial market abroad.

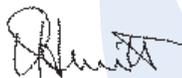
FEI Canada supports principles-based securities regulation in Canada in the context of a common federal securities regulator. We favour a single regulatory model over the passport system, which we consider adds unnecessary complexity, inefficiency and is not aligned with international markets. Hence, we encourage the government to work towards a national securities model that serves the interests of all business in Canada.

We thank the Expert Panel for the opportunity to present FEI Canada's recommendations on Canada's securities regulation. We look forward to having the opportunity to appear before the Expert Panel and to continuing to work together with the government to ensure that Canada maintains the highest levels of competitiveness and economic growth from which all Canadians will benefit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Conway'.

**Michael Conway, CA, ICD.D**  
Chief Executive and National President  
Financial Executives International Canada

A handwritten signature in black ink, appearing to read 'William Hewitt'.

**William Hewitt**  
Chair, Issues & Policy Advisory Committee  
Financial Executives International Canada

A handwritten signature in black ink, appearing to read 'William Ross'.

**William Ross**  
Chair, Capital Markets Sub-Committee  
Financial Executives International Canada

## About FEI Canada ([www.feicanada.org](http://www.feicanada.org))

Financial Executives International Canada (FEI Canada) is an all-industry professional association for senior financial executives. With eleven chapters across Canada and more than 2,100 members, FEI Canada provides professional development, thought leadership and advocacy services to its members.

The Issues and Policy Advisory Committee (IPAC) is one of two national advocacy committees of FEI Canada. IPAC comprises more than 40 senior financial executives representing a broad cross-section of the Canadian economy who have volunteered their time, experience and knowledge to consider and recommend action on a range of topics of interest to Canadian business and governmental agencies. The composition of IPAC is formulated to address the following areas: corporate governance, capital markets, pensions, internal controls, public sector accountability, tax policy and competitiveness. In addition to advocacy, IPAC is devoted to improving the awareness and educational implications of the issues it addresses, and is focused on continually improving these areas.

### FEI Canada Capital Markets Sub-Committee:

**Michael Conway**

Chief Executive & National President  
Financial Executives International Canada  
Toronto, Ontario

**William Ross**

Chair – Capital Markets Sub-Committee  
V P Finance, IT, Enbridge Gas Distribution Inc.  
Toronto, Ontario

**Lawrence Kryzanowski**

Concordia University Research Chair in Finance  
Concordia University  
Montreal, Quebec

**Michael Boychuk**

Senior Vice-President & Corporate Treasurer  
Bell Canada  
Montreal, Quebec

**Michael Lambert**

Executive Vice-President & CFO  
Canadian Pacific Railway Limited  
Calgary, Alberta

**Stan Pasternak**

Senior Vice-President & Treasurer  
Canadian Tire Corporation  
Toronto, Ontario

**William Hewitt**

Chair – IPAC, FEI Canada  
Retired VP Investments, Sun Life  
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**Greg Blunden**

Vice President, Finance & Treasurer  
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Halifax, Nova Scotia

**Marvin Romanow**

Executive Vice President & CFO  
Nexen Inc.  
Calgary, Alberta

**Michael Iofreddi**

Vice-President & Treasurer  
SNC-Lavalin Group Inc.  
Montreal, Quebec

**Robert Gardner**

Senior Vice President & Treasurer  
TELUS  
Vancouver, British Columbia

**Serge Pharand**

Vice President & Corporate Comptroller  
Canadian National Railway Company  
Montreal, Quebec

## FEI Canada Securities Regulation Survey

June 2008

### Background:

On April 18, 2008 FEI Canada received a letter from the Honourable Thomas Hockin of the Expert Panel on Securities Regulation, seeking advice on the best way forward to improve securities regulation in Canada. The Capital Markets Committee of FEI Canada was consulted, and the decision was made to survey FEI Canada members and other senior financial executives, in order to provide the best possible recommendations to the Expert Panel from the Canadian financial management community. The survey contained 22 questions designed to both measure the satisfaction with current securities regulation practices in Canada, as well as gauge the need for change in securities regulation. The survey was sent to FEI Canada's 2100 members and 7000 other senior financial executives across Canada.

- 293 survey responses were received between the dates of Wednesday, June 4th and Thursday June 12th, 2008, 204 of whom were FEI Canada members.

### Respondents:

When the survey results were compiled, it was noted that the responses of those with knowledge of the pros and cons of creating a new national model of securities regulation should be primarily considered. We were able to filter out respondents that reported having little or no knowledge of the pros and cons of creating a new national model of securities regulation, and went forward from there. This left us with a group of 103 respondents, each who indicated that they were either very familiar or familiar with the issues surrounding securities regulation in Canada.

Several of our survey questions were designed to determine the perceived effectiveness of the current CSA system, the potential for improving that system, and the potential impact of creating a new national system.

### Changing the Current System:

- 61% of respondents reported that they believe there are existing inefficiencies in the securities regulatory system/structure that currently, or have in the past, impeded their ability to raise capital on Canadian capital markets. Only 18% of those surveyed felt that the current passport system will work to eliminate these inefficiencies.
- More than 77% of respondents reported that the current model of securities regulation has created cost or efficiency burdens to their organization.
- When asked about amending the current CSA model, 48% felt that efficiencies would increase, while 35% felt they would not. Similarly, 36% felt that enforcement would be improved, while 34% felt that it would not improve.
- 56% of respondents reported that amending the current CSA model would address the need for commonality, while 32% felt that it would not address this need.

### A New National Model:

When asked if creating a new national model of securities regulation was preferable, 78% of respondents indicated that they favoured a new national model, while 19% were looking for improvements in the current CSA model. Only 3% sought no changes in the current CSA model.

- More than 90% of respondents felt that one national securities regulator would address the need for commonality in regulation, and 63% thought that this would also improve enforcement.
- 80% of respondents thought that one national securities regulator will increase efficient, competitive & freely flowing capital markets.
- 72% thought that one national securities regulator will increase market integrity and the protection of investors where necessary and 70% of respondents thought that this would result in improved identification and reduction of systemic risk, in support of growth.

### Proportionate Regulation and Principles:

When asked about their views on proportionate regulation in Canada to reduce burden on smaller reporting issuers, 55% of respondents felt the economic characteristics of a reporting issuer should determine how it is regulated, whereas 41% did not feel these economic characteristics were relevant.

- More than 76% of respondents reported that they would favour a principles-based regime over a rules-based system of securities law and regulations, while 16% said that they would not prefer a principles-based regime.

### One Securities Act and Adjudication:

Most respondents (87%) want the various provincial securities regulators to develop a consistent Canada-wide Securities Act.

- 67% of survey respondents want Canada's securities laws to be enforced more stringently, while 33% are pleased with the current level of enforcement. Adjudication of securities laws should be made independent of the securities regulatory agency, according to 58% of respondents, while 25% did not agree with this statement.

### Resources, Uniformity and Efficient Capital Markets

Over half of respondents (54%) felt that more resources needed to be made available to the securities regulation function, however configured.

- 82% of respondents favoured greater efforts to prompt uniformity with international securities laws and regulations.

The results of this survey have been used by FEI Canada's Capital Markets Committee as background for their submission to the Expert Panel on Securities Regulation. FEI Canada thanks all who took the time to complete the survey.