

ANNEX A

SUMMARY OF CHANGES TO THE INSTRUMENT

This annex summarizes the Amendments. We reference the sections of the Rule except where otherwise indicated. This annex contains the following sections:

1. Amendments to NI 31-103, 31-103CP and the forms
2. Amendments to NI 33-109, 33-109CP and the forms
3. Amendments to NI 52-107 and 52-107CP

If all necessary ministerial approvals are obtained, the Amendments will come into force on January 11, 2015.

Amendments to NI 31-103, 31-103 CP and the forms

Part 1 Interpretation

Section 1.1 [definitions of terms used throughout this Instrument]

We have added definitions for the following terms in section 1.1:

- designated rating
- designated rating organization
- DRO affiliate
- principal regulator
- sub-adviser

Section 1.3 [information may be given to the principal regulator]

We clarified the delivery and submission requirement under NI 31-103, by providing that deliveries and submissions may generally be made to the principal regulator.

Section 1.3 [fundamental concepts] of 31-103CP

We added guidance in section 1.3 of 31-103CP to clarify the application of the business trigger to start-up entities. This guidance acknowledges that issuers may not actively carry on their activities during their start-up stage, and provides indications on, among other things, active solicitation through directors, officers and other employees of the issuer.

We also amended the guidance on venture capital and private equity to clarify when venture capital and private equity investing activities may trigger the requirement to register.

Part 3 Registration requirements – individuals

Section 3.3 [time limits on examination requirements]

We amended section 3.3 to codify relief from section 3.3 [time limits on examination requirements] in respect of examinations and programs in sections 3.7 [scholarship plan dealer – dealing representative] if the registrant was registered as a dealing representative of a scholarship plan dealer when NI 31-103 came into force. These changes also codify relief from section 3.3 in respect of examinations and programs in section 3.9 [exempt market dealer – dealing representative] if the registrant was registered in Ontario or Newfoundland and Labrador as a dealing representative of a limited market dealer when NI 31-103 came into force. We intend to repeal the existing orders granting the relief when the Amendments come into force.

Sections 3.6 [mutual fund dealer – chief compliance officer], 3.8 [Scholarship plan dealer – chief compliance officer] and 3.10 [exempt market dealer – chief compliance officer] – chief compliance officer experience requirements for mutual fund dealers, scholarship plan dealers and exempt market dealers

We amended section 3.6 [mutual fund dealer – chief compliance officer], section 3.8 [scholarship plan dealer – chief compliance officer] and section 3.10 [exempt market dealer – chief compliance officer] of NI 31-103 to add an experience component to the proficiency requirements for chief compliance officers of dealer firms. This now forms part of the proficiency requirement for chief compliance officers of dealers, in line with the proficiency requirements applicable to chief compliance officers of portfolio managers and investment fund managers.

Sections 3.11 [portfolio manager – advising representative] and 3.12 [portfolio manager – associate advising representative] – Relevant investment management experience

We included guidance in 31-103CP about what we may consider to be relevant investment management experience, which should be considered by registered firms in the following situations:

- making hiring decisions
- preparing and reviewing applications to be submitted

For specific examples, we refer you to the CSA Staff Notice 31-332 *Relevant Investment Management Experience for Advising Representatives and Associate Advising Representatives of Portfolio Managers* published on January 17, 2013.

Part 4 Restrictions on registered individuals

Section 4.1 [restriction on acting for another registered firm]

We clarified the scope of section 4.1 by taking into account multi-jurisdictional registration. We will consider all of the individual's employment activities, including outside business activities, with one or more registered firms in any jurisdiction of Canada.

Part 7 Categories of registration for firms

Section 7.1 [dealer categories] – exempt market dealers

We amended section 7.1 [dealer categories] to restrict the activities that exempt market dealers may conduct and prohibit exempt market dealers from conducting brokerage activities (trading securities listed on an exchange in foreign or Canadian markets). Exempt market dealers are now prohibited from trading freely tradeable exchange-traded securities off marketplace unless there is reliance on a further exemption. We clarified the guidance in the Companion Policy to indicate what activities exempt market dealers can, and cannot, engage in.

Subsection 7.1(5) will come into force on July 11, 2015.
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Part 8 Exemptions from the requirement to register

We amended Part 8 of NI 31-103 as follows:

New sections 8.0.1, 8.22.2 and 8.26.2 – Removal of exemptions for registrants for activities that can be conducted under their registration

We added new sections 8.0.1, 8.22.2 and 8.26.2. These sections prohibit a registrant from relying on exemptions in Part 8 of NI 31-103 if they are registered in the local jurisdiction to conduct the activities. This prohibition does not apply to exemptions under local securities legislation.

Section 8.5 [trades through or to a registered dealer]

We amended section 8.5 [trades through or to a registered dealer] in relation to the exemption for trades made through a registered dealer, by removing the word “solely” which had created ambiguities, and by clarifying which acts in furtherance of the trades contemplated under this exemption are permitted. We added a condition so that the exemption is not available if the person relying on the exemption solicits or contacts any person or company that is a purchaser in relation to the trade. We have revised the Companion Policy to reflect these changes and to include examples relating to the use of the exemption.

New section 8.5.1 [trades through a registered dealer by registered adviser]

We added a new section 8.5.1 [trades through a registered dealer by registered adviser] which provides an exemption from the dealer registration requirement for registered advisers. This clarifies that incidental trading activities by registered advisers do not require registration as a dealer, as long as the trades are executed through a dealer registered in a category that permits the trade or a dealer operating under an exemption from the dealer registration requirement. We have revised the Companion Policy to reflect this change.

Section 8.15 [Schedule III banks and cooperative associations – evidence of deposit]

We clarified subsection 8.15(2) by providing that the exemption does not apply in Alberta, as an equivalent exemption is contained in the *Securities Act* (Alberta).

Sections 8.18 [international dealer] and 8.26 [international adviser]

We have removed the definition of “Canadian permitted client” in these sections and reverted to the use of the term “permitted client”, as defined in section 1.1.

Section 8.20 [exchange contract – Alberta, British Columbia, New Brunswick and Saskatchewan]

We amended section 8.20 [exchange contract – Alberta, British Columbia, New Brunswick and Saskatchewan] to harmonize its application with the changes made to section 8.5 [trades through or to a registered dealer] and to limit its general application.

New section 8.20.1 [exchange contract trades through or to a registered dealer – Alberta, British Columbia, New Brunswick and Saskatchewan]

In response to comments, we have added this section to parallel new section 8.5.1 [trades through a registered dealer by registered adviser] for exchange contracts in Alberta, British Columbia, New Brunswick and Saskatchewan.

New section 8.22.1 [Short-term debt]

We added a new exemption that contains the same conditions as the parallel orders issued by all CSA members except Ontario, with a new condition limiting the use of the exemption to trades with permitted clients.

We plan to repeal the existing orders when this new exemption comes into force, allowing for a six-month transition period.

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

Section 8.22.1 will come into force on July 11, 2015.

Section 8.24 [IIROC members with discretionary authority]

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

Section 8.26 [international adviser]

We amended paragraph 8.26(4)(b) to harmonize its application with paragraph 8.26.1(2)(b).

New section 8.26.1 [international sub-adviser]

We added a new section 8.26.1 [international sub-adviser] to codify the current relief from the adviser registration requirement for certain non-resident sub-advisers, which has been available in Ontario under Ontario Securities Commission Rule 35-502 *Non-Resident Advisers*, in Québec under decision N° 2009-PDG-0191 and in other jurisdictions on a discretionary basis. In response to comments, we removed the proposed "chaperoning" conditions.

Section 8.28 [capital accumulation plan exemption]

We clarified our intent that the exemption for capital accumulation plans is only available to plan sponsors and plan service providers in respect of activities relating to a capital accumulation plan. We removed the condition in the exemption that the person does not act as an investment fund manager other than for an investment fund that is an investment option in a capital accumulation plan. The intention of this condition was to prohibit the exemption from being used if the person was otherwise required to be registered as an investment fund manager. We added a new section 8.26.2 [general condition to investment fund manager registration requirement exemptions] prohibiting the use of this exemption where the person is registered as an investment fund manager. If the activities of a plan sponsor or service provider that require investment fund manager registration are not solely related to capital accumulation plans, they will be required to register.

Part 11 Internal controls and systems

Sections 11.9 [registrant acquiring a registered firm's securities or assets] and 11.10 [registered firm whose securities are acquired]

We amended NI 31-103 and 31-103CP to streamline and clarify the process for reviewing the notices required under sections 11.9 and 11.10, by allowing for the acquisition notices to be filed with the principal regulator of the registered firm. Notices must be filed with the principal regulator of the acquirer and the target registered firm (where the principal regulator is the same for both the acquirer and the target firms, then only one notice needs to be filed with the principal regulator). The principal regulator will share the notice with the other regulators, and will coordinate the review with them.

We clarified which securities and asset acquisitions are subject to the notice requirement, namely an initial acquisition of a direct or indirect ownership interest, beneficial or otherwise, in 10% or more of the voting securities of a firm registered in Canada or in any foreign jurisdiction. Certain exceptions to the notice requirement are repealed since they are no longer relevant or required.

We added guidance in 31-103CP for acquirers or acquired firms in the preparation of the acquisition notices, with suggestions on the information to be included in these notices.

We remind IIROC dealer members that they are subject to sections 11.9 and 11.10 and therefore are required to file these notices with the applicable CSA regulators, despite the fact that IIROC has its own review and approval process.

Part 12 Financial condition

Section 12.2 [notifying the regulator or the securities regulatory authority of a subordination agreement]

We amended section 12.2 [notifying the regulator or the securities regulatory authority of a subordination agreement] to clarify the requirements relating to subordination agreements and the exclusion of non-current related party debt subordinated under these agreements from the calculation of excess working capital on Form NI 31-103F1. These changes are reflected in the Companion Policy and Form NI 31-103F1.

Section 12.12 [delivering financial information – dealer]

We amended subsection 12.12(3) to clarify when an exempt market dealer is exempt from the requirement to deliver financial information under subsection 12.12(2).

Section 12.14 [delivering financial information – investment fund manager]

We added Form NI 31-103F4 *Net Asset Value Adjustments* on which an investment fund manager will report net asset value (NAV) adjustments as required by section 12.14. In response to comments, we made several changes to this form.

Part 13 Dealing with clients – individuals and firms

Section 13.4 [identifying and responding to conflicts of interest]

We added guidance in 31-103CP about conflicts of interest in relation to registered representatives that serve on the boards of reporting issuers or have outside business activities. CSA Staff Notice 31-326 *Outside Business Activities* issued on July 15, 2011 and Multilateral Policy 34-202 *Registrants Acting as Corporate Directors*, amended effective September 28, 2009, will be repealed.

New section 13.17 [exemption from certain requirements for registered sub-advisers]

We added section 13.17 [exemptions from certain requirements for registered sub-adviser] to exempt a registered adviser who is acting as a sub-adviser to a registered adviser or registered dealer from certain client obligations which may not be necessary in a sub-advisory arrangement, or if necessary, are customized to the relevant business needs and agreed to contractually. In response to comments, we removed the proposed "chaperoning" conditions.

2. Amendments to NI 33-109, 33-109CP and the forms

Drafting changes

We have made various drafting changes to NI 33-109 and the forms and clarifications to the guidance in 33-109CP, to codify staff administrative practice that is in keeping with the original intent of NI 33-109, the forms and 33-109CP.

Business locations

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

Reinstatement

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

Reporting changes for individuals

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

Criminal disclosure

We amended Item 14 of Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* to clarify what disclosures are required.

Principal regulator for foreign firms

We amended Item 2.2(b) of Form 33-109F6 that will, in conjunction with subsection 4A.1(2) of Multilateral Instrument 11-102 *Passport System*, provide that the selection of a principal regulator for firms that do not have a head office or are not already registered in Canada is the jurisdiction in which the firm expects to conduct most of its activities that require registration as at the end of its current financial year or conducted most of its activities that require registration as at the end of its most recently completed financial year. We have also included new guidance in section 3.1 of 33-109CP relating to this amendment.

Other amendments

We made other amendments to NI 33-109 and forms:

Permitted individual

We amended the definition of “permitted individual” to clarify that it includes trustees, executors and other legal representatives that have direct or indirect control of more than 10% of the voting securities of a firm.

Forms 33-109F4 and 33-109F7 in format other than NRD format

We broadened the instructions in the forms so that an applicant who has questions about the form can consult with a legal adviser with securities law experience, rather than one with only securities regulation experience.

3. Amendments to NI 52-107 and 52-107CP

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

We have also made a housekeeping amendment in paragraph 2.1(2)(a) to reflect the previous change to the title of NI 31-103.