CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

Notice of Amendments to

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

COMPANION POLICY 31-103CP *REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS*,

NATIONAL INSTRUMENT 33-109 *REGISTRATION INFORMATION*,

and

COMPANION POLICY 33-109CP *REGISTRATION INFORMATION*

July 27, 2017

Introduction

We, the Canadian Securities Administrators (CSA), are adopting amendments (the Amendments) to the current regulatory framework for dealers, advisers and investment fund managers.

The instruments affected by the Amendments are as follows:

- National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103 or the Rule), including Form 31-103F1 *Calculation of Excess Working Capital* (Form 31-103F1),
- Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (31-103CP or the Companion Policy),
- National Instrument 33-109 *Registration Information* (NI 33-109) including its forms, and
- Companion Policy 33-109CP *Registration Information* (33-109CP).

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

The Amendments have been, or are expected to be, adopted by each member of the CSA. In some jurisdictions, ministerial approvals are required for the implementation of the Amendments. If all necessary ministerial approvals are obtained, the Amendments, other than the Custody Amendments described below, come into force on December 4, 2017. The Custody Amendments come into force six months later, on June 4, 2018. Further detail can be found in Annex D of this Notice.

Substance and purpose

The Amendments range from technical adjustments to more substantive matters. We have organized the Amendments into four tranches, specifically "Custody Amendments", "Exempt Market Dealer Amendments", "Client Relationship Model Phase 2 Amendments" and "Housekeeping Amendments". The purpose of the Amendments is to promote stronger investor protection, to clarify certain regulatory requirements and to enhance certain market efficiencies.

The Amendments:

- enhance custody requirements applicable to registered firms that are not members of the Investment Industry Regulatory Organization of Canada (IIROC) or the Mutual Fund Dealers Association of Canada (MFDA) (collectively, Non-SRO Firms). IIROC member firms and MFDA member firms will comply with the custodial regimes of IIROC or the MFDA. The Custody Amendments:
    - address potential intermediary risks when Non-SRO Firms are involved in the custody of client assets,
    - enhance the protection of client assets, and
    - codify existing custodial best practices of Non-SRO Firms,
- clarify the activities that may be conducted under the exempt market dealer (EMD) category of registration in respect of trades in prospectus-qualified securities,

- make permanent certain temporary relief granted by the CSA in May 2015 relating to the requirements for client reporting (the CRM2 Requirements) and also add guidance to 31-103CP regarding the CRM2 Requirements, and

- incorporate other changes to the Instrument of a minor housekeeping nature.

Background

We published proposed amendments for comment on July 7, 2016 (the July 2016 Proposal). We made changes to certain of the amendments proposed in the July 2016 Proposal, several of which are described in our responses to the comments. We also made other changes to the Instrument. As these changes are not material, we are not publishing the Amendments for another comment period.

You can find a description of the key changes we made to the Instrument in Annex A of this Notice.

Future proposals to revise the Custody Amendments (including the terminology and the exemptions) may follow as a consequence of the CSA's ongoing policy work in respect of both the modernization of investment fund product regulation under National Instrument 81-102 *Investment Funds* (NI 81-102) and derivatives.

Summary of written comments received by the CSA

We received 21 comment letters on the July 2016 Proposal, and we thank everyone who submitted comments. A summary of the comments, together with our responses, is in Annex B and the names of the commenters are in Annex C of this Notice.

Copies of the comment letters were posted on the following websites:

www.osc.gov.on.ca
www.lautorite.qc.ca

Local matters

In conjunction with the amendments to NI 33-109, the Ontario Securities Commission is making consequential amendments to Ontario Securities Commission Rule 33-506 *(Commodity Futures Act) Registration Information* (OSC Rule 33-506). The Ontario Securities Commission is publishing a local notice on these consequential amendments.

In conjunction with the amendments to NI 31-103, the Autorité des marchés financiers is making consequential amendments to its Derivatives Regulation and is publishing a local notice on these consequential amendments.

The Autorité des marchés financiers is also publishing a local staff notice to further explain the amendments made to subsection 9.4(4) and section 12.12 of NI 31-103, as they relate to mutual fund dealers registered only in Québec. This local notice provides guidance in connection with the financial reporting of these dealers.

List of annexes

This Notice contains the following annexes:

- Annex A – Summary of changes to the Instrument relative to existing law and policy
- Annex B – Summary of comments on the July 2016 Proposal and responses
- Annex C – List of commenters
- Annex D – Adoption of the Instrument
- Annex E – Amendments to NI 31-103
- Annex E1 – Changes to 31-103CP
- Annex F – Amendments to NI 33-109
- Annex F1 – Changes to 33-109CP

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Annex A

Summary of changes to the Instrument relative to existing law and policy

This annex summarizes the key changes being made to the Instrument. We reference the sections of NI 31-103 except where otherwise indicated. This annex contains the following sections:

1. Custody Amendments
2. Exempt Market Dealer Amendments
3. Client Relationship Model Phase 2 Amendments
4. Housekeeping Amendments

If all necessary ministerial approvals are obtained, the Amendments, other than the Custody Amendments, come into force on December 4, 2017. The Custody Amendments come into force six months later, on June 4, 2018.

1. CUSTODY AMENDMENTS

Amendments to NI 31-103 and 31-103CP

Part 1 Interpretation

Section 1.1 [*definitions of terms used throughout this Instrument*]

We added definitions for the following terms in section 1.1:

- Canadian custodian
- foreign custodian
- qualified custodian

Part 9 Membership in a self-regulatory organization

In order to exclude IIROC member firms and MFDA member firms from the Custody Amendments, on the condition that they comply with the corresponding IIROC and MFDA custodial regimes, we amended sections 9.3 [*exemptions from certain requirements for IIROC members*] and 9.4 [*exemptions from certain requirements for MFDA members*]. Appendices G and H were also amended to include any additional IIROC and MFDA provisions, as necessary.

Certain paragraphs in sections 9.3 and 9.4 were repealed as a result of sections 14.8 [*securities subject to a safekeeping agreement*] and 14.9 [*securities not subject to a safekeeping agreement*] being repealed as part of the Custody Amendments.

Part 14 Handling client accounts - firms

Section 14.1 [*application of this Part to investment fund managers*]

We amended section 14.1 to clarify that the Custody Amendments also apply to investment fund managers. We also clarified the guidance in 31-103CP.

Section 14.2 [*relationship disclosure information*]

We added paragraph 14.2(2)(a.1) to require registered firms that hold client assets or "direct or arrange" custodial arrangements for clients to confirm where and how the client's assets are held, and any related risks and benefits. We also added paragraph 14.2(2)(a.2) to require registered firms with access to client assets to disclose to clients where and how client assets are held and accessed, including any related risks and benefits. We added guidance to 31-103CP to outline our expectations in respect of this disclosure.

Section 14.5.1 [*definition of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan*]

We added section 14.5.1 to clarify that, in respect of certain local securities legislation, the use of the term "securities" in Division 3 excludes "exchange contracts" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan.

Section 14.5.2 [*restriction on self-custody and qualified custodian requirement*]

We added a new section 14.5.2.

With some exceptions, subsection 14.5.2(1) prohibits a registered firm from acting as a custodian or sub-custodian for cash and securities of its clients or the investment funds it manages (i.e., self-custody), and subsection 14.5.2(5) prohibits the use of any custodian (Canadian or foreign) that is not functionally independent of the registered firm. Subsection 14.5.2(2) requires a "Canadian custodian" to hold the cash and securities of a client or an investment fund where a registered firm (a) directs or arranges which custodian will hold the cash or securities, or (b) holds or has access to the cash or securities. However:

- subsection 14.5.2(3) permits a "foreign custodian" to hold the cash and securities of a client or investment fund, but only when it is more beneficial to that client or investment fund to use the "foreign custodian" instead of a "Canadian custodian", and

- to retain current practices in respect of cash, subsections 14.5.2(4) and (6) permit a Canadian financial institution that is functionally independent of the registered firm to act as a custodian for the cash of a registered firm's client or investment fund.

We made amendments to the July 2016 Proposal to clarify subsections 14.5.2(2) and 14.5.2(3). Specifically, subsection 14.5.2(2) makes clear that it is permissible for a client or an investment fund subject to the Custody Amendments to use multiple custodians, provided that the registered firm complies with the requirements in the Custody Amendments. Subsection 14.5.2(3) clarifies that the elements of the definition of "foreign custodian" are among the relevant factors that a registered firm must consider when assessing whether the "foreign custodian" is more beneficial to a client or investment fund than a "Canadian custodian". We also added guidance to 31-103CP regarding the use of a "foreign custodian". We included a number of factors that we expect registered firms to consider when choosing to use a "foreign custodian".

We added guidance to 31-103CP (under the title "14.5.2 [*restriction on self-custody and qualified custodian requirement*]") to outline our expectations in respect of the new custody requirements. We also clarified that certain investment instruments may be both securities and derivatives, and that the Custody Amendments apply to those instruments (subject to certain exclusions outlined in the Custody Amendments).

We also added guidance to 31-103CP (under the title "14.5.2 [*prohibition on self-custody and the use of a custodian that is not functionally independent*]") to describe our expectations for a "system of controls and supervision that a reasonable person would conclude is sufficient to manage the risks to the client or investment fund" associated with custody, in the limited situations where registered firms are either permitted to self-custody or use a custodian that is not functionally independent of the registered firm. In addition, we included guidance for registered firms not subject to the Custody Amendments regarding our expectations.

New paragraphs 14.5.2(7)(a) to (f) set out exemptions from the new custodial requirements for the following:

- investment funds subject to NI 81-102 or National Instrument 41-101 *General Prospectus Requirements* (NI 41-101),

- a security that is recorded on the books of the security's issuer, or the issuer's transfer agent, only in the name of the client or investment fund,

- cash or securities of a permitted client that is not an individual or an investment fund, where that permitted client has acknowledged, in writing, that the custodial requirements that would otherwise apply to the registered firm do not apply,

- customer collateral subject to the custodial requirements under National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions*, and

- mortgages under certain conditions.

We added guidance to 31-103CP to clarify our expectations and rationale in respect of certain of these exemptions.

We also added guidance to 31-103CP (under the title "14.5.2 [*general prudent custodial practices*]") to describe general prudent custodial practices when the Custody Amendments do not apply. We also provided our expectations regarding reconciliation with custodians' records, and client review of custodial statements.

Finally, we also added guidance to 31-103CP under the title "14.5.2 [*custodial arrangements*]" regarding investment fund managers' obligations in the selection, and ongoing monitoring, of the custodian for the investment funds that they manage. We also included guidance that dealers and advisers with influence over a client's selection of a custodian should conduct due diligence similar to that expected of an investment fund manager.

Section 14.5.3 [*cash and securities held by a qualified custodian*]

We added new section 14.5.3 which sets out requirements regarding how cash and securities of clients and investment funds should be held by a qualified custodian. Registered firms are required to take reasonable steps to ensure that the cash and securities are held as outlined.

We added guidance to 31-103CP (under the title "14.5.3 [*cash and securities held by a qualified custodian*]") to explain how the requirements in subsection 14.5.3(a) can be satisfied. We also clarified that a qualified custodian may deposit securities with a depository or clearing agency that operates a book-based system.

Section 14.6 [*client and investment fund assets held by a registered firm in trust*]

We amended section 14.6 so that it applies in situations where the new custody requirements under sections 14.5.2 and 14.5.3 do not apply or where a registered firm is self-custodying as permitted by section 14.5.2. Specifically, amended section 14.6 maintains the minimum client and investment fund asset protection standards of segregation and holding client and investment fund assets in trust for the client or investment fund. Consistent with new section 14.5.2, new subsection 14.6(2) allows for the use of a foreign custodian for cash only when it is more beneficial to the client or investment fund to use that foreign custodian as opposed to a Canadian custodian. We amended subsection 14.6(2) to conform to the amendment we made in subsection 14.5.2(3).

We amended 31-103CP to reflect the changes to section 14.6. We also added guidance for investment fund managers that handle cash-in-transit for investment in, or on the redemption of, the securities of their investment fund. In addition, we provided guidance for outsourcing the function of handling cash-in-transit to a service provider.

Section 14.6.1 [*custodial provisions relating to certain margin or security interests*] and section 14.6.2 [*custodial provisions relating to short sales*]

We added new sections 14.6.1 and 14.6.2 which were not part of the July 2016 Proposal. These sections set out acceptable custodial practices for certain margin and security interests, and for short sales, respectively. These amendments reflect our policy intent to codify existing custodial best practices of registered firms. The permissible activities in these sections are similar to the custodial practices for prospectus-qualified funds permitted under NI 81-102 and NI 41-101. We added guidance to 31-103CP to outline our expectations for a registered firm's assessment of a foreign dealer that would hold cash and securities for clients or investment funds as permitted by these sections.

We also added guidance to section 14.6.1 of 31-103CP to confirm certain acceptable custodial practices relating to securities lending, repurchase and reverse repurchase agreements, similar to the permitted practices under NI 81-102 and NI 41-101.

Section 14.7 [*holding client assets – non-resident registrants*], Section 14.8 [*securities subject to a safekeeping agreement*] and Section 14.9 [*securities not subject to a safekeeping agreement*]

Sections 14.7, 14.8 and 14.9 have been repealed to remove outdated provisions.

Coming into Force of the Custody Amendments

The Amendments, other than the Custody Amendments, come into force on December 4, 2017. The Custody Amendments, including new paragraphs 14.2(a.1) and (a.2), and new or amended sections 14.5.1 through 14.6.2 (see Annex E Amendments to NI 31-103), come into force six months later, on June 4, 2018. This is to allow registered firms to prepare for, and accommodate, the new custody requirements.

2. EXEMPT MARKET DEALER AMENDMENTS

Amendments to NI 31-103 and 31-103CP

Part 7 Categories of registration for firms

Section 7.1 [*dealer categories*]

We amended subsection 7.1(2) as follows:

- We removed the words "whether or not a prospectus was filed in respect of the distribution" from subparagraph 7.1(2)(d)(i) to clarify that EMDs may not participate in offerings of securities under prospectuses in any capacity, including as underwriters and selling group members; this includes securities underlying special warrants that are qualified by a prospectus.

- We amended subparagraph 7.1(2)(d)(ii) to clarify the activities that EMDs may engage in with respect to the resale of securities.

We deleted the restriction currently found in subsection 7.1(5) that restricts EMDs from trading in securities whose classes are listed, quoted or traded on a marketplace, whether on-exchange or off-exchange, as this restriction is now reflected in amended subparagraph 7.1(2)(d)(ii).

We also revised 31-103CP to clarify matters relating to these changes.

Part 8 Exemptions from the requirement to register

Section 8.6 [*investment fund trades by adviser to managed account*]

We expanded the exemption from the dealer registration requirement in section 8.6 so that registered advisers may trade in the securities of investment funds (including, as is the case today, those distributed under a prospectus) if the adviser or an affiliate of the adviser advises and manages the investment fund and certain conditions are met.

The amendment to section 8.6 will broaden the exemption from dealer registration for advisers that use affiliated investment funds as an efficient way to invest their clients' money.

We also revised 31-103CP to clarify matters relating to these changes.

3. CLIENT RELATIONSHIP MODEL PHASE 2 AMENDMENTS

Amendments to NI 31-103 and 31-103CP

Part 9 Membership in a self-regulatory organization

We amended sections 9.3 and 9.4 to exempt IIROC members and MFDA members from certain CRM2 Requirements, on the condition that they comply with the corresponding IIROC and MFDA provisions. We also amended Appendices G and H to include the corresponding IIROC and MFDA provisions.

Part 13 Dealing with clients – individuals and firms

Section 13.17 [*exemption from certain requirements for registered sub-advisers*]

We amended section 13.17 to exempt a registered adviser, who is acting as a sub-adviser to a registered adviser or dealer, from certain client reporting requirements in Part 14. Client reporting responsibilities necessary in a sub-advisory arrangement are customized to the relevant business needs and agreed to contractually.

Part 14 Handling client accounts – firms

Section 14.1.1 [*duty to provide information*]

We amended section 14.1.1 to clarify the requirement for investment fund managers to provide dealers and advisers with certain information that they need to comply with their client reporting obligations. We also added guidance to 31-103CP setting out our expectations about this requirement.

Section 14.2 [*relationship disclosure information*]

We added guidance to 31-103CP to clarify our expectations concerning a firm’s obligation to provide a general description of the products and services it offers to a client under paragraph 14.2(2)(b), including our expectations on disclosure when a firm primarily invests its clients’ money in securities issued by related parties.

Section 14.2.1 [*pre-trade disclosure of charges*]

We added guidance to 31-103CP to clarify our expectations about a firm’s pre-trade disclosure obligations in the case of a frequent trader who can reasonably be expected to understand “standard charges”.

Section 14.11.1 [*determining market value*]

We amended subsection 14.11.1(3) to remove references to section 14.18 and subsection 14.19(1). Instead, subsection 14.19(7) addresses the procedure to follow if market value cannot be determined for the purposes of calculating the information required to be delivered in the investment performance report.

We also corrected the paragraph references in subsection 14.11.1(3) that specify when a firm must exclude the market value of a security from calculations of the total value of cash and securities in an account or statement.

We also added guidance to 31-103CP concerning market valuation for client reporting purposes, including determining:

- market value for a liquid security for which a reliable price is quoted on a market place, and

- that the market value of a security is not determinable.

Section 14.14 [*account statements*]

We amended paragraph 14.14(4)(d) to clarify that the number of securities purchased, sold or transferred must be disclosed in account statements. We also amended paragraph 14.14(5)(f) to clarify requirements relating to investor protection fund (IPF) disclosure in account statements. We added guidance to section 14.14 of 31-103CP concerning our expectations about consolidated statements and supplementary reporting.

Section 14.14.1 [*additional statements*]

We amended paragraph 14.14.1(2)(g) to clarify requirements relating to IPF disclosure in additional statements and added a new subsection (2.1) exempting a firm from providing this disclosure where a client's securities are held or controlled by an IIROC or MFDA member. This addition was made to avoid the possibility that a client might receive inaccurate information about the extent of IPF coverage from a firm that is not itself a member of the IPF. We also added guidance to 31-103CP about IPF disclosure.

Section 14.14.2 [*security position cost information*]

We amended section 14.14.2 to allow a firm to disclose, for a security position that was opened before July 15, 2015, market value as at December 31, 2015, or an earlier date, if that earlier date is reasonable based on certain criteria. This amendment has the same effect as the temporary relief provided in parallel orders issued by CSA members in May 2015 and described in CSA Staff Notice 31-341 *Omnibus/Blanket Orders Exempting Registrants from Certain CRM2 Provisions of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the CRM2 Orders). We also added guidance to 31-103CP on determining and reporting security position cost information.

Section 14.17 [*report on charges and other compensation*]

We added guidance to 31-103CP to clarify our expectations for the disclosure of a firm's operating charges and payments received from issuers of securities.

Section 14.18 [*investment performance report*]

We amended subsection 14.18(6) to clarify situations under which a firm is not required to deliver an investment performance report to a client.

Section 14.19 [*content of investment performance report*]

We amended section 14.19 so that the requirement that investment performance reports must include market value information as at and since July 15, 2015, if the account was opened before that date, may instead be met as follows:

- where the firm reports on a calendar year basis (i.e., its first reports covered the period from January 1 to December 31, 2016), by including market value information as at and since: (a) January 1, 2016 (the firm is not required to provide the information for any earlier period), or (b) a date earlier than January 1, 2016 if that earlier date is reasonable based on certain criteria; and

- where the firm does not report on a calendar year basis (i.e., its first reports cover a 12-month period ending no later than July 14, 2017), by including market value information as at and since: (a) July 15, 2015 (the firm is not required to provide the information for any earlier period), or (b) a date earlier than July 15, 2015 if that earlier date is reasonable based on certain criteria.

We also amended section 14.19 so that the requirement that investment performance reports must include annualized total percentage return information since inception or for the period since July 15, 2015 may instead be met as follows, if the account was opened before July 15, 2015:

- where the firm reports on a calendar year basis, by providing the information for the period since January 1, 2016, or a date earlier than January 1, 2016 if that earlier date is reasonable based on certain criteria; and

- where the firm does not report on a calendar year basis, by providing the information for the period since July 15, 2015, or a date earlier than July 15, 2015 if that earlier date is reasonable based on certain criteria.

These amendments have the same effect as the corresponding temporary relief provided in the CRM2 Orders.

We also added guidance to 31-103CP to clarify our expectations concerning certain of the information required to be included in investment performance reports.

Exempt Market Dealers

We added guidance to 31-103CP on how the client reporting requirements in Part 14 may apply to EMDs that are not also registered as advisers or in another category of dealer.

4. HOUSEKEEPING AMENDMENTS

Amendments to NI 31-103

Section 1.2 [*interpretation of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan*]

We amended this section to reflect in the official version of NI 31-103 adopted by all CSA jurisdictions, jurisdiction-specific changes that have already been adopted in the corresponding local jurisdictions. These changes are described in more detail in CSA Staff Notice 11-335 *Notice of Local Amendments and Changes in Certain Jurisdictions,* dated April 13, 2017 (CSA Staff Notice 11-335).

Section 3.16 [*exemptions from certain requirements for SRO-approved persons*]

We amended this section where it refers to a member of IIROC to clarify that the referenced member must also be registered as an investment dealer. Similarly, we amended the section where it refers to a member of the MFDA to clarify that the referenced member must also be registered as a mutual fund dealer.

Section 8.2 [*definition of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan*]

We amended this section to reflect, in the official version of NI 31-103 adopted by all CSA jurisdictions, jurisdiction-specific changes that have already been adopted in the corresponding local jurisdictions. These changes are described in more detail in CSA Staff Notice 11-335.

Section 8.12 [*mortgages*]

Subsection 8.12 (3) was amended to reflect in the official version of NI 31-103 adopted by all CSA jurisdictions, a New Brunswick-specific change that has already been adopted in New Brunswick. By virtue of this change, the exemption from the dealer registration requirement that is provided for in subsection 8.12(2) does not apply in New Brunswick.

Section 8.18 [*international dealer*]

We amended the international dealer exemption in section 8.18 in response to comments received by a commenter that identified a technical gap in the existing international dealer exemption. This amendment is also intended to address the concerns identified in CSA Staff Notice 31-346 *Guidance as to the Scope of the International Dealer Exemption in relation to Foreign-Currency Fixed Income Offerings by Canadian Issuers* and to codify routinely granted exemptive relief.

Section 8.20 [*exchange contract — Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan*]

We amended this section to reflect in the official version of NI 31-103 adopted by all CSA jurisdictions, jurisdiction-specific changes that have already been adopted in the corresponding local jurisdictions. These changes are described in more detail in CSA Staff Notice 11-335.

Section 8.20.1[*exchange contract trades through or to a registered dealer — Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan*]

We amended this section to reflect, in the official version of NI 31-103 adopted by all CSA jurisdictions, jurisdiction-specific changes that have already been adopted in the corresponding local jurisdictions. These changes are described in more detail in CSA Staff Notice 11-335.

Section 8.24 [*IIROC members with discretionary authority*]

We amended this section, where it refers to a member of IIROC, to clarify that the referenced member must also be registered as an investment dealer.

Section 8.26 [*international adviser*]

We amended this section to reflect in the official version of NI 31-103 adopted by all CSA jurisdictions, jurisdiction-specific changes that have already been adopted in the corresponding local jurisdictions. These changes are described in more detail in CSA Staff Notice 11-335.

We also amended subsection 8.26(3) to clarify that the relevant advice to a permitted client must be in relation to a foreign security, and cannot be in relation to securities that are not foreign securities (unless providing that advice is incidental to providing advice on a foreign security).

Section 9.3 [*exemptions from certain requirements for IIROC members*]

We amended the first line of subsections 9.3(1) and 9.3(2), where it refers to a member of IIROC, to clarify that the referenced member must also be registered as an investment dealer.

Section 9.4 [*exemption from certain requirements for MFDA Members*]

We amended the first line of subsections 9.4(1) and 9.4(2), where it refers to a member of the MFDA, to clarify that the referenced member must also be registered as a mutual fund dealer.

We also amended subsection 9.4(4) to make the requirements in section 12.12 [*delivering financial information – dealer*] apply to mutual fund dealers in Québec despite subsection 9.4(4). Exemptions related to other requirements listed in subsection 9.4(1) will continue to apply to the extent equivalent requirements are applicable to the mutual fund dealer under the regulations in Québec.

Section 10.1 [*failure to pay fees*]

Paragraph 10.1(1)(a) was amended to reflect in the official version of NI 31-103 adopted by all CSA jurisdictions, an Alberta-specific reference change that has already been adopted in Alberta. The change in reference reflects the replacement of Schedule for Fees in Alta. Reg 115/95 Securities Regulation by ASC Rule 13-501 *Fees*.

Section 12.1 [*capital requirements*]

We amended the first line of subsection 12.1(5), where it refers to a member of IIROC, to clarify that the referenced member must also be registered as an investment dealer.

Section 12.12 [*delivering financial information — dealer*]

We amended the first line of subsection 12.12(2.1), where it refers to a member of the MFDA, to clarify that the referenced member must also be registered as a mutual fund dealer.

We also amended section 12.12 by adding new subsections 12.12 (4) and (5) to allow a mutual fund dealer registered only in Québec, that is not a member of the MFDA and that is not registered in any other category, to provide only one calculation of its regulatory capital. Such a firm may deliver to the securities regulatory authority either the *Appendix I- Monthly Report on Net Free Capital* required by the *Regulation respecting the trust accounts and financial resources of securities firms*, as this Appendix read on September 27, 2009, or the Form 31-103F1 under section 12.12 of NI of 31-103 as at the end of the prescribed period.

Section 12.14 [*delivering financial information — investment fund manager*]

We amended subsection 12.14(4) where it refers to a member of IIROC to clarify that the referenced member must also be registered as an investment dealer.

We amended subsection 12.14(5) where it refers to a member of the MFDA to clarify that the referenced member must also be registered as a mutual fund dealer.

Section 14.12 [*content and delivery of trade confirmation*]

We added a new subsection 14.12(7) to state that, in Newfoundland and Labrador, Ontario and Saskatchewan, a registered dealer that complies with the requirements of section 14.12 in respect of the purchase or sale of a security is not subject to the following corresponding statutory provisions: subsections 37 (1), (2) or (3) of the *Securities Act* (Newfoundland and Labrador); subsection 36(1) of the *Securities Act* (Ontario); and subsection 42(1) of *The Securities Act, 1988* (Saskatchewan).

Section 15.1 [*granting an exemption*]

We amended subsection 15.1(3) to add a reference to Alberta so that it provides: “Except in Ontario and Alberta, an exemption referred to in subsection (1) is granted under the statute referred to Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.”

Amendments to Form 31-103F1 Calculation of Excess Working Capital

Line 10

We amended Line 10 to provide, in the case of a mutual fund dealer registered only in Québec and that is not registered in any other category, an alternative deduction of the deductible under the firm’s liability insurance instead of the bonding or insurance required under Part 12 of NI 31-103.

Schedule 1

In subparagraph (a)(i), we replaced the present references to specific rating organizations with a reference to "designated rating organization" (which is defined in section 1.1 of NI 31-103 to have the same meaning as in National Instrument 81-102 *Investment Funds*). This has the effect of including certain additional ratings organizations.

In paragraph (d), we have corrected a previous typographical error in the reference to the *Investment Company Act of 1940* by substituting "Company" for "Companies."

Amendments to 31-103CP

8.26 International adviser

We deleted the second sentence under this heading as it referred to text contained in a previous iteration of subsection 8.26(2) of NI 31-103.

14.12 Content and delivery of trade confirmations

We added a reference to the new exemption in subsection 14.12(7) that may be available to a registered dealer that complies with the requirements of section 14.12 in respect of the purchase or sale of a security. We also state that, for these purposes, a firm that has an exemption from section 14.12 and complies with the terms of that exemption would be considered to have complied with requirements of section 14.12.

Appendix A

We updated contact information in respect of New Brunswick.

Appendix B

We updated the definitional source references for the term "exchange contract" to reflect the fact that, in the case of Alberta, Saskatchewan, New Brunswick and Nova Scotia, the term "exchange contract" is now defined in National Instrument 14-101 *Definitions* (and not the corresponding Securities Act for each of those jurisdictions).

These changes, which have already been adopted in those local jurisdictions, are described in more detail in CSA Staff Notice 11-335.

Amendments to NI 33-109

Section 2.3 [*Reinstatement*]

As explained in section 2.5 of 33-109CP, when an individual leaves a sponsoring firm and joins a new registered firm, they may submit a Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* to have their registration or permitted individual status automatically reinstated in one or more of the same categories and jurisdictions as before, subject to all of the conditions specified in subsection 2.3(2) or 2.5(2) of NI 33-109.

Among the specified conditions is a requirement in subparagraph 2.3(2)(c)(i) of NI 33-109 that, after the individual's cessation date, there have been no changes to the information previously submitted in respect of Item 13 [*Regulatory disclosure*] of the individual's Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*, other than in respect of Item 13.3(c).

We amended subparagraph 2.3(2)(c)(i) of NI 33-109 so that the exception for changes in the information in respect of Item 13 refers to Item 13.3 (a) and not Item 13.3(c).

Section 7.1 [*exemption*]

We amended subsection 7.1(3) of NI 33-109 to add a reference to Alberta so that it provides: "Except in Ontario and Alberta, an exemption referred to in subsection (1) is granted under the statute referred to Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction."

Form 33-109F2 *Change or Surrender of Individual Categories*

We amended Schedule B *Contact information for Notice of collection and use of personal information* to update contact information for New Brunswick, Nunavut and Prince Edward Island.

Form 33-109F3 *Business Locations Other than Head Office*

We amended Schedule A *Contact information for Notice of collection and use of personal information* to update information for New Brunswick, Nunavut and Prince Edward Island.

Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*

Schedule C Individual Categories (Item 6)

In the check-boxes under the heading “Individual categories and permitted activities”, in the check box for “Permitted Individual”, we added “described in paragraph (c) of the definition of “permitted individual” in section 1.1 of National Instrument 33-109 *Registration Information*.” This change will align with the corresponding part of the Form on NRD.

Schedule O Contact information for Notice of collection and use of personal information

We updated information for New Brunswick, Nunavut and Prince Edward Island.

Form 33-109F5 Change of Registration Information

Schedule A Contact information for Notice of collection and use of personal information

We updated information for New Brunswick, Nunavut and Prince Edward Island.

Form 33-109F6 Firm Registration

Item 4.2 Exemption from securities registration

Firms that are seeking registration under securities legislation, derivatives legislation, or both, are required to complete and submit a Form 33-109F6 *Firm Registration*. Item 4.2 of Form 33-109F6 requires the firm to provide information on exemptions from registration or licensing to trade or advise in securities or derivatives. We amended Item 4.2 to eliminate this information requirement if the firm has already notified the securities regulator or, in Québec, the securities regulatory authority, in accordance with the applicable exemption.

Schedule A Contact information for Notice of collection and use of personal information

We updated information for New Brunswick, Nunavut and Prince Edward Island.

Schedule C Form 31-103F1 Calculation of Excess Working Capital

We amended this Schedule to reflect the amendments to Form 31-103 F1 referred to above.

Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals*

We amended Form 33-109F7 so that in subparagraph 2.3(2)(c)(i) the exception for changes in the information in respect of Item 13 refers to Item 13.3 (a) and not Item 13.3(c), with corresponding changes in the General Instructions and Item 9.1 of Form 33-109F7.

Schedule B Individual Categories (Item 3)

In the check-boxes under the heading “Individual categories and permitted activities”, in the check box for “Permitted Individual”, we have added “described in paragraph (c) of the definition of “permitted individual” in section 1.1 of National Instrument 33-109 *Registration Information*”.

As in the case of corresponding Schedule C *Individual Categories (Item 6)* in Form 33-109F4, this change will align with the corresponding part of the Form on NRD.

Schedule F Contact information for Notice of collection and use of personal information

We updated information for New Brunswick, Nunavut and Prince Edward Island.

Amendments to 33-109CP

In Appendix B, we updated the contact information for New Brunswick and Nunavut.

Annex B

Summary of comments on the July 2016 Proposal and responses

This annex summarizes the written public comments we received on the July 2016 Proposal and our responses to those comments.

This annex contains the following sections:

1. Introduction
2. Responses to comments received on the Custody Amendments
3. Responses to comments received on the Exempt Market Dealer Amendments
4. Responses to comments received on the Client Relationship Model Phase 2 Amendments
5. Responses to comments received on the Housekeeping Amendments

Please refer to Annex A *Summary of changes to the Instrument* for details of the changes we made in response to comments.

1. INTRODUCTION

Drafting suggestions

We received a number of drafting suggestions and comments. While we incorporated many of these suggestions, this summary does not include a detailed list of all the drafting changes we made.

Categories of comments and single response

In this annex, we consolidated and summarized the comments and our responses by the general theme of the comments. We have included section references for convenience.

2. RESPONSES TO COMMENTS RECEIVED ON THE CUSTODY AMENDMENTS

General

Overall, commenters were supportive of enhancing custody requirements for Non-SRO Firms to strengthen the Canadian client asset protection regime. Two commenters specifically commended the CSA for proposing a tailored solution for our Canadian market on this matter.

One commenter thought that registered firms should not be responsible for monitoring the actions and effectiveness of custodians, beyond ensuring compliance with the Custody Amendments. The commenter suggested that the CSA co-ordinate with other regulators such as the Office of the Superintendent of Financial Institutions to ensure that custodians are regulated and monitored appropriately.

The CSA does not expect registered firms to supervise the actions and effectiveness of custodians beyond their obligations under NI 31-103.

One commenter asked why the CSA feels that there is no adequate protection when firms that hold or have access to client assets are already subject to a higher insurance coverage requirement.

NI 31-103 requires registered firms to maintain certain coverage under a financial institution bond or insurance which insures the registered firm against losses under certain situations. However, the bonding or insurance does not insure the firm's clients or investment funds managed by the firm, and does not protect these clients or funds directly against the loss of assets resulting from inappropriate custodial arrangements.

Custody Amendments are different from the custodial requirements under NI 81-102

Some commenters asked for insight as to why the CSA chose to develop custodial provisions for registered firms that are different from those found under NI 81-102. One commenter believes that custodial provisions for prospectus-qualified investment funds should apply to all investment funds.

NI 81-102 sets out the operating requirements and a specific regulatory regime for prospectus-qualified investment funds, while NI 31-103 sets out the obligations of registered firms. Registered firms have a different level of involvement in their clients' custodial arrangements, depending on their registration category and business activities. The CSA is of the view that it is more

appropriate to develop custodial provisions that are tailored to the business models and regulatory framework applicable to registered firms. Therefore, the CSA examined the NI 81-102 custodial provisions and adapted them accordingly as prospectus-exempt investment funds have historically been subject to a different regulatory regime, including custodial requirements and practices, when compared to prospectus-qualified investment funds. Imposing the same custodial requirements found in NI 81-102 on prospectus-exempt investment funds would, for instance, have limited the ability of these funds to use the range of IIROC member firms they use as custodians today.

The CSA developed the Custody Amendments in order to codify existing custodial best practices applicable to registered firms and enhance investor protection without causing major disruption to these registered firms. We believe that our approach achieves the desired regulatory outcome and provides necessary flexibility to various existing business models and regulatory frameworks.

Definition of "foreign custodian"

Two commenters suggested that we broaden the definition of "foreign custodian" to include the foreign equivalent of a Canadian investment dealer because certain client or fund assets are currently custodied at foreign dealers that do not meet the definition of "foreign custodian". One commenter also suggested that we lower the minimum equity threshold requirement for affiliates of a foreign banking institution or trust company under paragraph (b) of the definition of "foreign custodian" from $100 million to $10 million, similar to the condition specified under paragraph (b) of the definition of "Canadian custodian".

In respect of the current custodial practices of our registered firms, we understand that only a small number of clients or investment funds are currently using a foreign dealer to hold their assets, and these foreign dealers are primarily large and reputable dealers that are affiliated with a large foreign or Canadian financial institution. We expect that these foreign dealers will meet the definition of "foreign custodian", and do not foresee a significant impact to the existing custodial arrangements of our registered firms' clients or investment funds.

Limitation on the use of a "foreign custodian"

The Custody Amendments only allow for the use of a "foreign custodian" where a reasonable person would conclude that using the "foreign custodian" is more beneficial to the client or investment fund than using a "Canadian custodian". We received comments suggesting that the "reasonable person" test is not necessary because custodial provisions in other areas of securities legislation (for instance, NI 81-102) do not employ a "reasonable person" test when providing for the use of a foreign custodian to hold assets. Two commenters submitted that it should be sufficient to have prescribed requirements to use a qualified foreign custodian without the "reasonable person" test to be consistent with the approach in NI 81-102. One commenter also suggested that there should not be any restriction on holding cash directly through a qualified "foreign custodian".

The Custody Amendments do not intend to replicate the custodial requirements in other areas of securities legislation, including NI 81-102. There are key differences, based on our policy objectives, between the Custody Amendments and the custodial framework under NI 81-102. For example, NI 81-102 requires that, except in very limited circumstances, portfolio assets of prospectus-qualified investment funds be held with a single Canadian custodian and cannot be held with a foreign custodian directly. Prospectus-qualified investment funds can only use foreign sub-custodians under the custodianship of a single Canadian custodian. To meet our policy objectives, we did not propose a requirement to use a single Canadian custodian and we allow for the use of a foreign custodian to directly hold assets of a client or investment fund of a registered firm. However, we recognize that there may be additional risks when a foreign custodian holds assets instead of a Canadian custodian. For instance, there may be difficulties in gaining legal title and repatriating assets from overseas in the event of an insolvency of the foreign custodian. As such, we are of the view that the "reasonable person" test for the use of a foreign custodian to hold cash or securities is necessary under our proposal in order to meet our policy objectives of enhancing client asset protection while codifying existing custodial best practices. Under the "reasonable person" test, we expect registered firms to assess the risks and benefits of using a foreign custodian against the risks and benefits of using a Canadian custodian and determine if using a foreign custodian is more beneficial for the client than using a Canadian custodian.

One commenter pointed out that registered firms' obligations under Part 11 of NI 31-103 and 31-103CP in dealing with third party service providers would apply equally in the context of selecting a qualified "foreign custodian". We agree that registered firms are subject to a standard of care and obligations under Part 11 and 31-103CP when dealing with third party service providers. However, these standards do not specifically require registered firms to consider if their client or investment fund may be better served by using a Canadian custodian instead of a foreign custodian.

One commenter asked for clarity about the statement in section 14.5.2 of 31-103CP: "Where a foreign custodian is used, we will assess this practice on a case-by case basis". In overseeing registered firms' compliance, CSA staff will assess the use of a foreign custodian on a case-by-case basis by determining whether a reasonable person would conclude that the use of the foreign custodian is more beneficial to the client or investment fund than using a Canadian custodian. CSA staff will make this determination by, among other things, reviewing the risks and benefits considered by the registered firm as well as any risks and benefits associated with using that custodian.

Permitted custodial practices for certain transactions under NI 81-102

Two commenters requested clarification as to whether custodial practices for certain derivative and short sales transactions as permitted under sections 6.8 and 6.8.1 of NI 81-102, and the use of depositories as permitted under subsection 6.5(3) of NI 81-102, are allowed under the Custody Amendments.

It is our intent to allow for custodial practices similar to those permitted under sections 6.8 and 6.8.1 of NI 81-102, and subsection 6.5(3) of NI 81-102 in our Custody Amendments. Including similar provisions in NI 31-103 reflects our policy objective of codifying existing custodial best practices. We revised the Custody Amendments to reflect our intent.

Implication on non-resident clients of non-resident registered firms

Two commenters suggested that non-resident clients of non-resident registered firms be exempted from the Custody Amendments given the absence of any real nexus to Canada other than the firm's registration, and the possibility of disruption to existing custodial arrangements. The commenters are concerned that certain aspects of the Custody Amendments may be too onerous for non-resident registered firms with respect to their non-resident clients.

Registered firms with a head office outside of a jurisdiction of Canada were historically subject to custodial requirements under section 14.7 of NI 31-103 (which we are now repealing). Section 14.7 requires these firms to hold client assets in the client's name, or at a custodian or sub-custodian that meets certain criteria, similar to the criteria outlined in the definition of "qualified custodian" under the Custody Amendments. Section 14.7 applies to assets of all clients of non-resident registered firms, regardless of whether the client was Canadian or not. Therefore, it is our view that the Custody Amendments do not create substantial new requirements for non-resident registered firms and we do not expect major disruptions to existing custodial arrangements of clients of non-resident registered firms.

The CSA recognizes that, under the Custody Amendments, non-resident registered firms will be subject to certain new disclosure requirements regarding where and how client assets are held or accessed and the rationale for using a foreign custodian. At the same time, the CSA are mindful of the potential adverse consequences to clients of non-resident registered firms if these clients are placed in an inappropriate custodial arrangement. Currently, we are not aware of any specific examples where compliance with the new requirements will create a significant issue for non-resident registered firms. Therefore, we do not recommend adding an exemption for non-resident clients of non-registered firms, but we will consider granting exemptive relief on a case-by-case basis.

Interpretation on "holding or having access" to client cash or securities, and on "directing or arranging" the custodial arrangement

One commenter asked for further guidance on when a registered firm is deemed to "hold" the cash and securities of clients or investment funds, specifically when firms are registered owners of securities as nominees on behalf of a client.

The CSA is of the view that the existing guidance under section 14.5.2 of 31-103CP is sufficiently clear. We also believe that subsection 14.14(7) of NI 31-103 is useful in respect of this comment. Under subsection 14.14(7), a security is considered to be held by a registered firm for a client if the firm is the registered owner of the security as nominee on behalf of a client.

One commenter asked if the guidance on "holding or accessing client assets" in the context of insurance requirements for advisers under section 12.4 of 31-103CP serves as general guidance on "holding or accessing client assets" in other contexts. There was also a question as to whether having "view-only" authority on a client's broker account would be considered as "having access" to client assets.

The CSA expects all registered firms to consider the examples listed in section 12.4 of 31-103CP in determining whether they hold or have access to client assets for the purposes of Division 3 of Part 14. If a registered firm has "view-only" authority on a client's broker or custodial account without the ability to withdraw or transfer funds from the account, the CSA generally does not consider this circumstance to constitute "having access" to client assets.

Two commenters asked for clarity as to whether referring clients to a specific custodian would trip the "directing or arranging custodial arrangement" trigger.

When a registered firm refers its clients to a specific custodian or provides its clients with a list of custodians to choose from, the CSA generally considers these actions to constitute "directing or arranging" which custodian will hold the cash or securities of its clients. The Custody Amendments, which include the new relationship disclosure requirements relating to custody, will apply.

Restriction on self-custody

One commenter asked for more insight on the restriction on self-custody.

When a registered firm also acts as the custodian or sub-custodian for its clients or investment funds ("self-custody"), there is heightened custodial risk if the firm does not have the proper controls and supervision in place, including segregation of duties to mitigate such risk. Therefore, the CSA is restricting "self-custody" practices to certain "Canadian custodians" provided that they

have established and maintain a system of controls and supervision that a reasonable person would conclude is sufficient to manage the custodial risk.

Interpretation on "functionally independent" custodian

Two commenters suggested that more clarity on the concept of "functionally independent" custodian would be helpful in providing comfort that certain existing arrangements will not be found to violate the requirement.

Under the heading "Prohibition on self-custody and the use of a custodian that is not functionally independent" of section 14.5.2 of 31-103CP, we reference section 12.4 of 31-103CP. Section 12.4 of 31-103CP discusses situations where a registered firm will be considered to have access to client assets through the use of a non-functionally independent custodian. The CSA is of the view that the current guidance is sufficient.

One commenter thought that there was an inconsistency in the requirement for a functionally independent custodian between client securities and client cash. Subsection 14.5.2(6) states that a Canadian financial institution that is the custodian of cash of the client or investment fund must be functionally independent of the registered firm. However, subsection 14.5.2(5) exempts a qualified custodian of cash and securities from the functional independence requirement if the custodian meets certain requirements.

The CSA confirms that there is no inconsistency in the requirement for a functionally independent custodian between client securities and client cash. For instance, a bank or trust company that is not functionally independent of the registered firm, but meets the requirements under paragraphs (a) and (b) of subsection 14.5.2(5), can hold both client securities and client cash as permitted under subsection 14.5.2(2). Subsections 14.5.2(4) and 14.5.2(6) are designed to allow a Canadian financial institution that does not meet the definition of a "Canadian custodian" to hold client cash provided that it is functionally independent of the registered firm.

Interpretation on "systems of controls and supervision" requirement

One commenter asked for clarity on the scope and nature of the requirement to have a system of controls and supervision in order to "self-custody" under subsection 14.5.2(1) or use a qualified custodian that is not functionally independent under subsection 14.5.2(5).

Under the heading "Prohibition on self-custody and the use of a custodian that is not functionally independent" of section 14.5.2 of 31-103CP, the CSA stated that we would consider a system of controls and supervision for the purposes of paragraphs 14.5.2(1)(b) and 14.5.2(5)(b) to include:

- segregation of duties between the custodial function and other functions
- client asset verification examination performed by a third party

In our view, the wording of paragraph 14.5.2(5)(b) is sufficiently clear; i.e., the qualified custodian needs to establish and maintain the "system of controls and supervision" that a reasonable person would conclude is sufficient to manage risks associated with the custody of client assets.

The same commenter also suggested that we explicitly note that the Statement on Standards for Attestation Engagements No. 16, Reporting on Controls at a Service Organization (SSAE 16), the International Standards on Assurance Engagements (ISAE) 3402 Assurance Reports on Controls at a Service Organization and the Canadian equivalent, the CSAE 3416, will meet the standard expected by the CSA in respect of a third party verification.

The CSA does not object to the use of the above-mentioned third party examinations when a registered firm is considering whether a qualified custodian has established and maintains a system of controls and supervision that a reasonable person would conclude is sufficient to manage custodial risks to the client or investment fund for the purposes of paragraphs 14.5.2(1)(b) and 14.5.2(5)(b).

Use of multiple custodians

One commenter noted that the wording "the custodian" under subsection 14.5.2(2) seems to suggest that a single custodian must be used.

The CSA does not intend to prohibit the use of multiple custodians in the Custody Amendments. We amended subsection 14.5.2(2) to clarify our intent.

Use of sub-custodians

One commenter suggested that we explicitly address the requirements for using sub-custodians in the Custody Amendments.

The CSA recognizes that registered firms are typically not a party to the custodial agreement between their clients and the custodian selected by the client to hold their assets. We believe that it would be too onerous for registered firms to impose

requirements on custodians regarding the use of sub-custodians because most firms do not have the contractual power to control or influence the custodian's use of sub-custodians. We have set out our expectations on the use of sub-custodians under the heading "Custodial Arrangements" in section 14.5.2 of 31-103CP.

Holding non-traditional assets

One commenter suggested that we set out the types of assets that will be exempt from the restriction on self-custody and the qualified custodian requirements, given that custodians have been reluctant to hold unique assets in some instances.

The Custody Amendments are primarily applicable to cash and securities of clients and investment funds. Assets other than cash and securities are not subject to the restriction on self-custody and the qualified custodian requirements. Section 14.6 will still apply in these circumstances. In addition, under the heading "general prudent custodial practices" in section 14.5.2 of 31-103CP, we set out our expectations for assets other than cash and securities.

Carve out for securities recorded in client name on issuer's books

One commenter asked for the reasons for the carve-out for securities recorded only in the name of the client or investment fund under paragraph 14.5.2(7)(c) of NI 31-103.

One of the policy objectives of the Custody Amendments is to mitigate intermediary risks when Non-SRO Firms are involved in the custody chain. When a security is recorded only in the name of the client or the investment fund on the books of the security's issuer or the transfer agent of the security's issuer, custody risk posed by intermediaries is largely reduced, and therefore the CSA does not think that it is necessary to impose the new custody requirements under these circumstances.

However, if a registered firm determines that it is prudent for a custodian to record a security on book-basis, a custodian should be used and this exemption does not suggest otherwise.

Carve out for certain mortgages

One commenter asked us to clarify that the exemption under paragraph 14.5.2(7)(f) of NI 31-103 for certain mortgages is meant to reflect current industry practices.

It is our understanding that the situations described under paragraph 14.5.2(7)(f) reflect current industry practices for holding mortgages. However, if a registered firm determines that it is prudent to have a custodian record any mortgages on book-basis, a custodian should be used and this exemption does not suggest otherwise.

Use of omnibus accounts

One commenter asked for clarity as to whether section 14.5.3 of NI 31-103 would preclude registered firms who hold client assets at a qualified custodian from continuing to use omnibus accounts to hold client assets on an aggregated basis.

Under paragraph 14.5.3(c), registered firms can continue to hold client cash and securities in omnibus accounts on behalf of clients on an aggregated basis, but only on a temporary basis to facilitate bulk trading. Client cash and securities must be transferred to the applicable client's or investment fund's own custodial account as soon as possible following the trades.

The CSA understands that it is uncommon for registered firms to use omnibus accounts other than for bulk trading purposes, therefore we do not foresee a major transition issue.

Holding client assets and investment fund assets in trust

One commenter asked for an explanation on how the new section 14.5.3 interplays with the revised section 14.6. One commenter suggested that the requirement under subsection 14.6(2) should be moved to section 14.5.2 from section 14.6.

The new section 14.5.3 requires registered firms subject to subsections 14.5.2(2), (3) or (4) to ensure that cash and securities of clients and investment funds are held in a particular manner by a qualified custodian or Canadian financial institution, as applicable. Paragraph 14.5.3(a) requires that cash and securities of a client or an investment fund be recorded by the qualified custodian or, with respect to cash, the Canadian financial institution to show that the beneficial ownership is vested in that client or investment fund. Paragraph 14.5.3(b) seeks to preserve the status quo with respect to cash held by a registered firm in a designated trust account in trust for clients or investment funds as was historically permitted under section 14.6 as it appeared prior to the Custody Amendments. To facilitate bulk trading, paragraph 14.5.3(c) permits the use of omnibus accounts to hold cash and securities of clients and investment funds, but only on a temporary basis such that the cash and securities are transferred to the client's or investment fund's own custodial account as soon as possible following the trade.

In situations where the new custody requirements under sections 14.5.2 and 14.5.3 do not apply, revised section 14.6 maintains the minimum client asset protection standards of segregation and holding client and investment fund assets in trust for the client or investment fund. For instance, sections 14.5.2 and 14.5.3 do not apply to client assets that are not cash or securities, or when one of the exemptions under subsection 14.5.2(7) is relied upon. Revised section 14.6 will still be applicable in those situations in order to preserve our previously existing client asset safeguards. Subsection 14.6(2) seeks to achieve consistency with the

approach taken under section 14.5.2 in allowing for the use of a foreign custodian for cash only when it is more beneficial to the client or investment fund to use the foreign custodian as opposed to a Canadian custodian.

Transition period and application

A few commenters requested that the CSA consider extending the six-month transition period, suggesting that material changes may be required to existing longstanding and otherwise secure custodial and sub-custodial arrangements to comply with the new requirements. They also suggested that it is time-consuming for registered firms to determine if a firm has directed or arranged custodial arrangements for clients in the past. They asked for clarity as to when the expected client notifications on existing custodial arrangements, as outlined in the July 2016 Proposal, should take place.

The Custody Amendments are designed to codify existing custodial best practices, therefore the CSA does not foresee any material changes to existing custodial arrangements for the vast majority of our registered firms. We believe that a six-month transition period is sufficient for registered firms to implement any necessary changes to comply with the new requirements, especially given that there were no major implementation challenges raised through the public comment process.

Since the Custody Amendments do not apply retroactively, the six-month transition period does not apply to existing custodial relationships that were previously directed or arranged by a firm. For existing custodial relationships that were directed or arranged by a firm before the Custody Amendments come into force, we expect that registered firms make reasonable efforts to inform their clients of the new custodial requirements within a reasonable time frame. Registered firms should make their clients aware if their existing custodial arrangements do not meet the requirements of the Custody Amendments and direct them to an alternative custodian that meets the new requirements.

Prescribed terms on custodial contracts

In the July 2016 Proposal, the CSA sought feedback on whether our proposed guidance for investment fund managers is sufficiently clear in respect of key terms that they should consider when entering into a written custodial agreement on behalf of the investment funds managed by them, and whether prescribed key terms for custodial agreements in NI 31-103, similar to the requirements found in NI 81-102 and NI 41-101, should be imposed.

A few commenters thought that the guidance was sufficiently clear and that there was no need to impose prescribed terms for custodial agreements. One commenter thought that having prescribed terms would be helpful but also highlighted the challenges of proposing such rules given the broad spectrum of stakeholders involved.

The CSA decided not to make any changes concerning this matter. We will monitor the operation of the new custody requirements once they are in force and assess whether mandating key terms for custodial agreements is necessary.

Due diligence expectations

One commenter asked for clarity on the CSA's expectations regarding investment fund managers' obligations in the ongoing monitoring of the custodian for the investment funds managed by them, in particular, relating to the appointment of a sub-custodian by the custodian.

The CSA expects investment fund managers to conduct a periodic review of custodial arrangements for their investment funds, and consider whether the custodian uses all reasonable diligence, care and skill in the selection and monitoring of its sub-custodians, and whether the sub-custodians would meet the definition of a "qualified custodian".

We expect investment fund managers to consider the selection criteria and monitoring processes of sub-custodians when conducting their initial review and ongoing monitoring of the custodians for the funds.

One commenter asked for clarity on the expectations of a registered firm, other than an investment fund manager, to conduct due diligence and periodic reviews of custodians with which only its client, but not the firm itself, has a contractual arrangement.

The CSA considers it prudent for registered dealers and advisers that have influence over a client's selection of a custodian to conduct due diligence similar to that expected of an investment fund manager. The CSA expects that reasonable efforts be made by these firms to meet this expectation if they are to exert influence over a client's selection of a custodian.

One commenter asked for guidance on situations when clients refuse to use a custodian in a manner contemplated by the Custody Amendments.

Most of the new requirements under the Custody Amendments are triggered by the registered firm directing or arranging the custodial arrangement for clients or investment funds, or holding or having access to the cash or securities of the client or investment fund. If a registered firm does not undertake any of these activities, most of the new requirements under the Custody Amendments, including the requirement to use a "Canadian custodian", would not apply.

Implications for mutual fund dealers in Québec that are not MFDA members

One commenter asked for more details on the implications of the Custody Amendments on firms registered in Québec in the mutual fund dealer (MFD) category who are not members of the MFDA. The commenter expressed concern that MFDs that operate throughout Canada may face administrative and technological challenges due to differences in regulation.

As pointed out in the July 2016 Proposal, the Custody Amendments will prohibit a firm registered in Québec in the MFD category, and that is not a member of the MFDA, from holding cash and securities in nominee form. In the context of the Custody Amendments, not being a member of the MFDA means that a firm is registered as an MFD in Québec only. Therefore, the Custody Amendments will not apply to MFDs that are registered in multiple jurisdictions, including Québec, because such MFDs registered in Québec would also be members of the MFDA. In this regard, we believe that there will not be any inconsistency in regulation.

Before the publication of the July 2016 Proposal, the AMF conducted a survey on the custodial practices of MFDs registered only in Québec. According to the responses received, the Custody Amendments would not have significant impact on their current custodial practices. The CSA also did not receive any comments from MFDs that are only registered in Québec on the Custody Amendments.

Other comments on guidance

One commenter thought that the guidance under "General prudent custodial practices" in 31-103CP, in particular under the headings "Delivery of custodial statements" and "Reconciliation with custodians" are important expectations of the CSA that should be built into the Rule instead of guidance. The commenter also asked for clarity on account statement delivery expectations on registered firms and custodians.

The CSA believes that this guidance essentially confirms our long-standing expectations instead of setting new expectations. Most of these expectations fall under the requirement to have a system of controls and supervision to manage business risks under section 11.1 of NI 31-103, which would include having adequate internal control procedures to mitigate risks associated with safeguarding client assets. The CSA issued CSA Staff Notice 31-347 *Guidance for Portfolio Managers for Service Arrangements with IIROC Dealer Members* on November 17, 2016 which provides guidance to portfolio managers on service arrangements with IIROC member firms, including our expectations on account statement delivery.

3. RESPONSES TO COMMENTS RECEIVED ON EXEMPT MARKET DEALER AMENDMENTS

General

In general, the commenters that provided comments on the July 2016 Proposal were critical of the proposed amendments to Part 7 of NI 31-103 but were supportive of the proposed amendments to s. 8.6 of NI 31-103.

In particular, several commenters suggested that the proposed amendments to Part 7 would have a negative impact on firms registered in the investment fund manager (IFM), portfolio manager (PM) and EMD categories, and that the CSA had not provided any policy rationale for these new restrictions. Several of the commenters also noted that the proposed amendment to broaden the dealer registration exemption in section 8.6 would not, by itself, address the negative impact of these changes.

As explained below, many of the comments appear to reflect a general concern that the Exempt Market Dealer Amendments go beyond what was intended and in fact have the effect of restricting the ability of EMDs to participate in distributions of securities of issuers, including reporting issuers, made under exemptions from the prospectus requirement. This is not the case. We have included additional guidance in the response to comments below and in the Companion Policy to clarify this.

Overview of Comments

One commenter supported the proposed amendments.

Two commenters supported clarifying the scope of permissible activities for EMDs but questioned the policy rationale for prohibiting EMDs from distributing prospectus-qualified securities to the exempt market.

Four commenters requested clarification that firms registered as EMDs, including firms that are registered as IFM/PM/EMDs, could continue to distribute prospectus-qualified securities to the exempt market.

Eight commenters opposed the changes (either outright or if it means firms that are registered as IFM/PM/EMDs cannot continue to distribute prospectus-qualified securities to the exempt market).

Seven commenters indicated either that they relied on their EMD registration to distribute prospectus-qualified securities to investors or suggested the changes would have a significant impact on existing market practice by other firms that do this.

Four commenters noted that the proposed amendments to section 8.6, while welcome, would not resolve this issue since

- it is limited to a managed account context,
- it is limited to distributions by an investment fund that is advised by the adviser and managed by the adviser or an affiliate of the adviser, and
- it is unclear whether a firm registered as an EMD could rely on this exemption because of s. 8.01 of NI 31-103.

Two commenters questioned whether the proposed changes represented a "clarification" of the scope of activities of an EMD and suggested that the proposed amendments represented significant new restrictions on the activities of EMDs.

Six commenters stated that the CSA had failed to provide any policy rationale or evidence of investor harm for further limiting the permissible scope of activities of EMDs.

Four commenters argued EMDs provide a valuable capital-raising function in the exempt market and should be allowed to act as selling group members (but not underwriters) in prospectus offerings.

One commenter argued that a number of dealers (primarily EMDs) provide a service to clients that wish to participate in offerings of flow-through shares for charitable giving purposes. Most flow through offerings are conducted by junior exploration companies which have limited financing options. Removing this segment of the market from participating in prospectus offerings is a significant limitation on these issuers' access to capital.

One commenter did not oppose restricting EMDs from acting as selling group members (but not underwriters) in prospectus offerings but believes investment funds are different and suggested that the new restrictions should not apply to prospectus distributions of investment funds.

Two commenters were concerned that the proposed changes would have an impact on the ability of EMDs to participate in private placements of securities of reporting issuers/public funds.

Five commenters argued the amendments do not further the purposes or principles of securities legislation.

Three commenters argued it is not a valid purpose of securities legislation to suppress competition/or investor choice (by limiting prospectus offerings to IIROC members).

Two commenters suggested the proposed amendments were contrary to the best interest initiative (that is, the targeted reforms discussed in CSA Consultation Paper *33-404 Proposals to Enhance the Obligations of Advisers, Dealers and Representatives Towards their Clients* (CP 33-404)) in that they restricted the scope of products that EMDs could offer their clients.

CSA Response

The Exempt Market Dealer Amendments do not have any impact on the ability of an EMD to act as a dealer or underwriter in a distribution by an issuer, including a reporting issuer, if the distribution is being made under an exemption from the prospectus requirement (a prospectus-exempt distribution).

The Exempt Market Dealer Amendments are intended to clarify that an EMD may not act as a dealer or underwriter in a distribution that is being made under a prospectus (a prospectus distribution). The CSA takes the view that the investment dealer category or, in the case of a mutual fund prospectus distribution, the investment fund dealer or mutual fund dealer categories, are the appropriate dealer registration categories for prospectus distributions.

Clarification of the term "prospectus-qualified" securities

A number of the commenters questioned whether a firm that holds an EMD registration may distribute "prospectus-qualified securities" to accredited investors or other investors who are otherwise eligible to purchase securities on a prospectus-exempt basis (collectively, exempt market purchasers).

For clarity, an EMD is not permitted to distribute "prospectus-qualified securities" to an exempt market purchaser in the sense that the specific securities that are being distributed to the exempt market purchaser are being distributed under a prospectus and are therefore "prospectus-qualified" securities.

However, an EMD may distribute "prospectus-qualified securities" to an exempt market purchaser in the sense that the specific securities that are being distributed to the exempt market purchaser in reliance on a prospectus exemption are of the same class of securities as are being distributed to other investors through, for example, an investment dealer in a contemporaneous prospectus offering.

In this summary, we use the term "prospectus-qualified securities" to mean securities that have been distributed to an investor (including an investor that may be considered an exempt market purchaser) under a prospectus. If the distribution is made under a prospectus, the issuer of the securities has filed a prospectus with the securities regulatory authorities and obtained a receipt for it. Investors purchasing prospectus-qualified securities have statutory prospectus rights under securities legislation, such as rights of rescission or damages in the event of a misrepresentation in the prospectus, and the securities will be freely trading. If the distribution is made under an exemption from the prospectus requirement, such as the accredited investor exemption in s. 2.3 of NI 45-106 *Prospectus Exemptions* (NI 45-106), the securities will not be prospectus-qualified, investors do not have statutory prospectus rights under securities legislation in the event of a misrepresentation in the prospectus, the securities will typically be subject to resale restrictions and the issuer or underwriter may be required to file a report of exempt distribution under Part 6 of NI 45-106.

Adviser firms that also hold an EMD registration

A person or company registered as an adviser in the category of PM may also obtain registration as an EMD in order to act as a dealer or underwriter in prospectus-exempt distributions. The CSA takes the view that obtaining registration as an EMD does not restrict the activities the adviser may otherwise conduct in the capacity of a PM. For example, a PM may purchase securities on behalf of a managed account in a prospectus offering. If the PM is making the purchase solely in its capacity as a PM (that is, it is simply acting as an investor in a prospectus offering) and the PM is not also acting as a selling group member or receiving a commission or other fee from the issuer or another dealer in connection with the offering, the CSA would not consider the PM to be "acting as a dealer" in a prospectus distribution.

Can a PM/EMD rely on the exemption in section 8.6 of NI 31-103 (or does s. 8.01 preclude this)?

The exemption in section 8.6 is available to an adviser that has obtained registration as an EMD in connection with dealer activities that are not permitted by an EMD registration.

Section 8.01 provides that the exemptions in Division 1 of Part 8 are not available to a person or company if the person or company is registered in the local jurisdiction and if their category of registration permits the person or company to act as a dealer or trade in a security for which the exemption is provided. As described above, under Part 7, an EMD may not act as a dealer or underwriter in a prospectus distribution. Accordingly, an adviser that also holds an EMD registration is not precluded from relying on the exemption in section 8.6 in connection with a prospectus distribution by virtue of its EMD registration.

4. RESPONSES TO COMMENTS RECEIVED ON THE CLIENT RELATIONSHIP MODEL PHASE 2 AMENDMENTS

Non-cash Incentives

There was little support for amending section 14.17 of NI 31-103 to require disclosure of non-cash sales incentives as suggested in the first of the two questions we posed along with the July 2016 Proposal. Several commenters suggested it would be more appropriate for the CSA to address this matter through the targeted reforms discussed in CP 33-404. We also received comments that it would be premature to make further changes to the CRM2 Requirements before the CSA has completed its work to assess the impact of CRM2. Commenters also suggested that existing requirements for the disclosure of conflicts of interest adequately address the issue. Two commenters argued that including non-cash incentives in a report on charges and other compensation would not be meaningful to clients or would be confusing. Others argued that disclosure would not be an effective way of managing conflicts of interest arising from a sales incentive.

We have not amended section 14.17 to include a requirement to disclose non-cash incentives at this time. The CSA will, however, continue to consider issues related to non-cash incentives and their associated conflicts of interest. In 2016, as well as publishing CP 33-404, the CSA published a report on the compensation arrangements and incentive practices that firms use to motivate their representatives and the potential conflicts of interest (CSA Staff Notice 33-318 *Review of Practices Firms Use to Compensate and Provide Incentives to their Representatives*). Further changes to registered firm conduct requirements may be made in the context of this work.

Embedded Fees

There was also little support for amending section 14.17 of NI 31-103 to require disclosure of embedded fees paid to the issuers of securities. As was the case with the question about adding disclosure of non-cash incentives, several commenters suggested it would be more appropriate for the CSA to address this matter through the targeted reforms discussed in CP 33-404, and that it would be premature to make further changes before the impact of CRM2 has been assessed. We also received a number of comments suggesting that this requirement would be duplicative in light of the information required to be included in the Fund Facts of a mutual fund. It was suggested that it would be more appropriate to consider the issue of embedded fees through the regulatory initiatives set out in CSA Discussion Paper and Request for Comment 81-407 *Mutual Fund Fees*. One commenter felt that, because embedded fees are disclosed in other issuer materials, a general notification of the existence and nature of such fees could lead to confusion regarding the total amount of fees being paid.

Single commenters expressed objections that disclosure of this kind

- could leave the investor with a false impression that mutual funds are more expensive to own than competing products with embedded fees that are subject to other regulatory regimes,

- would place an undue emphasis on the effect embedded fees have on investment returns, and
- would be redundant in light of requirements for high-level disclosure of investment costs at account-opening and specific disclosure at point-of-sale.

A small number of commenters felt that disclosure, in some form, would be useful to investors. One commenter recommended a cross industry working group be formed to assess embedded fee disclosure alternatives and provide recommendations to the CSA.

We have not amended section 14.17 to include a requirement to provide information about embedded fees at this time. The CSA will, however, continue to consider issues related to embedded fees and the associated conflicts of interest.

Relationship disclosure information

There were comments that the results would not be meaningful to clients and/or would require changes to information firms are currently providing, if we expanded the guidance in section 14.2 of the Companion Policy to state our expectation concerning disclosure of the following information:

- a firm's relationship to the issuer of investment products,
- management fees associated with mutual funds,
- commissions paid by issuers, and
- bonuses from affiliated companies.

These are not new expectations: they are all consistent with the principle set out in subsection 14.2(1): "A registered firm must deliver to a client all information that a reasonable investor would consider important about the client's relationship with the registrant". Nonetheless, we have clarified the guidance about costs and other information that we believe a reasonable investor would consider important and which we would therefore expect to be included in relationship disclosure. We have included guidance as to the level of detail expected at the relationship disclosure stage and at the point-of-sale. We have also added references to the requirements to which this guidance applies.

We did not agree with a suggestion that "related party" should be defined for these purposes. We intend "related party" to have its plain language meaning. An overly technical use of the term would be inappropriate in the context of this guidance.

Pre-trade disclosure of charges - Frequent trader

We received a request for guidance on when a client would be a "frequent trader" as referred to in the proposed addition to section 14.2.1 of the Companion Policy. A bright line test would not be appropriate in the context of this guidance.

Account statements and additional statements

Dividend or Interest Payment

One commenter requested that the proposed addition of the words "dividend or interest payment" to subsection 14.14(4) of NI 31-103 be expanded to read "dividend, distribution or interest payment". We have decided not to make the proposed addition at all. Upon further consideration, we do not wish to imply a prescriptive requirement that might introduce new costs to firms without commensurate benefits to investors. Firms continue to be free to provide more specific information than the currently prescribed minimum.

Investor Protection Fund Disclosure

One commenter found paragraphs 14.14(5)(f) and 14.14.1(2)(g) to be problematic. The commenter did not see value in investors being informed as to whether or not their accounts are covered by an investor protection fund (IPF). We disagree and consider it to be important information for investors. We also note that IIROC and the MFDA require their member firms to be members of specified IPFs and to disclose that fact to clients.

The commenter also thought these proposed amendments would impose new requirements on registered firms. Both provisions were included in the original CRM2 amendments to NI 31-103 published in March 2013. The amendments, which we will be making, are technical and address the fact that it may not always be possible to say that an account *is* covered by an IPF, only that it is *eligible* for coverage. The CRM2 Orders provided certain temporary relief from the coming into effect of IPF disclosure for non-SRO member firms, with an indication that we would be publishing amendments to the requirements. We did so in the July 2016 Proposal, including the technical changes and also a provision introducing permanent relief (new subsection 14.14.1(2.1)) for arrangements where another firm holds or controls the client's securities. As explained in the July 2016 Proposal, this was done to avoid the possibility that a client might receive inaccurate information about the extent of IPF coverage from a registered firm that is not itself a member of the IPF. This was a concern expressed by the Canadian Investor

Protection Fund (CIPF) and it relates to the common arrangement whereby a PM has discretionary authority over a client's account at an IIROC member firm. In this situation, the IIROC firm is better placed than the PM to explain CIPF coverage to the shared client. The net effect of these amendments will be that IIROC members, MFDA members, and PMs in the arrangement described above will all see no change to their current practices with respect to IPF disclosure, while the gap in IPF disclosure for the (relatively small) number of clients who are not served within those channels will now be closed.

The same commenter also described as problematic what they thought was a new requirement in subsection 14.14.2 (2.1). This is not a new requirement. It was previously in subparagraphs 14.14.2(2)(a)(ii) and 14.14.2(2)(b)(ii). It was turned into a stand-alone provision, without any change in substance, because shortening these provisions made them easier to read. The commenter also expressed difficulty with the related guidance proposed for the CP. The guidance was originally included in our CRM2 FAQs and we received no further questions on the topic after it was published. We therefore believe the CP guidance is sufficient.

Security position cost

One commenter suggested that the sentence in section 14.14.2 of the Companion Policy that states that the definition of book cost or original cost must be included in the client statement should be revised to add clarity by adding "or in the separate document". We agree and have done so.

Report on charges and other compensation

Employee Bonuses

We received comments on the proposed addition of guidance in section 14.17 of the Companion Policy about our expectation that firms disclose employee bonuses linked to sales. One industry association expressed concern that it would be extremely challenging to identify the quantum of the employee bonus on a per-client basis for the purpose of reporting it as a line item on the annual report. The same commenter expressed that, on the other hand, disclosing an employee's entire bonus would be misleading to clients as it would not be specifically linked to any client transaction and may also raise privacy concerns.

We generally agree with the comments and have removed the language that was proposed.

Investment performance report

Comparison of Actual Rate of Return to Target Rate of Return

We received comments about the proposed addition of guidance in section 14.19 of the Companion Policy to the effect that a client's personal rate of return should be compared to their target rate of return. Commenters noted that registered firms are not required to provide clients with a target rate of return.

We have revised the guidance to clarify that a client's personal rate of return should be compared to their target rate of return, if they have one, so that progress toward that goal can be assessed.

Inception Date

One commenter asked if firms will be subject, on a compliance review, to an additional standard beyond accuracy of the data used when selecting a "deemed inception date" for their investment performance reports for accounts that were opened before July 15, 2015. We have clarified the requirement: firms must reasonably believe accurate, recorded historical information is available for the client's account, and it must not be misleading to the client to provide that information as at the chosen date. Generally, firms will use the same date for all of their clients. In the Companion Policy, we give examples of situations in which we would think it reasonable for a firm to use different dates for different groups of clients.

Other matters

"Permitted Client" Definition

One commenter requested that we revise the definition of "permitted client" in NI 31-103 to include what the commenter considers to be a commonly thought of "institutional client". This would be outside the scope of the Client Relationship Model Phase 2 Amendments and would involve material rule changes that would have to be published for comment.

Exempt Market Dealers

One commenter requested that we add guidance to the Companion Policy about when an EMD would be required to provide various client statements to its clients. We have added guidance on how the client reporting requirements in Part 14 of NI 31-103 apply to an EMD who is not also registered as an adviser or in another category of dealer. This is substantially the same as the guidance that was included in CSA Staff Notice 31-345 *Cost Disclosure, Performance Reporting and Client Statements – Frequently Asked Questions and Additional Guidance*.

Exemptive Relief

One commenter asked that we include a reference in the Companion Policy to the availability of discretionary exemptive relief from certain of the CRM2 Requirements for institutional clients that are "accredited investors" but do not qualify as "permitted clients". We have not done so, as general guidance presented in the Companion Policy is not the forum to discuss narrowly targeted relief.

5. RESPONSES TO COMMENTS RECEIVED ON THE HOUSEKEEPING AMENDMENTS

International advisers

We received comments on our proposed amendment to clarify subsection 8.26(3) of NI 31-103. The comments suggested that further clarification was necessary to clarify the intended scope of the exemption and ensure that the proposed amendment was consistent with the stated policy objective. In response to these comments, we made further clarifying changes, including eliminating potential confusion associated with double negatives. One commenter suggested that we not make any changes to the current provision. We did not follow the suggestion since the clarifying changes help eliminate potential ambiguity associated with the fact that the current provision refers to a "Canadian issuer" without including a specific definition for that term. We also declined to pursue at this time the suggestions of one commenter that the CSA provide guidance on what it would consider to be "incidental" in the context of the proposed amendment to subsection 8.26(3) (who also reiterated previously expressed concerns about restricting the availability of the exemption for advice on securities of Canadian issuers). The reason for not pursing the suggestion is that it was outside the scope of what we published for comment in the July 2016 Proposal.

Form 33-109F6 Firm Registration

Item 4.2 Exemption from securities registration

Firms that are seeking registration under securities legislation, derivatives legislation, or both, are required to complete and submit a Form 33-109F6 *Firm Registration* (Form 33-109F6). Item 4.2 of Form 33-109F6 requires the firm to provide information on exemptions from registration or licensing to trade or advise in securities or derivatives.

The July 2016 Proposal included a proposed amendment to Item 4.2 to eliminate this information requirement if the firm has already notified the securities regulator or, in Québec, the securities regulatory authority, in accordance with the applicable exemption.

One commenter recommended that the CSA further narrow the scope of Item 4.2 of Form 33-109F6 to state that the only exemptions which must be disclosed under this heading are those for which the firm has previously obtained from a securities regulator a discretionary exemption or other decision-based relief. We have not added this further clarification on the basis that this change was outside of the scope of the proposed amendment, and would also not be consistent with the objective of obtaining appropriate information to understand the nature of the trading and advising activities being undertaken by the firm.

The same commenter also proposed that, if the firm was relying upon a discretionary exemption previously granted by a securities regulator, there should be no late fee payable for a late filing of a Form 33-109F5 *Change of Registration Information* relating to the disclosure of that exemption in Item 4.2 of Form 33-109F6. We have declined at this time to pursue this comment on the basis that this is outside the scope of what was published for comment in the July 2016 Proposal.

Another commenter supported the CSA's proposal to not require separate disclosure of reliance on an exemption in Item 4.2 of Form 33-109F6 if the firm is already required to notify the regulator in accordance with the applicable exemption, on the basis that this avoids redundancy and unnecessary administrative burden. The commenter suggested that this approach of avoiding redundancy and unnecessary administrative burden also be applied to streamline the information that must currently be inputted repeatedly into the system through various channels (e.g., updates to forms F4, F5 and F6). While we did not pursue this comment at this time, on the basis that it is outside the scope of what was published for comment in the July 2016 Proposal, we have taken it under advisement.

Form 33-109F4 Registration of Individuals and Review of Permitted Individuals

Although we did not include in the July 2016 Proposal any proposed amendments to Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* (Form 33-109F4), one commenter proposed changes to NI 33-109 and Form 33-109F4 to more specifically address in Form 33-109F4 individual trustees and other individuals that have direction or control over voting securities of a registered firm carrying 10 per cent or more of the votes carried by all outstanding voting securities. While we did not pursue at this time these proposed changes, on the basis that these changes are outside of the scope of what was published for comment in the July 2016 Proposal, we have taken them under advisement.

Annex C

List of commenters

1. AUM Law
2. Borden Ladner Gervais LLP
3. Boyle & Co. LLP
4. The Canadian Advocacy Council
5. Canadian Investor Protection Fund
6. Capital International Asset Management (Canada), Inc.
7. FAIR Canada
8. Federation of Mutual Fund Dealers
9. Healthcare of Ontario Pension Plan Trust Fund
10. IGM Financial Inc.
11. Invesco Canada Ltd.
12. The Investment Funds Institute of Canada
13. Investment Industry Association of Canada
14. Pacific Spirit Investment Management Inc.
15. Peartree Securities Inc.
16. Portfolio Management Association of Canada
17. RBC Dominion Securities Inc., RBC Direct Investing Inc., Royal Mutual Funds Inc., RBC Global Asset Management Inc., RBC Philips Hager & North Investment Counsel Inc.
18. Stikeman Elliott LLP
19. Veronica Armstrong Law Corporation

Comment letters received after comment period ended

1. Advocis
2. Private Capital Markets Association of Canada

Annex D

Adoption of the Instrument

The amendments to NI 31-103 and NI 33-109 will be implemented as:

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

The changes to 31-103CP and 33-109CP will be adopted as a policy in each of the CSA member jurisdictions.

In Ontario, the Amendments to NI 31-103, NI 33-109 and OSC Rule 33-506, as well as other required materials, were delivered to the Minister of Finance on July 25, 2017. The Minister may approve or reject these Amendments or return them for further consideration. If the Minister approves the Amendments or does not take any further action, the Amendments, other than the Custody Amendments, will come into force on December 4, 2017. The Custody Amendments will come into force six months later, on June 4, 2018.

In Québec, the Amendments to NI 31-103 and NI 33-109 are adopted as a regulation made under section 331.1 of the *Securities Act* (Québec) and must be approved, with or without amendment, by the Minister of Finance. Other than the Custody Amendments, the regulations will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulations. It is also published in the Bulletin of the Autorité des marchés financiers. The Custody Amendments will come into force six months later, on June 4, 2018.

In British Columbia, the implementation of the Amendments to NI 31-103 and NI 33-109 is subject to ministerial approval. If all necessary approvals are obtained, British Columbia expects these Amendments, other than the Custody Amendments, to come into force on December 4, 2017. The Custody Amendments will come into force six months later, on June 4, 2018.

In Saskatchewan, the implementation of the Amendments to NI 31-103 and NI 33-109 is subject to ministerial approval. If all necessary approvals are obtained, these Amendments will come into force on December 4, 2017 or if after December, 4, 2017, on the day on which they are filed with the Registrar of Regulations.

ANNEX E

FINANCIAL AND CONSUMER SERVICES COMMISSION
regulation • education • protection

COMMISSION DES SERVICES FINANCIERS ET DES SERVICES AUX CONSOMMATEURS
réglementation • éducation • protection

Except for the Custody Amendments (which are set out in subsection 60(2)), the amendments in this Amending Instrument are expected to come into force on December 4, 2017. The Custody Amendments are expected come into force on June 4, 2018.

The amendments set out in sections 9, 11, 12, 13, 15 and 24 of this Amending Instrument are not being made in certain CSA jurisdictions because these amendments have already been adopted in those jurisdictions by means of other instruments. This will be reflected in the version of this Amending Instrument that is adopted in those jurisdictions.

Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

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

2. Section 1.1 is amended by adding the following definitions:

"Canadian custodian" means any of the following:

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

(b) a trust company that is incorporated under the laws of Canada or a jurisdiction of Canada and licensed or registered under the laws of Canada or a jurisdiction of Canada, and that has equity, as reported in its most recent audited financial statements, of not less than $10,000,000;

(c) a company that is incorporated under the laws of Canada or a jurisdiction of Canada, and that is an affiliate of a bank or trust company referred to in paragraph (a) or (b), if either of the following applies:

(i) the company has equity, as reported in its most recent audited financial statements, of not less than $10,000,000;

(ii) the bank or trust company has assumed responsibility for all of the custodial obligations of the company for the cash and securities the company holds for a client or investment fund;

(d) an investment dealer that is a member of IIROC and that is permitted under the rules of IIROC, as amended from time to time, to hold the cash and securities of a client or investment fund;

"foreign custodian" means any of the following:

(a) an entity that

(i) is incorporated or organized under the laws of a country, or a political subdivision of a country, other than Canada,

(ii) is regulated as a banking institution or trust company by the government, or an agency of the government, of the country under the laws of which it is incorporated or organized, or a political subdivision of that country, and

(iii) has equity, as reported in its most recent audited financial statements, of not less than the equivalent of $100,000,000;

(b) an affiliate of an entity referred to in paragraph (a), (b) or (c) of the definition of "Canadian custodian", or paragraph (a) of this definition, if either of the following applies:

(i) the affiliate has equity, as reported in its most recent audited financial statements, of not less than the equivalent of $100,000,000;

(ii) the entity referred to in paragraph (a), (b) or (c) of the definition of "Canadian custodian", or paragraph (a) of this definition, has assumed responsibility for all of the custodial obligations of the affiliate for the cash and securities the affiliate holds for a client or investment fund;

"qualified custodian" means a Canadian custodian or a foreign custodian;**.**

3. Section 1.2 is replaced with the following:

1.2 Interpretation of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

(1) Subject to sections 8.2 and 8.26, in British Columbia, a reference to "securities" in this Instrument includes "exchange contracts", unless the context otherwise requires.

(2) Subject to sections 8.2 and 8.26, in Alberta, New Brunswick, Nova Scotia and Saskatchewan, a reference to "securities" in this Instrument includes "derivatives", unless the context otherwise requires**..**

4. Subsections 1.2(1) and (2), as amended by section 3 of this Instrument, are amended by replacing "8.2 and 8.26***" with "***8.2, 8.26 and 14.5.1***".***

5. Section 3.16 is amended

(a) in subsections (1) and (1.1) by adding "an investment dealer that is***" after "***a dealing representative of***", and***

(b) in subsections (2) and (2.1) by adding "a mutual fund dealer that is***" after "***a dealing representative of***".***

6. Section 7.1 is amended

(a) in subparagraph (2) (d) (i) by deleting "whether or not a prospectus was filed in respect of the distribution,***",***

(b) by replacing subparagraph (2) (d) (ii) with the following:

(ii) act as a dealer by trading a security if all of the following apply:

(A) the trade is not a distribution;

(B) an exemption from the prospectus requirement would be available to the seller if the trade were a distribution;

(C) the class of security is not listed, quoted or traded on a marketplace, or ***, and***

(c) by repealing subsection (5).

7. Section 8.2 is replaced with the following:

8.2 Definition of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

Despite section 1.2, in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, a reference to "securities" in this Division excludes "exchange

contracts".**.**

8. Subsection 8.6 (1) is amended

(a) by replacing "both of the following apply***" with "***all of the following apply***",***

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

(a) the adviser or an affiliate of the adviser acts as the fund's adviser;***, and***

(c) by adding the following paragraph:

(a.1) the adviser or an affiliate of the adviser acts as the fund's investment fund manager;**.**

9. Paragraph 8.18(2) (b) is replaced with the following:

(b) a trade in a debt security with a permitted client if the debt security

(i) is denominated in a currency other than the Canadian dollar, or

(ii) is or was originally offered primarily in a foreign jurisdiction and a prospectus has not been filed with a Canadian securities regulatory authority for the distribution;**.**

10. The heading to section 8.20 is amended by adding "**, Nova Scotia***" after "***New Brunswick***".***

11. Section 8.20.1 is replaced with the following:

8.20.1 Exchange contract trades through or to a registered dealer - Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

In Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, the dealer registration requirement does not apply to a r egistered adviser, or an advising representative or associate advising representative acting on behalf of the registered adviser, in respect of trading activities related to exchange contracts that are incidental to its providing advice to a c lient, if the trade is made through a d ealer registered in a category that permits the trade or a dealer operating under an exemption from the dealer registration requirement**.**

12. Section 8.24 is amended by adding "is an investment dealer that***" after "***account if the registered dealer***".***

13. Section 8.26 is amended

(a) by replacing subsection (3) with the following:

(3) The adviser registration requirement does not apply to a person or company if either of the following applies:

(a) the person or company provides advice on a foreign security to a permitted client that is not registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer;

(b) the person or company provides advice on a security that is not a foreign security and the advice is incidental to the advice referred to in paragraph (a)**..**

14. Subsection 9.3 (1) is amended

(a) by replacing "a registered firm***" with "***an investment dealer***",***

(b) by replacing paragraph (m) with the following:

(m) subsections 14.2(2) to (6) [*relationship disclosure information*]**;,**

(c) by adding the following paragraph:

(m.1) section 14.2.1 [*pre-trade disclosure of charges*]**;,**

(d) by adding the following paragraphs:

(m.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(m.3) section 14.5.3 [*cash and securities held by a qualified custodian*]**;,**

(e) by replacing paragraph (n) with the following:

(n) section 14.6 [*client and investment fund assets held by a registered firm in trust*]**;,**

(f) by adding the following paragraphs:

(n.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(n.2) section 14.6.2 [*custodial provisions relating to short sales*]**;,**

(g) by repealing paragraphs (o) and (p),

(h) by adding the following paragraph:

(p.1) section 14.11.1 [*determining market value*]**;,**

(i) in paragraph (q) by replacing "[*content and delivery of trade confirmation*]**." with "**[*content and delivery of trade confirmation*]**;" ,and***

(j) by adding the following paragraphs:

(r) section 14.14 [*account statements*];

(s) section 14.14.1 [*additional statements*];

(t) section 14.14.2 [*security position cost information*];

(u) section 14.17 [*report on charges and other compensation*];

(v) section 14.18 [*investment performance report*];

(w) section 14.19 [*content of investment performance report*];

(x) section 14.20 [*delivery of report on charges and other compensation and investment performance report*]**..**

15. Subsection 9.3 (1.1) is amended by replacing "(q)***" with "***(x)***".***

16. Subsection 9.3 (2) is amended

(a) by replacing "a registered firm***" with "***an investment dealer***",***

(b) by replacing paragraph (i) with the following:

(i) subsections 14.2(2) to (6) [*relationship disclosure information*]**;**,

(c) by adding the following paragraph:

(i.1) section 14.2.1 [*pre-trade disclosure of charges*]**;**,

(d) by adding the following paragraphs:

(i.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(i.3) section 14.5.3 [*cash and securities held by a qualified custodian*]**;**,

(e) by replacing paragraph (j) with the following:

(j) section 14.6 [*client and investment fund assets held by a registered firm in trust*]**;**,

(f) by adding the following paragraphs:

(j.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(j.2) section 14.6.2 [*custodial provisions relating to short sales*]**;**,

(g) by repealing paragraphs (k) and (l),

(h) by adding the following paragraph:

(l.1) section 14.11.1 [*determining market value*]**;**,

(i) in paragraph (m) by replacing "[*content and delivery of trade confirmation*]**." with "**[*content and delivery of trade confirmation*]**", and***

(j) by adding the following paragraphs:

(n) section 14.17 [*report on charges and other compensation*];

(o) section 14.18 [*investment performance report*];

(p) section 14.19 [*content of investment performance report*];

(q) section 14.20 [*delivery of report on charges and other compensation and investment performance report*]**..**

17. Subsection 9.3 (2.1) is amended by replacing "(m)***" with "***(q)***".***

18. Section 9.4 (1) is amended

(a) by replacing "a registered firm***" with "***a mutual fund dealer***",***

(b) by replacing paragraph (m) with the following:

(m) subsections 14.2(2), (3) and (5.1) [*relationship disclosure information*]**;,**

(c) by adding the following paragraph:

(m.1) section 14.2.1 [*pre-trade disclosure of charges*]**;,**

(d) by adding the following paragraphs:

(m.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(m.3) section 14.5.3 [*cash and securities held by a qualified custodian*]**;,**

(e) by replacing paragraph (n) with the following:

(n) section 14.6 [*client and investment fund assets held by a registered firm in trust*]**;,**

(f) by adding the following paragraphs:

(n.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(n.2) section 14.6.2 [*custodial provisions relating to short sales*]**;,**

(g) by repealing paragraphs (o) and (p),

(h) by adding the following paragraph:

(p.1) section 14.11.1 [*determining market value*]**;,**

(i) in paragraph (q) by replacing "[*content and delivery of trade confirmation*]**." with "**[*content and delivery of trade confirmation*]**;", and***

(j) by adding the following paragraphs:

(r) section 14.14 [*account statements*];

(s) section 14.14.1 [*additional statements*];

(t) section 14.14.2 [*security position cost information*];

(u) section 14.17 [*report on charges and other compensation*];

(v) section 14.18 [*investment performance report*];

(w) section 14.19 [*content of investment performance report*];

(x) section 14.20 [*delivery of report on charges and other compensation and investment performance report*]**..**

19. Subsection 9.4 (1.1) is amended by replacing "(q)***" with "***(x)***".***

20. Subsection 9.4 (2) is amended

(a) by adding "is a mutual fund dealer that***" after "***If a registered firm***",***

(b) by replacing paragraph (g) with the following:

(g) subsections 14.2(2), (3) and (5.1) [*relationship disclosure information*]**;,**

(c) by adding the following paragraph:

(g.1) section 14.2.1 [*pre-trade disclosure of charges*]**;,**

(d) by adding the following paragraphs:

(g.2) section 14.5.2 [*restriction on self-custody and qualified custodian requirement*];

(g.3) section 14.5.3 [*cash and securities held by a qualified custodian*]**;,**

(e) by replacing paragraph (h) with the following:

(h) section 14.6 [*client and investment fund assets held by a registered firm in trust*]**;,**

(f) by adding the following paragraphs:

(h.1) section 14.6.1 [*custodial provisions relating to certain margin or security interests*];

(h.2) section 14.6.2 [*custodial provisions relating to short sales*]**;,**

(g) by repealing paragraphs (i) and (j),

(h) by adding the following paragraph:

(j.1) section 14.11.1 [*determining market value*]**;,**

(i) in paragraph (k) by replacing "[*content and delivery of trade confirmation*].***" with "***[*content and delivery of trade confirmation*]**;", and**

(j) by adding the following paragraphs:

(l) section 14.17 [*report on charges and other compensation*];

(m) section 14.18 [*investment performance report*];

(n) section 14.19 [*content of investment performance report*];

(o) section 14.20 [*delivery of report on charges and other compensation and investment performance report*]**..**

21. Section 9.4 is amended

(a) in subsection (2.1) by replacing "(k)***" with "***(o)***", and***

(b) in subsection (4) by replacing "subsection (1)***" with "***subsection (1), other than paragraph (1)(h),***".***

22. Paragraph 10.1 (1) (a) is replaced with the following:

(a) in Alberta, the fees required under section 5 of ASC Rule 13-501 *Fees*,**.**

23. Subsection 12.1 (5) is amended by replacing "a registered firm***" with "***an investment dealer***".***

24. Section 12.12 is amended

(a) in subsection (2.1) by adding "is a mutual fund dealer that***" after "***If a registered firm***", and***

(b) by adding the following subsections:

(4) Despite paragraph (1)(b), in Québec, a firm registered only in that jurisdiction and only in the category of mutual fund dealer may deliver to the securities regulatory authority, no later than the 90th day after the end of its financial year, the *Monthly Report on Net Free Capital* provided in Appendix I of the *Regulation respecting the trust accounts and financial resources of securities firms*, as that Appendix read on September 27, 2009, that shows the calculation of the firm's net free capital as at the end of its financial year and as at the end of the immediately preceding financial year, if any.

(5) Despite paragraph (2)(b), in Québec, a firm registered only in that jurisdiction and only in the category of mutual fund dealer may deliver to the securities regulatory authority, no later than the 30th day after the end of the first, second and third interim period of its financial year, the *Monthly Report on Net Free Capital* provided in Appendix I of the *Regulation respecting the trust accounts and financial resources of securities firms*, as that Appendix read on September 27, 2009, that shows the calculation of the firm's net free capital as at the end of the interim period and as at the end of the immediately preceding interim period, if any**..**

25. Section 12.14 is amended

(a) in subsection (4) by adding "is an investment dealer that***" after "***If a registered firm***", and***

(b) in subsection (5) by adding "is a mutual fund dealer that***" after "***If a registered firm***".***

26. Subsection 13.17 (1) is amended

(a) in paragraph (f) by replacing "[*account statements*].***" with "***[*account statements*];***", and***

(b) by adding the following paragraphs:

(g) section 14.14.1 [*additional statements*];

(h) section 14.14.2 [*security position cost information*];

(i) section 14.17 [*report on charges and other compensation*];

(j) section 14.18 [*investment performance report*]**..**

27. Section 14.1 is amended by replacing "section 14.1.1, section 14.6,***" with "***sections 14.1.1, 14.5.1, 14.5.2, 14.5.3, 14.6, 14.6.1 and 14.6.2,***".***

28. Section 14.1.1 is replaced with the following:

14.1.1 Duty to provide information

A registered investment fund manager of an investment fund must, within a reasonable period of time, provide a registered dealer or a registered adviser that has a client that owns securities of the investment fund with the information that is required by the dealer or adviser in order for the dealer or adviser to comply with paragraph 14.12(1)(c), subsections 14.14(4) and (5), 14.14.1(2) and 14.14.2(1) and paragraph 14.17(1)(h)**..**

29. Subsection 14.2 (2) is amended

(a) by adding "to a client***" after "***the information delivered***", and***

(b) by adding the following paragraphs:

(a.1) in the case of a registered firm that holds the client's assets, or directs or arranges which custodian will hold the client's assets, disclosure of the location where, and a general description of the manner in which, the client's assets are held, and a description of the risks and benefits to the client arising from the assets being held at that location and in that manner;

(a.2) in the case of a registered firm that has access to the client's assets

(i) disclosure of the location where, and a general description of the manner in which, the client's assets are held, and a description of the risks and benefits to the client arising from the assets being held in that location and in that manner, and

(ii) a description of the manner in which the client's assets are accessible by the registered firm, and a description of the risks and benefits to the client arising from having access to the assets in that manner;**.**

30. The title of Division 3 of Part 14 is amended by adding "and investment fund assets***" after "***Client assets***".***

31. Division 3 of Part 14 is amended by adding the following sections:

14.5.1 Definition of "securities" in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan

Despite section 1.2, in Alberta, British Columbia, New Brunswick, Nova Scotia and Saskatchewan, a reference to "securities" in this Division excludes "exchange contracts"..

14.5.2 Restriction on self-custody and qualified custodian requirement

(1) A registered firm must not be a custodian or sub-custodian for a client of the firm or for an investment fund in respect of the client's or investment fund's cash or securities unless the registered firm

(a) is a Canadian custodian under paragraph (a), (b) or (d) of the definition of "Canadian custodian", and

(b) has established and maintains a system of controls and supervision that a reasonable person would conclude is sufficient to manage the risks to the client or investment fund associated with the custody of the client's or investment fund's cash or securities.

(2) A registered firm must ensure that any custodian for a client of the firm or for an investment fund managed by the firm in respect of the client's or investment fund's cash or securities is a Canadian custodian if the firm

(a) directs or arranges which custodian will hold the cash or securities of the client or investment fund, or

(b) holds or has access to the cash or securities of the client or investment fund.

(3) Despite the requirement to use a Canadian custodian in subsection (2), a foreign custodian may be a custodian of the cash or securities of the client or investment fund if a reasonable person would conclude, considering all of the relevant circumstances, including, for greater certainty, the nature of the regulation and the sufficiency of the equity of the foreign custodian, that using the foreign custodian is more beneficial to the client or investment fund than using a Canadian custodian.

(4) Despite the requirement to use a Canadian custodian in subsection (2), a Canadian financial institution may be a custodian of the cash of the client or investment fund.

(5) For the purposes of subsections (2) and (3), the registered firm must ensure that the qualified custodian is functionally independent of the registered firm unless

a) the qualified custodian is a Canadian custodian under paragraph (a), (b) or (d) of the definition of "Canadian custodian", and

(b) the registered firm ensures that the qualified custodian has established and maintains a system of controls and supervision that a reasonable person would conclude is sufficient to manage the risks to the client or investment fund associated with the custody of the client's or investment fund's cash or securities.

(6) For the purpose of subsection (4), the registered firm must ensure that the Canadian financial institution is functionally independent of the registered firm.

(7) This section does not apply to a registered firm in respect of any of the following:

(a) an investment fund that is subject to National Instrument 81-102 *Investment Funds*;

(b) an investment fund that is subject to National Instrument 41-101 *General Prospectus Requirements*;

(c) a security that is recorded on the books of the security's issuer, or the transfer agent of the security's issuer, only in the name of the client or investment fund;

(d) cash or securities of a permitted client, if the permitted client

(i) is not an individual or an investment fund, and

(ii) has acknowledged in writing that the permitted client is aware that the requirements in this section that would otherwise apply to the registered firm do not apply;

(e) customer collateral subject to custodial requirements under National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions*;

(f) a security that evidences a debt obligation secured by a mortgage registered or published against the title of real estate if

(i) the mortgage is registered or published in the name of the client or investment fund as mortgagee, or

(ii) in the case of a s yndicated mortgage, the mortgage is registered or published in the name of either of the following as mortgagee:

(A) a person or company that is registered or licensed under mortgage brokerage, mortgage administrators or mortgage dealer legislation of a jurisdiction of Canada if that mortgage is held in trust for the client or investment fund, as applicable;

(B) each investor that is a mortgagee in respect of that mortgage.

14.5.3 Cash and securities held by a qualified custodian

A registered firm that is subject to subsection 14.5.2(2), (3) or (4) must take reasonable steps to ensure that cash and securities of a client or an investment fund,

(a) except as provided in paragraphs (b) and (c), are held by the qualified custodian or, in respect of cash, the Canadian financial institution using an account number or other designation in the records of the qualified custodian or the Canadian financial institution, as applicable, sufficient to show that the beneficial ownership of the cash or securities of the client or investment fund is vested in that client or investment fund,

(b) in the case of cash held in an account in the name of the registered firm, is held separate and apart from the registered firm's own property and held by the qualified custodian, or the Canadian financial institution, in a designated trust account in trust for clients or investment funds, or

(c) in the case of cash or securities held for the purpose of bulk trading, are held in the name of the registered firm in trust for its clients or investment funds if the cash or securities are transferred to the client's or investment fund's account held by that client's or investment fund's qualified custodian or, in respect of cash, Canadian financial institution as soon as possible following a trade**..**

32. Section 14.6 is replaced with the following:

14.6 Client and investment fund assets held by a registered firm in trust

(1) If a registered firm holds client assets or investment fund assets other than cash or securities, or if a registered firm holds cash or securities of a client or an investment fund as permitted by section 14.5.2, the registered firm must hold the assets

(a) separate and apart from its own property,

(b) in trust for the client or investment fund, and

(c) in the case of cash, in a designated trust account with a Canadian custodian or Canadian financial institution.

(2) Despite paragraph (1)(c), a foreign custodian may be a custodian for the cash of the client or investment fund if a reasonable person would conclude, considering all of the relevant circumstances, including, for greater certainty, the nature of the regulation and the sufficiency of the equity of the foreign custodian, that using the foreign custodian is more beneficial to the client or investment fund than using a Canadian custodian or a Canadian financial institution..

14.6.1 Custodial provisions relating to certain margin or security interests

(1) In this section, "clearing corporation option", "futures exchange", "option on futures", "specified derivative" and "standardized future" have the same meaning as in section 1.1 of National Instrument 81-102 *Investment Funds*.

(2) Subsection 14.5.2(2) does not apply to a registered firm in respect of cash or securities of a client or investment fund deposited with a dealer as margin for transactions outside of Canada involving clearing corporation options, options on futures or standardized futures if

(a) in the case of standardized futures and options on futures, the dealer is a member of a futures exchange or, in the case of clearing corporation options, is a member of a stock exchange, and, as a result in either case, is subject to a regulatory audit,

(b) the dealer has a net worth, determined from its most recent audited financial statements, in excess of $50 million, and

(c) a reasonable person would conclude that using the dealer is more beneficial to the client or investment fund than using a Canadian custodian.

(3) Subsection 14.5.2(2) does not apply to a registered firm in respect of cash or securities of a client or investment fund deposited with the client's or investment fund's counterparty over which the client or investment fund has granted a security interest in connection with a particular specified derivatives transaction.

(4) The registered firm must take reasonable steps to ensure that any agreement by which cash or securities of a client or investment fund are

deposited in accordance with subsection (2) or (3) requires the person or company holding the cash or securities to ensure that its records show that the client or investment fund is the beneficial owner of the cash or securities.

14.6.2 Custodial provisions relating to short sales

Subsection 14.5.2(2) does not apply to a registered firm in respect of cash or securities of a client or investment fund deposited as security in connection with a short sale of securities with a dealer outside of Canada if

(a) the dealer is a member of a stock exchange and is subject to a regulatory audit,

(b) the dealer has a net worth, determined from its most recent audited financial statements, in excess of $50 million, and

(c) a reasonable person would conclude that using the dealer is more beneficial to the client or investment fund than using a Canadian custodian**..**

33. Section 14.7 is repealed.

34. Section 14.8 is repealed.

35. Section 14.9 is repealed.

36. Subsection 14.11.1(2) is amended by replacing "14.14.2 [*position cost information*]" ***with "***14.14.2 [*security position cost information*]***".***

37. Subsection 14.11.1(3) is replaced with the following:

(3) If a registered firm reasonably believes that it cannot determine the market value of a security in accordance with subsection (1), the market value of the security must be reported in a statement delivered under section 14.14 [*account statements*], 14.14.1 [*additional statements*], 14.14.2 [*security position cost information*], 14.15 [*security holder statements*] or 14.16 [*scholarship plan dealer statements*] as not determinable, and the market value of the security must be excluded from the total market value referred to in paragraphs 14.14(5)(e), 14.14.1(2)(e) and 14.14.2(5)(c)**..**

38. Section 14.12 is amended by adding the following subsection:

(7) In Newfoundland and Labrador, Ontario and Saskatchewan, a registered dealer that complies with the requirements of this section in respect of a purchase or sale of a security is not subject to any of subsections 37(1), (2) or (3) of the *Securities Act* (Newfoundland and Labrador), subsection 36(1) of the *Securities Act* (Ontario) and subsection 42(1) of *The Securities Act, 1988* (Saskatchewan)**..**

39. Section 14.14 is amended

(a) in paragraph (4) (d) by adding "purchased, sold or transferred***" after "***the number of securities***", and***

(b) in paragraph (5) (f) by replacing "covered***" with "***eligible for coverage***".***

40. Section 14.14.1 is amended

(a) in paragraph (2) (f) by replacing "the name***" with "***disclosure in respect***",***

(b) in paragraph (2) (g) by replacing "securities are covered***" with "***securities are, or the account is, eligible for coverage***", and by deleting "***and, if they are, the name of the fund***", and***

(c) by adding the following subsection:

(2.1) Paragraph (2)(g) does not apply if the party referred to in paragraph (2)(f) is required under section 14.14, or under an IIROC provision or MFDA provision, to deliver a statement to the client in respect of the securities or the account referred to in subsection (1) of this section..

41. The heading to section 14.14.2 is amended by replacing "Position cost information" with "Security position cost information".

42. Section 14.14.2 is amended

(a) by replacing paragraphs (2) (a) and (b) with the following:

(a) for each security position, in the statement, opened on or after July 15, 2015, presented on an average cost per unit or share basis or an aggregate basis,

(i) the cost of the security position, determined as at the end of the period for which the information referred to in subsection 14.14(5) or 14.14.1(2) is provided, or

(ii) if the security position was transferred from another registered firm, the information referred to in subparagraph (i) or the market value of the security position as at the date of the transfer of the security position;

(b) for each security position, in the statement, opened before July 15, 2015, presented on an average cost per unit or share basis or an aggregate basis,

(i) the cost of the security position, determined as at the end of the period for which the information referred to in subsection 14.14(5) or 14.14.1(2) is provided, or

(ii) the market value of the security position on

(A) December 31, 2015, or

(B) a date that is earlier than December 31, 2015 if the registered firm reasonably believes accurate, recorded historical position cost information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date;***, and***

(b) by adding the following subsection:

(2.1) If a registered firm reports one or more security positions of a client using the market value determined as at the date referred to in subparagraph (2)(a)(ii) or (2)(b)(ii), the firm must disclose in the statement that it is providing the market value of the security position as at the relevant date, instead of the cost of the security position.**.**

43. Paragraph 14.15(c) and section 14.16 are amended by replacing "14.14.2[*position cost information*]***" with "***14.14.2 [*security position cost information*]".

44. Subsection 14.18 (6) is replaced with the following:

(6) Despite subsection (1), a registered firm is not required to deliver a report to a client for a 12-month period referred to in that subsection if the firm reasonably believes

(a) there are no securities of the client with respect to which information is required to be reported under subsection 14.14(5) [*account statements*] or subsection 14.14.1(1) [*additional statements*], or

(b) no market value can be determined for any securities of the client in respect to which information is required to be reported under subsection 14.14(5) or 14.14.1(1)**.**

45. Section 14.19 is amended:

(a) by replacing paragraph (1) (d) with the following:

(d) the market values determined under subsection (1.1);**,**

(b) by repealing paragraph (1)(e),

(c) in paragraph (1)(g) by replacing "paragraph (h)***" with "***subsection (1.2)***",***

(d) by repealing paragraph (1)(h),

(e) by adding the following subsections:

(1.1) For the purposes of paragraph (1)(d), the investment performance report must include the following, as applicable:

(a) if the client's account was opened on or after July 15, 2015, the market value of all deposits and transfers of cash and securities into the client's account, and the market value of all withdrawals and transfers of cash and securities out of the account, since opening the account;

(b) if the client's account was opened before July 15, 2015, and the firm has not delivered an investment performance report for the 12-month period ending December 31, 2016,

(i) the market value of all cash and securities in the client's account as at

(A) July 15, 2015, or

(B) a date that is earlier than July 15, 2015 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date, and

(ii) the market value of all deposits and transfers of cash and securities into the account, and the market value of all withdrawals and transfers of cash and securities out of the account, since the date referred to in clause (i)(A) or (B), as applicable;

(c) if the client's account was opened before July 15, 2015, and the firm delivered an investment performance report for the 12-month period ending December 31, 2016,

(i) the market value of all cash and securities in the client's account as at

(A) January 1, 2016, or

(B) a date that is earlier than January 1, 2016 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date, and

(ii) the market value of all deposits and transfers of cash and securities into the account, and the market value of all withdrawals and transfers of cash and securities out of the account, since the date referred to in clause (i)(A) or (B), as applicable.

(1.2) Paragraph (1)(g) does not apply if the client's account was opened before July 15, 2015 and the registered firm includes in the investment performance report the cumulative change in the market value of the account determined using the following formula, instead of the formula in paragraph (g):

A – G – H + I

where

A = the market value of all cash and securities in the account as at the end of the 12-month period covered by the investment performance report;

G = the market value of all cash and securities in the account determined as follows:

(a) if the firm has not delivered an investment performance report for the 12-month period ending December 31, 2016, the market value of all cash and securities in the client's account as at

(i) July 15, 2015, or

(ii) a date that is earlier than July 15, 2015 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date,

(b) if the has firm delivered an investment performance report for the 12-month period ending December 31, 2016, the market value of all cash and securities in the client's account as at

(i) January 1, 2016, or

(ii) a date that is earlier than January 1, 2016 if the registered firm reasonably believes accurate, recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date;

H = the market value of all deposits and transfers of cash and securities into the account since the date used for the purposes of the definition of "G"; and

I = the market value of all withdrawals and transfers of cash and securities out of the account since the date used for the purposes of the definition of "G"**.,**

(f) by replacing paragraph (2) (e) with the following:

(e) subject to subsection (3.1), the period since the client's account was opened if the account has been open for more than one year before the date of the report or, if the account was opened before July 15, 2015, the period since

(i) July 15, 2015, or

(ii) a date that is earlier than July 15, 2015 if the registered firm reasonably believes accurate, recorded annualized total percentage return information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date**., *and***

(g) by adding the following subsection:

(3.1) Paragraph (2)(e) does not apply to a registered firm that delivered an investment performance report for the 12-month period ending December 31, 2016 if the firm provides, in the report, the annualized total percentage return information referred to in that paragraph for the period since

(a) January 1, 2016, or

(b) a date that is earlier than January 1, 2016 if the registered firm reasonably believes accurate, recorded annualized total percentage return information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date**..**

46. Subsection 15.1 (3) is amended by adding "Alberta and***" after "***Except in***".***

47. Form 31-103F1 Calculation of Excess Working Capital is amended

(a) in the column entitled "*Component*" in Line 10 of the table by adding "or, in Québec, for a firm registered only in that jurisdiction and solely in the category of mutual fund dealer, less the deductible under the liability insurance required under section 193 of the Québec Securities Regulation***" after "***National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations****",***

(b) in subparagraph (a)(i) of Schedule 1 by replacing "Aaa or AAA by Moody's Canada Inc. or its DRO affiliate or Standard & Poor's Rating Services (Canada) or its DRO affiliate, respectively***" with "***Aaa or AAA, or the short-term ratings equivalent of either of those ratings, by a designated rating organization or its DRO affiliate***", and***

(c) in paragraph (d) of Schedule 1 by replacing "*Investment Companies Act of 1940*" ***with*** "*Investment Company Act of 1940*"**.**

48. Appendix G is replaced with the following:

APPENDIX G – EXEMPTIONS FROM CERTAIN REQUIREMENTS FOR IIROC MEMBERS

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

NI 31-103 Provision	**IIROC Provision**
section 12.1 [*capital requirements*]	1. Dealer Member Rule 17.1; and 2. Form 1
section 12.2 [*subordination*	1. Dealer Member Rule 5.2; and

agreement]	2. Dealer Member Rule 5.2A
section 12.3 [*insurance – dealer*]	1. Dealer Member Rule 17.5 2. Dealer Member Rule 400.2 [*Financial Institution Bond*]; 3. Dealer Member Rule 400.4 [*Amounts Required*]; and 4. Dealer Member Rule 400.5 [*Provisos with respect to Dealer Member Rules 400.2, 400.3 and 400.4*]
section 12.6 [*global bonding or insurance*]	1. Dealer Member Rule 400.7 [*Global Financial Institution Bonds*]
section 12.7 [*notifying the regulator of a change, claim or cancellation*]	1. Dealer Member Rule 17.6; 2. Dealer Member Rule 400.3 [*Notice of Termination*]; and 3. Dealer Member Rule 400.3B [*Termination or Cancellation*]
section 12.10 [*annual financial statements*]	1. Dealer Member Rule 16.2 [*Dealer Member Filing Requirements*]; and 2. Form 1
section 12.11 [*interim financial information*]	1. Dealer Member Rule 16.2 [*Dealer Member Filing Requirements*]; and 2. Form 1
section 12.12 [*delivering financial information – dealer*]	1. Dealer Member Rule 16.2 [*Dealer Member Filing Requirements*]
subsection 13.2(3) [*know your client*]	1. Dealer Member Rule 1300.1(a)-(n) [*Identity and Creditworthiness*]; 2. Dealer Member Rule 1300.2; 3. Dealer Member Rule 2500, Part II [*Opening New Accounts*]; 4. Dealer Member Rule 2700, Part II [*New Account Documentation and Approval*]; and 5. Form 2 *New Client Application Form*
section 13.3 [*suitability*]	1. Dealer Member Rule 1300.1(o) [*Business Conduct*]; 2. Dealer Member Rule 1300.1(p) [*Suitability determination required when accepting order*]; 3. Dealer Member Rule 1300.1(q) [*Suitability determination required when recommendation provided*]; 4. Dealer Member Rule 1300.1(r) [*Suitability determination required for account positions held when certain events occur*]; 5. Dealer Member Rule 1300.1(s) [*Suitability of investments in client accounts*]; 6. Dealer Member Rule 1300.1(t) – (v) [*Exemptions from the suitability assessment requirements*]

	7. Dealer Member Rule 1300.1(w) [*Corporation approval*] 8. Dealer Member Rule 2700, Part I [*Customer Suitability*]; and 9. Dealer Member Rule 3200 [*Minimum requirements for Dealer Members seeking approval under Rule 1300.1(t) to offer an order-execution only service*]
section 13.12 [*restriction on lending to clients*]	1. Dealer Member Rule 17.11; and 2. Dealer Member Rule 100 [*Margin Requirements*]
section 13.13 [*disclosure when recommending the use of borrowed money*]	1. Dealer Member Rule 29.26
section 13.15 [*handling complaints*]	1. Dealer Member Rule 2500, Part VIII [*Client Complaints*]; and 2. Dealer Member Rule 2500B [*Client Complaint Handling*]
subsection 14.2(2) [*relationship disclosure information*]	1. Dealer Member Rule 3500.5 [*Content of relationship disclosure*]
subsection 14.2(3) [*relationship disclosure information*]	1. Dealer Member Rule 3500.4 [*Format of relationship disclosure*]
subsection 14.2(4) [*relationship disclosure information*]	1. Dealer Member Rule 3500.1 [*Objective of relationship disclosure requirements*]
subsection 14.2(5.1) [*relationship disclosure information*]	1. Dealer Member Rule 29.8
subsection 14.2(6) [*relationship disclosure information*]	1. Dealer Member Rule 3500.1 [*Objective of relationship disclosure requirements*]
section 14.2.1 [*pre-trade disclosure of charges*]	1. Dealer Member Rule 29.9
section 14.6 [*holding client assets in trust*]	1. Dealer Member Rule 17.3
section 14.8 [*securities subject to a safekeeping agreement*]	1. Dealer Member Rule 17.2A 2. Dealer Member Rule 2600 – Internal Control Policy Statement 5 [*Safekeeping of Clients' Securities*]
section 14.9 [*securities not subject to a safekeeping agreement*]	1. Dealer Member Rule 17.3; 2. Dealer Member Rule 17.3A; and 3. Dealer Member Rule 200.1(c)
section 14.11.1 [*determining*	1. Dealer Member Rule 200.1(c); and

market value]	2. Definition (g) of the General Notes and Definitions to Form 1
section 14.12 [*content and delivery of trade confirmation*]	1. Dealer Member Rule 200.2(l) [*Trade confirmations*]
section 14.14 [*account statements*]	1. Dealer Member Rule 200.2(d) [*Client account statements*]; and 2. "Guide to Interpretation of Rule 200.2", Item (d)
section 14.14.1 [*additional statements*]	1. Dealer Member Rule 200.2(e) [*Report on client positions held outside of the Dealer Member*]; 2. Dealer Member Rule 200.4 [*Timing of sending documents to clients*]; and 3. "Guide to Interpretation of Rule 200.2", Item (e)
section 14.14.2 [*security position cost information*]	1. Dealer Member Rule 200.1(a); 2. Dealer Member Rule 200.1(b); 3. Dealer Member Rule 200.1(e); 4. Dealer Member Rule 200.2(d)(ii)(F) and (H); and 5. Dealer Member Rule 200.2(e)(ii)(C) and (E)
section 14.17 [*report on charges and other compensation*]	1. Dealer Member Rule 200.2(g) [*Fee/ charge report*]; and 2. "Guide to Interpretation of Rule 200.2", Item (g)
section 14.18 [*investment performance report*]	1. Dealer Member Rule 200.2(f) [*Performance report*]; and 2. "Guide to Interpretation of Rule 200.2", Item (f)
section 14.19 [*content of investment performance report*]	1. Dealer Member Rule 200.2(f) [*Performance report*]; and 2. "Guide to Interpretation of Rule 200.2", Item (f)
section 14.20 [*delivery of report on charges and other compensation and investment performance report*]	1. Dealer Member Rule 200.4 [*Timing of the sending of documents to clients*]

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49. Appendix G, as amended by section 48 of this Instrument, is amended by adding the following rows in the format indicated by the shaded area before the row commencing with "section 14.6 [*holding client assets in trust*]***":***

NI 31-103 Provision	**IIROC Provision**
section 14.5.2 [*restriction on self-custody and qualified*	1. Dealer Member Rule 17.2A; 2. Dealer Member Rules 17.3, 17.3A, 17.3B and 2000

NI 31-103 Provision	IIROC Provision
custodian requirement]	[*Segregation Requirements*]; 3. Dealer Member Rule 2600 – Internal Control Policy Statement 4 [*Segregation of Clients' Securities*]; 4. Dealer Member Rule 2600 - Internal Control Policy Statement 5 [*Safekeeping of Clients' Securities*]; 5. Dealer Member Rule 2600 - Internal Control Policy Statement 6 [*Safeguarding of Securities and Cash*]; and 6. Definition of "acceptable securities locations", General Notes and Definitions to Form 1
section 14.5.3 [*cash and securities held by a qualified custodian*]	1. Dealer Member Rule 200 [*Minimum Records*]

.

50. Appendix G, as amended by section 48 of this Instrument, is amended by replacing "section 14.6 [*holding client assets in trust*]***" with "***section 14.6 [*client and investment fund assets held by a registered firm in trust*]***".***

51. Appendix G, as amended by section 48 of this Instrument, is amended by adding the following rows in the format indicated by the shaded area after the row commencing with "section 14.6 [*holding client assets in trust*]***":***

NI 31-103 Provision	IIROC Provision
section 14.6.1 [*custodial provisions relating to certain margin or security interests*]	1. Dealer Member Rules 17.2, 17.2A, 17.3, 17.3A, 17.3B, 17.11 and 2000 [*Segregation Requirements*]; 2. Dealer Member Rule 100 [*Margin Requirements*]; 3. Dealer Member Rule 2200 [*Cash and Securities Loan Transactions*]; 4. Dealer Member Rule 2600 – Internal Control Policy Statement 4 [*Segregation of Clients' Securities*]; 5. Dealer Member Rule 2600 - Internal Control Policy Statement 5 [*Safekeeping of Clients' Securities*]; 6. Dealer Member Rule 2600 - Internal Control Policy Statement 6 [*Safeguarding of Securities and Cash*]; and 7. Definitions of "acceptable counterparties", "acceptable institutions", "acceptable securities locations", "regulated entities", General Notes and Definitions to Form 1

NI 31-103 Provision	IIROC Provision
section 14.6.2 [*custodial provisions relating to short sales*]	1. Dealer Member Rule 100 [*Margin Requirements*]; 2. Dealer Member Rule 2200 [*Cash and Securities Loan Transactions*]; 3. Dealer Member Rule 2600 - Internal Control Policy Statement 6 [*Safeguarding of Securities and Cash*]; and 4. Definitions of "acceptable counterparties", "acceptable institutions", "acceptable securities locations", "regulated entities", General Notes and Definitions to Form 1

.

52. Appendix G, as amended by section 48 of this Instrument, is amended by repealing the rows commencing with "section 14.8 [*securities subject to a safekeeping agreement*]***" and "***section 14.9 [*securities not subject to a safekeeping agreement*]***".***

53. Appendix H is replaced with the following:

APPENDIX H – EXEMPTIONS FROM CERTAIN REQUIREMENTS FOR MFDA MEMBERS

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

NI 31-103 Provision	MFDA Provision
section 12.1 [*capital requirements*]	1. Rule 3.1.1 [*Minimum Levels*]; 2. Rule 3.1.2 [*Notice*]; 3. Rule 3.2.2 [*Member Capital*]; 4. Form 1; and 5. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 2: Capital Adequacy*]
section 12.2 [*subordination agreement*]	1. Form 1, Statement F [*Statement of Changes in Subordinated Loans*]; and 2. Membership Application Package – Schedule I (Subordinated Loan Agreement)
section 12.3 [*insurance – dealer*]	1. Rule 4.1 [*Financial Institution Bond*]; 2. Rule 4.4 [*Amounts Required*]; 3. Rule 4.5 [*Provisos*]; 4. Rule 4.6 [*Qualified Carriers*]; and 5. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 3: Insurance*]

section 12.6 [*global bonding or insurance*]	1. Rule 4.7 [*Global Financial Institution Bonds*]
section 12.7 [*notifying the regulator of a change, claim or cancellation*]	1. Rule 4.2 [*Notice of Termination*]; and 2. Rule 4.3 [*Termination or Cancellation*]
section 12.10 [*annual financial statements*]	1. Rule 3.5.1 [*Monthly and Annual*]; 2. Rule 3.5.2 [*Combined Financial Statements*]; and 3. Form 1
section 12.11 [*interim financial information*]	1. Rule 3.5.1 [*Monthly and Annual*]; 2. Rule 3.5.2 [*Combined Financial Statements*]; and 3. Form 1
section 12.12 [*delivering financial information – dealer*]	1. Rule 3.5.1 [*Monthly and Annual*]
section 13.3 [*suitability*]	1. Rule 2.2.1 [*"Know-Your-Client"*]; and 2. Policy No. 2 [*Minimum Standards for Account Supervision*]
section 13.12 [*restriction on lending to clients*]	1. Rule 3.2.1 [*Client Lending and Margin*]; and 2. Rule 3.2.3 [*Advancing Mutual Fund Redemption Proceeds*]
section 13.13 [*disclosure when recommending the use of borrowed money*]	1. Rule 2.6 [*Borrowing for Securities Purchases*]
section 13.15 [*handling complaints*]	1. Rule 2.11 [*Complaints*]; 2. Policy No. 3 [*Complaint Handling, Supervisory Investigations and Internal Discipline*]; and 3. Policy No. 6 [*Information Reporting Requirements*]
subsections 14.2(2), (3) and (5.1) [*relationship disclosure information*]	1. Rule 2.2.5 [*Relationship Disclosure*]; and 2. Rule 2.4.3 [*Operating Charges*]
section 14.2.1 [*pre-trade disclosure of charges*]	1. Rule 2.4.4 [*Transaction Fees or Charges*]
section 14.6 [*holding client assets in trust*]	1. Rule 3.3.1 [*General*]; 2. Rule 3.3.2 [*Cash*]; and 3. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities*]
section 14.8 [*securities subject to a safekeeping agreement*]	1. Rule 3.3.3 [*Securities*]; and 2. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities*]

section 14.9 [*securities not subject to a safekeeping agreement*]	1. Rule 3.3.3 *[Securities]*
section 14.11.1 [*determining market value*]	1. Rule 5.3(1)(f) [*definition of "market value"*]; and 2. Definitions to Form 1 [*definition of "market value of a security"*]
section 14.12 [*content and delivery of trade confirmation*]	1. Rule 5.4.1 [*Delivery of Confirmations*]; 2. Rule 5.4.2 [*Automatic Plans*]; and 3. Rule 5.4.3 [*Content*]
section 14.14 [*account statements*]	1. Rule 5.3.1 [*Delivery of Account Statement*]; and 2. Rule 5.3.2 [*Content of Account Statement*]
section 14.14.1 [*additional statements*]	1. Rule 5.3.1 [*Delivery of Account Statement*]; and 2. Rule 5.3.2 [*Content of Account Statement*]
section 14.14.2 [*security position cost information*]	1. Rule 5.3(1)(a) [*definition of "book cost"*]; 2. Rule 5.3(1)(c) [*definition of "cost"*]; and 3. Rule 5.3.2(c) [*Content of Account Statement – Market Value and Cost Reporting*]
section 14.17 [*report on charges and other compensation*]	1. Rule 5.3.3 [*Report on Charges and Other Compensation*]
section 14.18 [*investment performance report*]	1. Rule 5.3.4 [*Performance Report*]; and 2. Policy No. 7 *Performance Reporting*
section 14.19 [*content of investment performance report*]	1. Rule 5.3.4 [*Performance Report*]; and 2. Policy No. 7 *Performance Reporting*
section 14.20 [*delivery of report on charges and other compensation and investment performance report*]	1. Rule 5.3.5 [*Delivery of Report on Charges and Other Compensation and Performance Report*]

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54. Appendix H, as amended by section 53 of this Instrument, is amended by adding the following rows in the format indicated by the shaded area before the row commencing with "section 14.6 [*holding client assets in trust*]***":***

NI 31-103 Provision	**MFDA Provision**
section 14.5.2 [*restriction on self-custody and qualified custodian requirement*]	1. Rule 3.3.1 [*General*]; 2. Rule 3.3.2 [*Cash*]; 3. Rule 3.3.3 [*Securities*]; and 4. Policy No. 4 [*Internal Control Policy Statements –*

NI 31-103 Provision	MFDA Provision
	Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities]
section 14.5.3 [*cash and securities held by a qualified custodian*]	1. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities*]

.

55. Appendix H, as amended by section 53 of this Instrument, is amended by replacing the row commencing with "section 14.6 [*holding client assets in trust*]***" with the following row in the format indicated by the shaded area:***

NI 31-103 Provision	MFDA Provision
section 14.6 [*client and investment fund assets held by a registered firm in trust*]	1. Rule 3.3.1 [*General*]; 2. Rule 3.3.2 [*Cash*]; 3. Rule 3.3.3 [*Securities*]; and 4. Policy No. 4 [*Internal Control Policy Statements – Policy Statement 4: Cash and Securities, and Policy Statement 5: Segregation of Clients' Securities*]

.

56. Appendix H, as amended by section 53 of this Instrument, is amended by adding the following rows in the format indicated by the shaded area after the row commencing with "section 14.6 [*holding client assets in trust*]***":***

NI 31-103 Provision	MFDA Provision
section 14.6.1 [*custodial provisions relating to certain margin or security interests*]	1. Rule 3.2.1 [*Client Lending and Margin*]
section 14.6.2 [*custodial provisions relating to short sales*]	1. Rule 3.2.1 [*Client Lending and Margin*]

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57. Appendix H, as amended by section 53 of this Instrument, is amended by repealing the rows commencing with "section 14.8 [*securities subject to a safekeeping agreement*]***" and "***section 14.9 [*securities not subject to a safekeeping agreement*]***".***

58. (1) Subject to subsection (2), this Instrument comes into force on December 4, 2017.

(2) The following provisions of this Instrument come into force on June 4, 2018:

(a) section 2;

(b) section 4;

(c) paragraphs 14(d), (e), (f) and (g);

(d) paragraphs 16(d), (e), (f) and (g);

(e) paragraphs 18(d), (e), (f) and (g);

(f) paragraphs 20(d), (e), (f) and (g);

(g) section 27;

(h) paragraph 29(b);

(i) sections 30 to 35, 49 to 52 and 54 to 57.

(3) In Saskatchewan, despite subsections (1) and (2), if this Instrument is filed with the Registrar of Regulations after December 4, 2017,

(a) subject to paragraph (b), this Instrument comes into force on the day on which it is filed with the Registrar of Regulations, and

(b) the provisions of this Instrument referenced in subsection (2) come into force six months after that day.

ANNEX E1

FINANCIAL AND CONSUMER SERVICES COMMISSION
regulation • education • protection

COMMISSION DES SERVICES FINANCIERS ET DES SERVICES AUX CONSOMMATEURS
réglementation • éducation • protection

This Annex shows, by way of blackline, changes to the Companion Policy that will take effect upon the coming into force of the corresponding amendments to NI 31-103.

COMPANION POLICY 31-103 CP
REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS

Part 1 Definitions and fundamental concepts

1.1 Introduction

Purpose of this Companion Policy

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

Numbering system

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

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

Additional requirements applicable to registrants

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

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

- securities and derivatives legislation in their jurisdiction

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

Disclosure and notices

Delivering disclosure and notices to the principal regulator

Under section 1.3, registrants must deliver all disclosure and notices required under NI 31-103 to the registrant's principal regulator. This does not apply to notices under sections 8.18 [*international dealer*] and 8.26 [*international adviser*]. Registrants must deliver these notices to the regulator in each jurisdiction where they are registered or relying on an exemption from registration.

Electronic delivery of documents

These documents may be delivered electronically. Registrants should refer to National Policy 11-201 *Electronic Delivery of Documents* (NP 11-102).

See Appendix A for contact information for each regulator.

Clear and meaningful disclosure to clients

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

1.2 Definitions

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

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

Permitted client

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

"Permitted client" is used in the following sections:

- 8.18 [*international dealer*]
- 8.22.1 [*short-term debt*]

- 8.26 [*international adviser*]
- 13.2 [*know your client*]
- 13.3 [*suitability*]
- 13.13 [*disclosure when recommending the use of borrowed money*]
- 14.2 [*relationship disclosure information*]
- 14.2.1 [*pre-trade disclosure of charges*]
- 14.4 [*when the firm has a relationship with a financial institution*]
- 14.5.2 [*restriction on self-custody and qualified custodian requirement*]
- 14.14.1 [*additional statements*]
- 14.14.2 [*security position cost information*]
- 14.17 [*report on charges and other compensation*]
- 14.18 [*investment performance report*]

Exemptions from registration when dealing with permitted clients

Sections 8.18 and 8.26 exempt international dealers and international advisers from the registration requirement if they deal with certain permitted clients and meet certain other conditions.

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

Exemptions from other requirements when dealing with permitted clients

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

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

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

Under paragraph 14.5.2(7)(d), registered firms are not required to ensure that

cash or securities of permitted clients, that are not individuals or investment funds, are held with a qualified custodian if the permitted client has acknowledged in writing that the permitted client is aware that this qualified custodian requirement will not apply to the firm. In order to rely on this exemption, we expect registered firms to determine that the client is a permitted client that is not an individual or investment fund at the time the client acknowledges that its right to a qualified custodian will not apply.

Determining assets

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

Paragraph (o) of the definition

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

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

Factors indicating beneficial ownership of financial assets include:

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

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

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

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

Paragraph (q) of the definition

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

1.3 Fundamental concepts

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

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

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

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

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

Requirement to register

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

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

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

However, all permitted individuals of any registrant must file Form 33-109F4

Registration of Individuals and Review of Permitted Individuals (Form 33-109F4).

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

Multiple categories

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

Registration exemptions

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

Business trigger for trading and advising

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

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

Factors in determining business purpose

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

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

(a) Engaging in activities similar to a registrant

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

(b) Intermediating trades or acting as a market maker

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

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

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

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

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

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

(e) Directly or indirectly soliciting

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

Business trigger examples

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

(a) Securities issuers

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

- do not hold themselves out as being in the business of trading in securities
- trade in securities infrequently

- are not, or do not expect to be, compensated for trading in securities

- do not act as intermediaries, and

- do not produce, or intend to produce, a profit from trading in securities

During the start-up stage, securities issuers may not yet be actively carrying on their intended business. We consider a start-up securities issuer to have an "active non-securities business" if the entity is raising capital to start a non-securities business. Although the entity does not need to be producing a product or delivering a service, we would expect it to have a bona fide business plan to do so, containing milestones and the time anticipated to reach those milestones. For example, technology companies may raise money with only a business plan for many years before they start producing a product or delivering a service. Similarly, junior exploration companies may raise money with only a business plan long before they find or extract any resources.

However, securities issuers may have to register as dealers if they are in the business of trading. Conduct that would indicate that security issuers are in the business includes frequently trading in securities. While frequent trading is a common indicator of being in the business of trading, we recognize that trading may be more frequent during the start-up stage, as an issuer needs to raise capital to launch and advance the business. If the trading is primarily for the purpose of advancing the issuer's business plan, then the frequency of the activities alone should not result in the issuer being in the business of trading in securities. If the capital raising and use of that capital are not advancing the business, the issuer may need to register as a dealer.

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

- employ or contract individuals to perform activities on their behalf that are similar to those performed by a registrant (other than underwriting in the normal course of a distribution or trading for their own account)

- actively solicit investors, subject to the discussion below, or

- act as an intermediary by investing client money in securities

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

Many issuers actively solicit through officers, directors or other employees. If these individuals' activities are incidental to their primary roles with an issuer, they would likely not be in the business of trading. Factors that would suggest that the issuer and these individuals are in the business of trading are:

- the principal purpose of the individual's employment is raising capital through distributions of the issuer's securities;

- the individuals spend the majority of their time raising capital in this manner;

- the individuals' compensation or remuneration is based solely or primarily on the amount of capital they raise for the issuer.

Securities issuers that are distributing securities are subject to the prospectus requirements unless an exemption is available. Regulators have the discretionary authority to require an underwriter for a prospectus distribution.

(b) Venture capital and private equity

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

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

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

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

- representation on the board of directors

- direct involvement in the appointment of managers

- a say in material management decisions

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

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

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

- a portfolio manager, if the advice provided in connection with the purchase and sale of companies is incidental to the VC's active management of these companies, or

- a dealer, if both the raising of money from investors and the investing of that money by the VC (in securities of companies that are usually not publicly traded) are occasional and uncompensated activities

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

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

(c) One-time activities

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

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

(d) Incidental activities

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

For example, merger and acquisition specialists that advise the parties to a transaction between companies are not normally required to register as dealers or advisers in connection with that activity, even though the transaction may result in trades in securities and they will be compensated for the advice. If the transaction results in trades in the securities of the company to an acquirer, this is considered incidental to the acquisition transaction. However, if the merger and acquisition specialists also engage in capital raising from prospective investors (including private placements), they will need to consider whether such activity would be in the business of trading and require registration.

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

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

Registration trigger for investment fund managers

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

Fitness for registration

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

Terms and conditions

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

Opportunity to be heard

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

Assessing fitness for registration – firms

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

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

Assessing fitness for registration – individuals

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

- proficiency
- integrity, and
- solvency

(a) Proficiency

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

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

(b) Integrity

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

(c) Solvency

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

Part 2 Categories of registration for individuals

2.1 Individual categories

Multiple individual categories

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

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

For example, an advising representative of a portfolio manager who is also the

firm's CCO must register in the categories of advising representative and CCO. They must meet the proficiency requirements of both of these categories.

Individual registered in a firm category

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

2.2 Client mobility exemption – individuals

Conditions of the exemption

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

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

An individual may only rely on the exemption if:

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

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

Limits on the number of clients

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

registration in section 8.30). The limits in sections 2.2 and 8.30 are per jurisdiction.

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

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

Part 3 Registration requirements – individuals

Division 1 General proficiency requirements

Application of proficiency requirements

Part 3 sets out the initial and ongoing proficiency requirements for

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

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

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

Exam based requirements

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

3.3 Time limits on examination requirements

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

- was registered in an active capacity (i.e., not suspended), in the same category in a jurisdiction of Canada at any time during the 36-month period before the date of their application; or

- has gained relevant securities industry experience for a total of 12 months during the 36-month period before the date of their application: these months do not have to be consecutive, or with the same firm or organization

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

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

- the date on which the relevant examination was passed, and

- the length of time between any suspension and reinstatement of registration during the 36-month period

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

Relevant securities industry experience

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

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

- in related investment fields, such as investment banking, securities trading on behalf of a financial institution, securities research, portfolio management, investment advisory services or supervision of those activities

- in legal, accounting or consulting practices related to the securities industry

- in other professional service fields that relate to the securities industry, or

- in a securities-related business in a foreign jurisdiction

Division 2 Education and experience requirements

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

Granting exemptions

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

Proficiency for representatives of restricted dealers and restricted portfolio managers

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

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

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

3.4 Proficiency – initial and ongoing

Proficiency principle

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

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

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

Responsibility of the firm

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

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

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

The 12 months of relevant investment management experience referred to in section 3.11 and 24 months of relevant investment management experience referred to in section 3.12 do not have to be consecutive, or with the same firm or organization.

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

Relevant investment management experience

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

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

- securities research and analysis experience, demonstrating an ability in, and understanding of, portfolio analysis or portfolio security selection, or

- management of investment portfolios on a discretionary basis, including investment decision making, rebalancing and evaluating performance

Advising representatives

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

(a) Discretionary portfolio management

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

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

(b) Assistant or associate portfolio management

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

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

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

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

Associate advising representatives

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

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

(a) Client relationship management

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

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

(b) Corporate finance

We may consider corporate finance experience involving valuing and analysing securities for initial public offerings, debt and equity financings, takeover bids and mergers to be sufficient to meet the relevant investment management experience requirement for registration as an associate advising representative where this experience demonstrates an ability in, and understanding of, portfolio analysis or portfolio securities selection.

Some types of experience remain highly case-specific

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

(a) IIROC registered representatives

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

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

(b) Consultants

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

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

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

- the client contracts directly with the consultant, rather than with the portfolio managers

- the consultant manages the hiring and evaluation of the portfolio

managers

- there is reliance by the client on the consultant
- there are client expectations about the services to be provided by the consultant

Division 3 Membership in a self-regulatory organization

3.16 Exemptions from certain requirements for SRO-approved persons

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

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

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

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

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

Part 4 Restrictions on registered individuals

4.1 Restriction on acting for another registered firm

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

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

- the sponsoring firms will be able to deal with these conflicts, including supervising how the individual will deal with these conflicts.

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

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

4.2 Associate advising representatives – pre-approval of advice

The associate advising representative category allows an individual to work at a registered adviser while completing the proficiency requirements for an advising representative. For example, a previously registered advising representative could work in an advising capacity while acquiring the relevant work experience required for an advising representative under section 3.11.

Associate advising representatives are not required to subsequently register as a full advising representative since this category also accommodates individuals who provide specific advice to clients, but do not manage client portfolios without supervision.

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

Registered firms that have associate advising representatives must:

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

Part 5 Ultimate designated person and chief compliance officer

Sections 11.2 and 11.3 require registered firms to designate a UDP and a CCO.

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

The same person as UDP and CCO

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

UDP or CCO as advising or dealing representative

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

5.1 Responsibilities of the ultimate designated person

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

5.2 Responsibilities of the chief compliance officer

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

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

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

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

If a firm is registered in multiple categories, the CCO must meet the most stringent of the proficiency requirements of the firm's categories of registration.
Firms must designate one CCO. However, in large firms, the scale and kind of activities carried out by different operating divisions may warrant the designation of more than one CCO. We will consider applications, on a case-by-case basis,

for different individuals to act as the CCO of a firm's operating divisions.

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

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

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

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

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

Part 6 Suspension and revocation of registration – individuals

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

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

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

6.1 If individual ceases to have authority to act for firm

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

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

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

Suspension

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

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

Automatic suspension

An individual's registration will automatically be suspended if:

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

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

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

Suspension in the public interest

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

Reinstatement

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

reinstatement or transfer to the new firm will be automatic.

Automatic transfers

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

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

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

Individuals are not eligible for an automatic reinstatement if they:

- have new information to disclose regarding regulatory, criminal, civil or financial matters as described in Item 9 of Form 33-109F7, or
- as a result of allegations of criminal activity, breach of securities legislation or breach of SRO rules:
  - were dismissed by their former sponsoring firm, or
  - were asked by their former sponsoring firm to resign

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

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

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

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

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

Revocation

6.6 Revocation of a suspended registration – individual

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

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

Surrender or termination of registration

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

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

Part 7 Categories of registration for firms

The categories of registration for firms have two main purposes:

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

Firms registered in more than one category

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

Individual registered in a firm category

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

7.1 Dealer categories

Section 7.1 of NI 31-103 sets out the dealer registration categories and permitted activities for each category. For example, investment dealers may act as a dealer or an underwriter in respect of any security or transaction. All other dealer

categories are limited:

- a mutual fund dealer may only act as a dealer in respect of mutual funds and certain other investment funds

- a scholarship plan dealer may only act as a dealer in respect of scholarship plans, educational plans and educational trusts

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

- a restricted dealer may only act as a dealer or an underwriter in accordance with the terms and conditions of its registration.

Exempt market dealer

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

In short, an exempt market dealer may act as a dealer or underwriter in a distribution by an issuer, including a reporting issuer, if the distribution is being made under an exemption from the prospectus requirement. An exempt market dealer may not act as a dealer or underwriter in a distribution that is being made under a prospectus (a prospectus distribution). The investment dealer category or, in the case of a mutual fund prospectus distribution, the mutual fund dealer category, are the appropriate dealer registration categories for prospectus distributions.

This distinction is explained further below.

Trades that are distributions

Under subparagraph 7.1(2)(d)(i), exempt market dealers are permitted to trade in securities if the trade is a distribution made under a prospectus exemption. This includes trading in securities of investment funds and reporting issuers provided the securities are distributed under an exemption from the prospectus requirement. For example, where a reporting issuer is making a prospectus offering through an investment dealer, an exempt market dealer may participate in a p rivate placement of securities of the same class, if those securities are actually distributed by the reporting issuer under a prospectus exemption. Certain form and fee requirements may apply to the private placement of securities under exemptions from the prospectus requirement.

Permitted activities under subparagraph 7.1(2)(d)(i) also include participating in a resale of securities, where the resale is ***deemed*** to be a distribution under

National Instrument 45-102 *Resale of Securities* (**NI 45-102**). For example, if a reporting issuer makes a private placement of common shares to an accredited investor in reliance on the accredited investor exemption in NI 45-106, the shares will generally be subject to a four-month restricted period. If the accredited investor wishes to resell the shares to another accredited investor within the four-month restricted period, the resale will be deemed to be a distribution under NI 45-102. An exempt market dealer may participate in this resale if made in reliance on a prospectus exemption. However, once the four-month restricted period has expired, and the shares become freely trading, an exempt market dealer may not participate in the resale if common shares of the issuer are listed, quoted or traded on a marketplace, whether the transaction is on-exchange or off-exchange, due to the restriction in subparagraph 7.1(2)(d)(ii). Secondary trading in listed securities should be conducted through an investment dealer in accordance with the rules and requirements applicable to investment dealers.

Trades that are not distributions

Exempt market dealers are permitted to participate in a resale of securities, if all the conditions in subparagraph 7.1(2)(d)(ii) are met. These include that a prospectus exemption would have been available to the seller if the trade were a distribution and the class of securities is not listed, quoted or traded on a domestic or foreign marketplace. In determining whether a prospectus exemption is available for the purposes of subparagraph 7.1(2)(d)(ii), it is necessary to consider the terms of the prospectus exemption. For example, if the terms of the exemption provide that the exemption is only available to an issuer, it is not available for the resale of securities (e.g., offering memorandum exemption).

~~Exempt market dealers are permitted to participate in~~
In short, exempt market dealers are permitted to:

- trade or underwrite securities if the trade is a distribution ~~of securities, including securities of investment funds or reporting issuers,~~ made under ~~an exemption from the~~a prospectus ~~requirement~~exemption

- ~~a~~participate in the resale of securities that are subject to resale restrictions

- ~~a~~participate in the resale of securities ~~that are freely tradeable, if the securities are not~~, if a prospectus exemption would be available to the seller if the trade were a distribution and the class of securities is not listed, quoted or traded on a marketplace. ~~For example, the securities are traded on an over-the-counter basisThese activities may be conducted with accredited investors or other investors who are eligible to purchase the securities on a prospectus-exempt basis.~~

Exempt market dealers are not permitted to

- establish an omnibus account with an investment dealer and trade

listed securities through the investment dealer on behalf of their clients, since this activity is trading in listed securities contrary to subparagraph 7.1(2)(d)(ii)

- participate ~~as an underwriter~~ in a distribution of securities offered under a prospectus in any capacity, including as a dealer (agent, finder, selling group member) or underwriter. This includes participating in the sale of special warrants convertible into prospectus qualified securities, since this activity is an "act in furtherance" of the trade of a prospectus qualified security contrary to subparagraph 7.1(2)(d)(i).

~~- directly or indirectly, participate in a resale of securities traded on a domestic or foreign marketplace whether the transaction is on-exchange or off-exchange, unless the transaction requires reliance on a further exemption from the prospectus requirement. This includes establishing an omnibus account with an investment dealer and trading securities for clients through that account.~~

~~These activities should be conducted by investment dealers.~~

Restricted dealer

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

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

7.2 Adviser categories

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

Restricted portfolio manager

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

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

7.3 Investment fund manager category

Investment fund managers direct the business, operations or affairs of an

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

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

An investment fund manager may:

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

- promote the fund to registered dealers without being registered as a dealer

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

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

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

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

Determining whether investment fund registration is necessary involves applying a functional test that examines the activities being carried out to determine whether an entity is directing the business, operations or affairs of an investment fund. Typically an investment fund has only one investment fund manager. However, there may be limited circumstances where investment fund complexes

or groups may have more than one entity within the fund complex that is acting as an investment fund manager. Although the investment fund manager functions are often delegated to one entity within the fund complex, there may be more than one entity in the group subject to investment fund manager registration, absent an exemption from registration. We will consider exemption applications on a case-by-case basis to allow only one investment fund manager within the fund complex to be registered in appropriate circumstances.

Part 8 Exemptions from the requirement to register

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

Division 1 Exemptions from dealer and underwriter registration

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

- 8.12 [*mortgages*]
- 8.17 [*reinvestment plan*]

8.5 Trades through or to a registered dealer

No solicitation or contact

Section 8.5 provides an exemption from the dealer registration requirement for trades made

- through an appropriately registered dealer, or
- to an appropriately registered dealer that is purchasing for that dealer's account.

The exemption in paragraph 8.5(1)(a) for trades made through a registered dealer is not available if the person relying on it solicits or contacts purchasers of the securities directly. For example, if an individual acts in furtherance of a trade by soliciting or contacting potential purchasers of securities (sometimes referred to as a finder) and then the sale to the purchaser is executed through a registered dealer, the individual would not qualify for this exemption.

A person may utilize the exemption for acts in furtherance of a trade in relation to working with issuers or appropriately registered dealers, provided they do not directly solicit or contact purchasers.

Cross-border trades (jitneys)

Section 8.5 provides an exemption from the dealer registration requirement if the trade is made through a registered dealer, provided the person relying on the exemption has no direct contact with the purchaser of the security. On that basis, the execution of a trade through or to an appropriately registered dealer by a dealer located in another jurisdiction would qualify under this exemption.

However, if for example a dealer in the United States that is not registered in Alberta contacts a potential purchaser in Alberta to solicit the purchase of securities, this trade does not qualify for this exemption. The dealer in the United States must instead contact a dealer registered in Alberta, and have that dealer contact potential purchasers in Alberta.

Plan administrators

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

8.5.1 Trades through a registered dealer by registered adviser

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

8.6 Investment fund trades by adviser to managed account

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

- the adviser or an affiliate of the adviser acts as the fund's adviser,
- ~~act~~the adviser or an affiliate of the adviser acts as the fund's ~~adviser and~~ investment fund manager, and
- ~~distribute~~the distribution of units of the fund is made only into ~~their~~the adviser's clients' managed accounts.

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

Subsection 8.6(2) limits the availability of this exemption to legitimate managed accounts. ~~We do not intend for the exemption to be used to distribute the~~

~~adviser's~~The exemption is not available in respect of accounts that are in substance non-discretionary accounts and that have been created primarily for the purpose of distributing investment funds ~~on a retail basis.~~ of the adviser to an investor without the involvement of a registered dealer.

An adviser relying on this exemption is required to provide written notice of its reliance on the exemption.

The exemption in section 8.6 is also available to those who qualify for the international adviser exemption under section 8.26.

8.18 International dealer

General principle

This exemption allows international dealers to provide limited services to permitted clients without having to register in Canada. The term "permitted client" is defined in section 1.1. International dealers that seek wider access to Canadian investors must register in an appropriate category.

Notice requirement

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

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

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

8.19 Self-directed registered education savings plan

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

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

8.22.1 Short-term debt

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

Division 2 Exemptions from adviser registration

8.24 IIROC members with discretionary authority

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

8.25 Advising generally

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

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

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

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

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

8.26 International adviser

This exemption allows international advisers to provide limited services to certain permitted clients without having to register in Canada. ~~The term "permitted client" is defined in section 1.1 and, for the purposes of section 8.26, excludes registered dealers and advisers.~~ International advisers that seek wider access to

Canadian investors must register in an appropriate category.

Incidental advice on Canadian securities

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

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

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

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

Revenue derived in Canada

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

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

Notice requirement

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

So long as the firm continues to rely on the exemption, it must file an annual

notice with each regulator. Subsection 8.26(5) does not prescribe a form of annual notice. An email or letter will therefore be acceptable.

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

8.26.1 International sub-adviser

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

We expect that a registrant taking on this liability will conduct appropriate initial and ongoing due diligence on the sub-adviser and ensure the investments are suitable for the registrant's client. We also expect that the registrant will maintain records of the due diligence conducted. See Part 11 of this Companion Policy for more guidance.

Division 4 Mobility exemption – firms

8.30 Client mobility exemption – firms

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

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

A firm may only rely on the exemption if:

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

eligible client

Firm's responsibilities for individuals relying on the exemption

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

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

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

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

Part 9 Membership in a self-regulatory organization

9.3 Exemptions from certain requirements for IIROC members
9.4 Exemptions from certain requirements for MFDA members

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

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

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

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

We expect registered firms that are members of IIROC or the MFDA to comply with the by-laws, rules, regulations and policies of IIROC or the MFDA, as applicable (SRO provisions). These firms cannot rely on the exemptions in Part 9 unless they are complying with the corresponding SRO provisions specified in NI

31-103. We regard compliance with IIROC or MFDA procedures, interpretations, notices, bulletins and practices as relevant to compliance with the applicable SRO provisions.

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

Part 10Suspension and revocation of registration – firms

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

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

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

Division 1 When a firm's registration is suspended

Suspension

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

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

Automatic suspension

A firm's registration will automatically be suspended if:

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

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

10.1 Failure to pay fees

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

10.2 If IIROC membership is revoked or suspended

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

10.3 If MFDA membership is revoked or suspended

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

Suspension in the public interest

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

Reinstatement

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

Division 2 Revoking a firm's registration

Revocation

10.5 Revocation of a suspended registration – firm

10.6 Exception for firms involved in a hearing or proceeding

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

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

Surrender

A firm may apply to surrender its registration in one or more categories at any time. There is no prescribed form for an application to surrender. A firm should file

an application to surrender registration with its principal regulator. If Ontario is a non-principal jurisdiction, it should also file the application with the regulator in Ontario. See the Companion Policy to Multilateral Instrument 11-102 *Passport System* for more details on filing an application to surrender.

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

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

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

The firm's actions

The regulator may consider whether the firm:

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

Completeness of the application

Among other things, the regulator may look for:

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

Supporting documentation

The regulator may look for:

- evidence that the firm has resolved all outstanding client complaints, settled all litigation, satisfied all judgments or made reasonable arrangements to deal with and fund any payments relating to them, and any subsequent client complaints, settlements or liabilities

- confirmation that all money or securities owed to clients has been returned or transferred to another registrant, where possible, according to client instructions

- up-to-date audited financial statements with an auditor's comfort letter

- evidence that the firm has satisfied any SRO requirements for withdrawing membership, and

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

Part 11 Internal controls and systems

General business practices – outsourcing

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

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

Firms should also:

- ensure that third-party service providers have adequate safeguards for keeping information confidential and, where appropriate, disaster recovery capabilities

- conduct ongoing reviews of the quality of outsourced services

- develop and test a business continuity plan to minimize disruption to the firm's business and its clients if the third-party service provider does not deliver its services satisfactorily, and

- note that other legal requirements, such as privacy laws, may apply when entering into outsourcing arrangements

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

necessary.

Division 1 Compliance

11.1 Compliance system

General principles

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

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

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

The responsibilities of the UDP are set out in section 5.1 and those of the CCO in section 5.2. However, compliance is not only a responsibility of a specific individual or a compliance department of the firm, but rather is a firm-wide responsibility and an integral part of the firm's activities. Everyone in the firm should understand the standards of conduct for their role. This includes the board of directors, partners, management, employees and agents, whether or not they are registered.

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

Elements of an effective compliance system

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

Internal controls

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

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

Monitoring and supervision

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

(a) Day to day monitoring and supervision

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

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

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

- approving new account documents
- reviewing and, in some cases, approving transactions
- approving marketing materials, and
- preventing inappropriate use or disclosure of non-public information.

Firms can use a risk-based approach to monitoring, such as reviewing an

appropriate sample of transactions.

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

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

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

(b) Systemic monitoring

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

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

Specific elements

More specific elements of an effective compliance system include:

(a) Visible commitment

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

(b) Sufficient resources and training

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

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

the firm's policies and procedures.

(c) Detailed policies and procedures

The firm should have detailed written policies and procedures that:

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

(d) Detailed records

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

Setting up a compliance system

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

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

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

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

11.2 Designating an ultimate designated person

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

- the chief executive officer (CEO) of the registered firm or the individual acting in a similar capacity, if the firm does not have a CEO. The person acting in a similar capacity to a CEO is the most senior decision maker in the firm, who might have the title of managing partner or president, for example

- the sole proprietor of the registered firm, or

- the officer in charge of a division of the firm that carries on all of the registerable activity if the firm also has significant other business activities, such as insurance, conducted in different divisions. This is not an option if the core business of the firm is trading or advising in securities and it only has some other minor operations conducted in other divisions. In this case, the UDP must be the CEO or equivalent.

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

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

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

11.3 Designating a chief compliance officer

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

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

- an officer or partner of the registered firm, or

- the sole proprietor of the registered firm

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

Division 2 Books and records

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

unscheduled compliance reviews of registered firms.

11.5 General requirements for records

Under subsection 11.5(1), registered firms must maintain records to accurately record their business activities, financial affairs and client transactions, and demonstrate compliance with securities legislation.

The following discussion provides guidance for the various elements of the records described in subsection 11.5(2).

Financial affairs

The records required under paragraphs 11.5(2)(a), (b) and (c) are records firms must maintain to help ensure they are able to prepare and file financial information, determine their capital position, including the calculation of excess working capital, and generally demonstrate compliance with the capital and insurance requirements.

Client transactions

The records required under paragraphs 11.5(2)(g), (h), (i), (l) and (n) are records firms must maintain to accurately and fully document transactions entered into on behalf of a client. We expect firms to maintain notes of communications that could have an impact on the client's account or the client's relationship with the firm. These communications include

- oral communications
- all e-mail, regular mail, fax and other written communications

While we do not expect registered firms to save every voicemail or e-mail, or to record all telephone conversations with clients, we do expect that registered firms maintain records of all communications relating to orders received from their clients.

The records required under paragraph 11.5(2)(g) should document buy and sell transactions, referrals, margin transactions and any other activities relating to a client's account. They include records of all actions leading to trade execution, settlement and clearance, such as trades on exchanges, alternative trading systems, over-the-counter markets, debt markets, and distributions and trades in the prospectus-exempt market.

Examples of these records are:

- trade confirmation statements
- summary information about account activity
- communications between a registrant and its client about particular transactions, and

- records of transactions resulting from securities a client holds, such as dividends or interest paid, or dividend reinvestment program activity

Paragraph 11.5(2)(l) requires firms to maintain records that demonstrate compliance with the know your client obligations in section 13.2 and the suitability obligations in section 13.3. This includes records for unsuitable trades in subsection 13.3(2).

Client relationship

The records required under paragraphs 11.5(2)(k) and (m) should document information about a registered firm's relationship with its client and relationships that any representatives have with that client.

These records include:

- communication between the firm and its clients, such as disclosure provided to clients and agreements between the registrant and its clients
- account opening information
- change of status information provided by the client
- disclosure and other relationship information provided by the firm
- margin account agreements
- communications regarding a complaint made by the client
- actions taken by the firm regarding a complaint
- communications that do not relate to a particular transaction, and
- conflicts records

Each record required under paragraph 11.5(2)(k) should clearly indicate the name of the accountholder and the account the record refers to. A record should include information only about the accounts of the same accountholder or group. For example, registrants should have separate records for an individual's personal accounts and for accounts of a legal entity that the individual owns or jointly holds with another party.

Where applicable, the financial details should note whether the information is for an individual or a family. This includes spousal income and net worth. The financial details for accounts of a l egal entity should note whether the information refers to the entity or to the owner(s) of the entity.

If the registered firm permits clients to complete new account forms themselves, the forms should use language that is clear and avoids terminology that may be unfamiliar to unsophisticated clients.

Internal controls

The records required under paragraphs 11.5(2)(d), (e), (f), (j) and (o) are records firms must maintain to support the internal controls and supervision components of their compliance system.

11.6 Form, accessibility and retention of records

Third party access to records

Paragraph 11.6(1)(b) requires registered firms to keep their records in a safe location. This includes ensuring that no one has unauthorized access to information, particularly confidential client information. Registered firms should be particularly vigilant if they maintain books and records in a location that may be accessible by a third party. In this case, the firm should have a confidentiality agreement with the third party.

Division 3 Certain business transactions

11.8 Tied selling

Section 11.8 prohibits an individual or firm from engaging in abusive sales practices such as selling a security on the condition that the client purchase another product or service from the registrant or one of its affiliates. These types of practices are known as "tied selling". In our view, this section would be contravened if, for example, a financial institution agreed to lend money to a client only if the client acquired securities of mutual funds sponsored by the financial institution.

However, section 11.8 is not intended to prohibit relationship pricing or other beneficial selling arrangements similar to relationship pricing. Relationship pricing refers to the practice of industry participants offering financial incentives or advantages to certain clients.

11.9 Registrant acquiring a registered firm's securities or assets

Notice requirement

Under section 11.9, registrants must give the regulator notice if they propose to acquire an ownership interest in voting securities (or securities convertible into voting securities) or assets of another registered firm or the parent of another registered firm. This notice must be delivered to the principal regulator of the registrant proposing to make the acquisition and to the principal regulator of the registered firm they propose to acquire, if that firm is registered in Canada. If the principal regulator of both firms is the same, only one notice is required.

Registrants acquiring securities or assets of another registered firm for a client in nominee name do not need to provide notice under section 11.9. For purposes of this section, a substantial part of the assets of the registered firm would include a registered firm's book of business, a business line or a division of the firm, among other things. This notice gives the regulator an opportunity to consider

ownership issues that may affect a firm's fitness for registration.

Filing of the notice with the principal regulator

It is intended that the notice filed with the principal regulator(s) will be shared with other regulators with an interest in the proposed acquisition. Therefore, although only the principal regulator(s) will receive a notice, other jurisdictions may object to the proposed acquisition under subsections 11.9(4) and 11.9(5). The registrant will have an opportunity to be heard in any jurisdiction that has objected to the proposed acquisition. It is our intent, however, to coordinate the review of these notices and any decisions to object to these proposed acquisitions.

Subsection 11.9(4) does not apply in British Columbia. However, the regulator in British Columbia may exercise discretion under section 36 or 161 of the BC *Securities Act* (BCSA) to impose conditions, restrictions or requirements on the registrant's registration or to suspend or revoke the registration if it decides that an acquisition would affect the registrant's fitness for registration or be prejudicial to the public interest. In these circumstances, the registrant would be entitled to an opportunity to be heard, except if the regulator issues a temporary order under section 161 of the BCSA.

Content of the notice

When preparing the notice under section 11.9, registrants should consider including the following information to help the regulator assess the proposed transaction:

- the proposed closing date for the transaction
- the business reasons for the transaction
- the corporate structure, both before and after the closing of the proposed transaction, including all affiliated companies and subsidiaries of the acquirer and any registered firm involved in the proposed transaction whether interests in a company, partnership or trust are held directly or through a holding company, trust or other entity
- information on the operations and business plans of the acquirer and any registered firm involved in the proposed transaction, including any changes to Item 3.1 of Form 33-109F6 *Firm Registration* such as primary business activities, target market, and the products and services provided to clients of any registered firm involved in the proposed transaction
- any significant changes to the business operations of any registered firm involved in the proposed transaction, including changes to the CCO, the UDP, key management, directors, officers, permitted individuals or registered individuals
- whether the registered firms involved in the proposed transaction

have written policies and procedures to address conflicts of interest that may arise following the transaction and information on how such conflicts of interest have been or will be addressed.

- whether the registered firms involved in the proposed transaction have adequate resources to ensure compliance with all applicable conditions of registration

- a confirmation that any registered firm involved in the proposed transaction will comply with section 4.1 following the transaction

- details of any client communications in connection with the transaction that have been made or are planned or an explanation of why no communications to clients are anticipated

- whether a press release will be issued in relation to the proposed transaction

11.10 Registered firm whose securities are acquired

Notice requirement

Under section 11.10, registered firms must notify their principal regulator if they know or have reason to believe that any individual or firm is about to acquire 10% or more of the voting securities (or securities convertible into voting securities) of the firm or the firm's parent. This notice gives the regulator an opportunity to consider ownership issues that may affect a firm's fitness for registration. We expect this notice to be sent as soon as the registered firm knows or has reason to believe such an acquisition is going to take place.

Filing of the notice with the principal regulator

It is intended that the notice filed with the principal regulator(s) will be shared with other regulators with an interest in the proposed acquisition. Therefore, although only the principal regulator(s) will receive a notice, other jurisdictions may object to the proposed acquisition under subsections 11.10(5) and 11.10(6). The registered firm will have an opportunity to be heard in any jurisdiction that has objected to the proposed acquisition. It is our intent, however, to coordinate the review of these notices and any decisions to object to these proposed acquisitions.

Application for registration

We expect any individual or firm that acquires assets of a registered firm and is not already a registrant will have to apply for registration. We will assess their fitness for registration when they apply.

Subsection 11.10(5) does not apply in British Columbia. However, the regulator in British Columbia may exercise discretion under section 36 or 161 of the BCSA to impose conditions, restrictions or requirements on the registrant's registration or to suspend or revoke the registration if it decides that an acquisition would affect the registrant's fitness for registration or be prejudicial to the public interest. In

these circumstances, the registrant would be entitled to an opportunity to be heard, except if the regulator issues a temporary order under section 161 of the BCSA.

Content of the notice

Refer to the guidance in section 11.9.

Part 12Financial condition

Division 1 Working capital

12.1 Capital requirements

Frequency of working capital calculations

Section 12.1 requires registered firms to notify the regulator as soon as possible if their excess working capital is less than zero.

Registered firms should know their working capital position at all times. This may require a firm to calculate its working capital every day. The frequency of working capital calculations depends on many factors, including the size of the firm, the nature of its business and the stability of the components of its working capital. For example, it may be sufficient for a sole proprietor firm with a dedicated and stable source of working capital to do the calculation on a monthly basis.

Form 31-103F1 *Calculation of excess working capital*

Application of NI 52-107 Acceptable Accounting Principles and Auditing Standards

Form 31-103F1 *Calculation of Excess Working Capital* (Form 31-103F1) must be prepared using the accounting principles used to prepare financial statements in accordance with National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107). Refer to section 12.10 of this Companion Policy and Companion Policy 52-107 *Acceptable Accounting Principles and Auditing Standards* (52-107CP) for further guidance on audited financial statements.

IIROC and MFDA member firms that are also registered in another category

IIROC and MFDA member firms that are also registered in a category that does not require SRO membership must still comply with the financial filing requirements in Part 12 *Financial condition*, even if they are relying on the exemptions in sections 9.3 and 9.4. Provided certain conditions are met, SRO members that are registered in other categories may be permitted to calculate their working capital in accordance with the SRO forms and file the SRO forms instead of Form 31-103F1.

For example, if the SRO firm is also an investment fund manager, it will need to report any net asset value (NAV) adjustments quarterly in order to comply with

the investment fund manager requirements, notwithstanding that its SRO has no such requirements. However, they may be permitted to calculate their working capital in accordance with the SRO forms and file the SRO forms instead of Form 31-103F1. See sections 12.1, 12.12 and 12.14 for the requirements on delivery of working capital calculations for SRO members that are registered in multiple categories.

Working capital requirements are not cumulative

The working capital requirements for registered firms set out in section 12.1 are not cumulative. If a firm is registered in more than one category, it must meet the highest capital requirement of its categories of registration, except for those investment fund managers who are also registered as portfolio managers and meet the requirements of the exemption in section 8.6. These investment fund managers need only meet the lower capital requirement for portfolio managers.

If a registrant becomes insolvent or declares bankruptcy

The regulator will review the circumstances of a registrant's insolvency or bankruptcy on a case-by-case basis. If the regulator has concerns, it may impose terms and conditions on the registrant's registration, such as close supervision and delivering progress reports to the regulator, or it may suspend the registrant's registration.

12.2 Subordination agreement

Non-current related party debt must be deducted from a firm's working capital on Form 31-103F1, unless the firm and the lender have executed a subordination agreement in the form set out in Appendix B of NI 31-103 and delivered a copy of that agreement to the regulator. A portion of the non-current loan becoming current would not impact the original subordination agreement; the firm would have to notify the regulator if the firm repays the loan or any part of the non-current portion of the loan. However, the current portion of the originally-intended non-current subordinated loan would have to be included in Line 4 of Form 31-103F1, and could not be included in Line 5 of Form 31-103F1. This may not be the total amount of the original loan as set out in the subordination agreement, and as such the amount in the subordination agreement would not agree to Line 5 of Form 31-103F1.

Related party debt due on demand or repayable by the firm at any time, including pursuant to a revolving line of credit, is an example of a current liability. These types of liabilities are not eligible to be subordinated for the purposes of calculating excess working capital. The amount of current related party debt must be included in line 4 – *Current liabilities* of Form 31-103F1.

Firms must deliver subordination agreements to the regulator on the earlier of 10 days after the execution of the agreement or the date on which the firm excludes the amount of the related party debt from its excess working capital calculation. A firm may not exclude the amount until the subordination agreement is executed and delivered to the regulator.

The firm's obligations under section 12.2 to notify the regulator 10 days before it

repays the loan or terminates the subordination agreement apply regardless of the terms of any loan agreement. Firms should ensure the terms of their loan agreements do not conflict with their regulatory requirements.

If a subordinated related party debt is being increased and the incremental increase is to be subordinated, the subordination agreement submitted to the regulator should only report the incremental increase. Firms should not report the full balance of the related party debt, as noted on the statement of financial position, on the new subordination agreement unless the previous subordination agreement is terminated and notification of this termination is made in accordance with section 12.2.

In conjunction with the submission of a new subordination agreement, the regulator may request that the firm provide a schedule detailing the total outstanding subordinated debt.

The regulator may request that additional documentation be provided in conjunction with the firm's notice of repayment of a subordinated debt in order to assess whether the firm will have sufficient excess working capital following the repayment. This may include updated interim financial information and a completed Form 31-103F1.

At the time the firm submits a notice of repayment, the firm should provide an updated schedule to the regulator, detailing the total outstanding subordinated debt following the repayment.

Division 2 Insurance

Insurance coverage limits

Registrants must maintain bonding or insurance that provides for a "double aggregate limit" or a "full reinstatement of coverage" (also known as "no aggregate limit"). The insurance provisions state that the registered firm must "maintain" bonding or insurance in the amounts specified. We do not expect that the calculation would differ materially from day to day. If there is a material change in a firm's circumstances, it should consider the potential impact on its ability to meet its insurance requirements.

Most insurers offer aggregate limit policies that contain limits based on a single loss and on the number or value of losses that occur during the coverage period.

Double aggregate limit policies have a specified limit for each claim. The total amount that may be claimed during the coverage period is twice that limit. For example, if an adviser maintains a financial institution bond of $50,000 for each clause with a double aggregate limit, the adviser's coverage is $50,000 for any one claim and $100,000 for all claims during the coverage period.

Full reinstatement of coverage policies and no aggregate limit policies have a specified limit for each claim but no limit on the number of claims or losses during the coverage period. For example, if an adviser maintains a financial institution bond of $50,000 for each clause with a full reinstatement of coverage provision, the adviser's maximum coverage is $50,000 for any one claim, but there is no

limit on the total amount that can be claimed under the bond during the coverage period.

Insurance requirements are not cumulative

Insurance requirements are not cumulative. For example, a firm registered in the categories of portfolio manager and investment fund manager need only maintain insurance coverage for the higher of the amounts required for each registration category. Despite being registered as both a portfolio manager and an investment fund manager, when calculating the investment fund manager insurance requirement under subsection 12.5(2), an investment fund manager should only include the total assets under management of its own investment funds. It is only with respect to its own funds that the registrant is acting as an investment fund manager.

12.4 Insurance – adviser

The insurance requirements for advisers depend in part on whether the adviser holds or has access to client assets.

An adviser will be considered to hold or have access to client assets if they do any of the following:

- hold client securities or cash for any period
- accept funds from clients, for example, a cheque made payable to the registrant
- accept client money from a custodian, for example, client money that is deposited in the registrant's bank or trust accounts before the registrant issues a cheque to the client
- have the ability to gain access to client assets
- have, in any capacity, legal ownership of, or access to, client funds or securities
- have the authority, such as under a power of attorney, to withdraw funds or securities from client accounts
- have authority to debit client accounts to pay bills other than investment management fees
- act as a trustee for clients~~, or~~
- act as fund manager or general partner for investment funds, or
- use a custodian that is not functionally independent of the adviser and that, if used, allows the registered firm to access client assets

A registered firm will generally be considered to have access to client assets through the use of a custodian that is not functionally independent of the firm when any of the following apply:

- the registered firm and the custodian share the same mind and management such that the registered firm and the custodian would not reasonably be considered to be operating independently
- the custodial activities are performed by personnel that are not separate from, or are unable to act independently from, personnel of the registered firm
- there is a lack of systems and controls to ensure the functional independence of personnel performing the custodial function

12.6 Global bonding or insurance

Registered firms may be covered under a global insurance policy. Under this type of policy, the firm is insured under a parent company's policy that covers the parent and its subsidiaries or affiliates. Firms should ensure that the claims of other entities covered under a global insurance policy do not affect the limits or coverage applicable to the firm.

Division 4 Financial reporting

12.10 Annual financial statements
12.11 Interim financial information

Accounting Principles

Registrants are required to deliver annual financial statements and interim financial information that comply with NI 52-107. Depending on the financial year, a registrant will look to different parts of NI 52-107 to determine which accounting principles and auditing standards apply:

- Part 3 of NI 52-107 applies for financial years beginning on or after January 1, 2011;
- Part 4 of NI 52-107 applies to financial years beginning before January 1, 2011.

Part 3 of NI 52-107 refers to Canadian GAAP applicable to publicly accountable enterprises, which is IFRS as incorporated into the Handbook. Under Part 3 of NI 52-107, annual financial statements and interim financial information delivered by a registrant must be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises except that any investments in subsidiaries, jointly controlled entities and associates must be accounted for as specified for separate financial statements in International Accounting Standard 27 Consolidated and Separate Financial Statements. Separate financial statements are sometimes referred to as non-consolidated financial statements.

Subsection 3.2(3) of NI 52-107 requires annual financial statements to include a statement and description about this required financial reporting framework. Section 2.7 of 52-107CP provides guidance on subsection 3.2(3). We remind registrants to refer to these provisions in NI 52-107 and 52-107CP in preparing their annual financial statements and interim financial information.

Part 4 of NI 52-107 refers to Canadian GAAP for public enterprises, which is Canadian GAAP as it existed before the mandatory effective date for the adoption of IFRS, included in the Handbook as Part V. Under Part 4 of NI 52-107, annual financial statements and interim financial information delivered by a registrant must be prepared in accordance with Canadian GAAP for public enterprises except that the financial statements and interim financial information must be prepared on a non-consolidated basis.

12.14 Delivering financial information – investment fund manager

NAV errors and adjustments

Section 12.14 requires investment fund managers to periodically deliver to the regulator, among other things, a completed Form 31-103F4 *Net Asset Value Adjustments* if any NAV adjustment has been made. A NAV adjustment is necessary when there has been a material error and the NAV per unit does not accurately reflect the actual NAV per unit at the time of computation.

Some examples of the causes of NAV errors are:

- mispricing of a security
- corporate action recorded incorrectly
- incorrect numbers used for issued and outstanding units
- incorrect expenses and income used or accrued
- incorrect foreign exchange rates used in the valuation, and
- human error, such as inputting an incorrect value

We expect investment fund managers to have policies that clearly define what constitutes a material error that requires an adjustment, including threshold levels, and how to correct material errors. If an investment fund manager does not have a threshold in place, it may wish to consider the threshold in IFIC Bulletin Number 22 *Correcting Portfolio NAV Errors* or adopt a more stringent policy.

Part 13Dealing with clients – individuals and firms

Division 1 Know your client and suitability

13.2 Know your client

General principles

Registrants act as gatekeepers of the integrity of the capital markets. They should not, by act or omission, facilitate conduct that brings the market into disrepute. As part of their gatekeeper role, registrants are required to establish the identity of, and conduct due diligence on, their clients under the know your client (KYC) obligation in section 13.2. Complying with the KYC obligation can help ensure that trades are completed in accordance with securities laws.

KYC information forms the basis for determining whether trades in securities are suitable for investors. This helps protect the client, the registrant and the integrity of the capital markets. The KYC obligation requires registrants to take reasonable steps to obtain and periodically update information about their clients.

Verifying a client's reputation

Paragraph 13.2(2)(a) requires registrants to make inquiries if they have cause for concern about a client's reputation. The registrant must make all reasonable inquiries necessary to resolve the concern. This includes making a reasonable effort to determine, for example, the nature of the client's business or the identity of beneficial owners where the client is a corporation, partnership or trust. See subsection 13.2(3) for additional guidance on identifying clients that are corporations, partnerships or trusts.

Identifying insiders

Under paragraph 13.2(2)(b), a registrant must take reasonable steps to establish whether the client is an insider of a reporting issuer or any other issuer whose securities are publicly traded.

We consider "reasonable steps" to include explaining to the client what an insider is and what it means for securities to be publicly traded.

For purposes of this paragraph, "reporting issuer" has the meaning given to it in securities legislation and "other issuer" means any issuer whose securities are traded in any public market. This includes domestic, foreign, exchange-listed and over-the-counter markets. This definition does not include issuers whose securities have been distributed through a private placement and are not freely tradeable.

A registrant need not ascertain whether the client is an insider if the only securities traded for the client are mutual fund securities and scholarship plan securities referred to in paragraphs 7.1(2)(b) and 7.1(2)(c). However, we encourage firms, when selling highly concentrated pooled funds, to enquire as to whether a client is an insider of the issuer of any securities held by the fund, notwithstanding the exemption provided in subsection 13.2(7). In addition, we remind registrants that they remain subject to the requirement in paragraph 13.2(2)(b) when they trade any other securities than those listed in paragraphs 7.1(2)(b) and 7.1(2)(c).

This exemption does not change an insider's reporting and conduct responsibilities.

Clients that are corporations, partnerships or trusts

Subsection 13.2(3) requires registrants to establish the identity of any person who owns or controls 25% or more of the shares of a client that is a corporation or exercises control over the affairs of a client that is a partnership or trust. We remind registrants that this is in addition to the requirement in paragraph 13.2(2)(a) which requires registrants to make inquiries if they have cause for concern about a client's reputation. If a registrant has cause for concern about a particular client that is a corporation, partnership or trust, they may need to identify all beneficial owners of such entity.

Keeping KYC information current

Under subsection 13.2(4), registrants are required to make reasonable efforts to keep their clients' KYC information current.

We consider information to be current if it is sufficiently up-to-date to support a suitability determination. For example, a portfolio manager with discretionary authority should update its clients' KYC information frequently. A dealer that only occasionally recommends trades to a client should ensure that the client's KYC information is up-to-date at the time a proposed trade or recommendation is made.

13.3 Suitability

Suitability obligation

Subsection 13.3(1) requires registrants to take reasonable steps to ensure that a proposed trade is suitable for a client before making a recommendation or accepting instructions from the client. To meet this suitability obligation, registrants should have in-depth knowledge of all securities that they buy and sell for, or recommend to, their clients. This is often referred to as the "know your product" or KYP obligation.

Registrants should know each security well enough to understand and explain to their clients the security's risks, key features, and initial and ongoing costs and fees. Having the registered firm's approval for representatives to sell a product does not mean that the product will be suitable for all clients. Individual registrants must still determine the suitability of each transaction for every client.

Registrants should also be aware of, and act in compliance with, the terms of any exemption being relied on for the trade or distribution of the security.
In all cases, we expect registrants to be able to demonstrate a process for making suitability determinations that are appropriate in the circumstances.

Suitability obligations cannot be delegated

Registrants may not:

- delegate their suitability obligations to anyone else, or
- satisfy the suitability obligation by simply disclosing the risks involved with a trade

Only permitted clients may waive their right to a suitability determination. Registrants must make a suitability determination for all other clients. If a client instructs a registrant to make a trade that is unsuitable, the registrant may not allow the trade to be completed until they warn the client as required under subsection 13.3(2).

KYC information for suitability depends on circumstances

The extent of KYC information a registrant needs to determine suitability of a trade will depend on the:

- client's circumstances
- type of security
- client's relationship to the registrant, and
- registrant's business model

In some cases, the registrant will need extensive KYC information, for example, if the registrant is a portfolio manager with discretionary authority. In these cases, the registrant should have a comprehensive understanding of the client's:

- investment needs and objectives, including the client's time horizon for their investments
- overall financial circumstances, including net worth, income, current investment holdings and employment status, and
- risk tolerance for various types of securities and investment portfolios, taking into account the client's investment knowledge

In other cases, the registrant may need less KYC information, for example, if the registrant only occasionally deals with a client who makes small investments relative to their overall financial position.

If the registrant recommends securities traded under the prospectus exemption for accredited investors in NI 45-106, the registrant should determine whether the client qualifies as an accredited investor.

If a client is opening more than one account, the registrant should indicate whether the client's investment objectives and risk tolerance apply to a particular account or to the client's whole portfolio of accounts.

Registered firm and financial institution clients

Under subsection 13.3(3), there is no obligation to make a suitability determination for a client that is a registered firm, a Canadian financial institution or a Schedule III bank.

Permitted clients

Under subsection 13.3(4), registrants do not have to make a suitability determination for a permitted client if:

- the permitted client has waived their right to suitability in writing, and
- the registrant does not act as an adviser for a managed account of the permitted client

A permitted client may waive their right to suitability for all trades under a blanket waiver.

SRO exemptions

SRO rules may also provide conditional exemptions from the suitability obligation, for example, for dealers who offer order execution only services.

Division 2 Conflicts of interest

13.4 Identifying and responding to conflicts of interest

Section 13.4 covers a broad range of conflicts of interest. It requires registered firms to take reasonable steps to identify existing material conflicts of interest and material conflicts that the firm reasonably expects to arise between the firm and a client. As part of identifying these conflicts, a firm should collect information from the individuals acting on its behalf regarding the conflicts they expect to arise with their clients.

We consider a conflict of interest to be any circumstance where the interests of different parties, such as the interests of a client and those of a registrant, are inconsistent or divergent.

Responding to conflicts of interest

A registered firm's policies and procedures for managing conflicts should allow the firm and its staff to:

- identify conflicts of interest that should be avoided
- determine the level of risk that a conflict of interest raises, and
- respond appropriately to conflicts of interest

When responding to any conflict of interest, registrants should consider their standard of care for dealing with clients and apply consistent criteria to similar types of conflicts of interest.

In general, three methods are used to respond to conflicts of interest:

- avoidance

- control, and
- disclosure

If a registrant allows a serious conflict of interest to continue, there is a high risk of harm to clients or to the market. If the risk of harming a client or the integrity of the markets is too high, the conflict needs to be avoided. If a registered firm does not avoid a conflict of interest, it should take steps to control or disclose the conflict, or both. The firm should also consider what internal structures or policies and procedures it should use or have to reasonably respond to the conflict of interest.

Avoiding conflicts of interest

Registrants must avoid all conflicts of interest that are prohibited by law. If a conflict of interest is not prohibited by law, registrants should avoid the conflict if it is sufficiently contrary to the interests of a client that there can be no other reasonable response.

For example, some conflicts of interest are so contrary to another person's or company's interest that a registrant cannot use controls or disclosure to respond to them. In these cases, the registrant should avoid the conflict, stop providing the service or stop dealing with the client.

Controlling conflicts of interest

Registered firms should design their organizational structures, lines of reporting and physical locations to control conflicts of interest effectively. For example, the following situations would likely raise a conflict of interest:

- advisory staff reporting to marketing staff
- compliance or internal audit staff reporting to a business unit, and
- registered representatives and investment banking staff in the same physical location

Depending on the conflict of interest, registered firms may control the conflict by:

- assigning a d ifferent representative to provide a service to the particular client
- creating a group or committee to review, develop or approve responses
- monitoring trading activity, or
- using information barriers for certain internal communication

Disclosing conflicts of interest

(a) When disclosure is appropriate

Registered firms should ensure that their clients are adequately informed about any conflicts of interest that may affect the services the firm provides to them. This is in addition to any other methods the registered firm may use to manage the conflict.

(b) Timing of disclosure

Under subsection 13.4(3), if a reasonable investor would expect to be informed of a conflict, a registered firm must disclose the conflict in a timely manner. Registered firms and their representatives should disclose conflicts of interest to their clients before or at the time they recommend the transaction or provide the service that gives rise to the conflict. This is to give clients a reasonable amount of time to assess the conflict.

We note that where this disclosure is provided to a client before the transaction takes place, we expect the disclosure to be provided shortly before the transaction takes place. For example, if it was initially provided with the client's account opening documentation months or years previously we expect that a registered representative would also disclose this conflict to the client shortly before the transaction or at the time the transaction is recommended.

For example, if a registered individual recommends a security that they own, this may constitute a material conflict which should be disclosed to the client before or at the time of the recommendation.

(c) When disclosure is not appropriate

Disclosure may not be appropriate if a conflict of interest involves confidential or commercially sensitive information, or the information amounts to "inside information" under insider trading provisions in securities legislation.

In these situations, registered firms will need to assess whether there are other methods to adequately respond to the conflict of interest. If not, the firm may have to decline to provide the service to avoid the conflict of interest.

Registered firms should also have specific procedures for responding to conflicts of interest that involve inside information and for complying with insider trading provisions.

(d) How to disclose a conflict of interest

Registered firms should provide disclosure about material conflicts of interest to their clients if a reasonable investor would expect to be informed about them. When a registered firm provides this disclosure, it should:

- be prominent, specific, clear and meaningful to the client, and
- explain the conflict of interest and how it could affect the service the client is being offered

Registered firms should not:

- provide generic disclosure
- give partial disclosure that could mislead their clients, or
- obscure conflicts of interest in overly detailed disclosure

Examples of conflicts of interest

This section describes specific situations where a registrant could be in a conflict of interest and how to manage the conflict.

Relationships with related or connected issuers

When a registered firm trades in, or recommends securities of, a related or connected issuer, it should respond to the resulting conflict of interest by disclosing it to the client.

To provide disclosure about conflicts with related issuers, a registered firm may maintain a list of the related issuers for which it acts as a dealer or adviser. It may make the list available to clients by:

- posting the list on its website and keeping it updated
- providing the list to the client at the time of account opening, or
- explaining to the client at the time of account opening how to contact the firm to request a copy of the list free of charge

The list may include examples of the types of issuers that are related or connected and the nature of the firm's relationship with those issuers. For example, a firm could generally describe the nature of its relationship with an investment fund within a family of investment funds. This would mean that the firm may not have to update the list when a new fund is added to that fund family.

However, this type of disclosure may not meet the expectations of a reasonable investor when a specific conflict with a related or connected issuer arises, for example, when a registered individual recommends a trade in the securities of a related issuer. In these circumstances, a registered firm should provide the client with disclosure about the specific conflict with that issuer. This disclosure should include a description of the nature of the firm's relationship with the issuer.

Like all disclosure, information regarding a conflict with a related or connected issuer should be made available to clients before or at the time of the advice or trade giving rise to the conflict, so that clients have a reasonable amount of time to assess it. Registrants should use their judgment for the best way and time to inform clients about these conflicts. Previous disclosure may no longer be relevant to, or remembered by, a client, while disclosure of the same conflict more than once in a short time may be unnecessary and confusing.

Firms do not have to disclose to clients their relationship with a r elated or connected issuer that is a mutual fund managed by an affiliate of the firm if the names of the firm and the fund are similar enough that a reasonable person would conclude they are affiliated.

Relationships with other issuers

Firms should assess whether conflicts of interest may arise in relationships with issuers that do not fall within the definitions of related or connected issuers. Examples include non-corporate issuers such as a trust, partnership or special purpose entity or conduit issuing asset-backed commercial paper. This is especially important if a registered firm or its affiliates are involved in sponsoring, manufacturing, underwriting or distributing these securities.

The registered firm should disclose the relationship with these types of issuers if it may give rise to a conflict of interest that a reasonable client would expect to be informed about.

Competing interests of clients

If clients of a registered firm have competing interests, the firm should make reasonable efforts to be fair to all clients. Firms should have internal systems to evaluate the balance of these interests.

For example, a conflict of interest can arise between investment banking clients, who want the highest price, lowest interest rate or best terms in general for their issuances of securities, and retail clients who will buy the product. The firm should consider whether the product meets the needs of retail clients and is competitive with alternatives available in the market.

Individuals who serve on a board of directors

(a) Board of directors of another registered firm

Under section 4.1, a registered individual must not act as a director of another registered firm that is not an affiliate of the individual's sponsoring firm.

(b) Board of directors of non registered persons or companies

Section 4.1 does not apply to registered individuals who act as directors of unregistered firms. However, significant conflicts of interest can arise when a registered individual serves on a board of directors. Examples include conflicting fiduciary duties owed to the company and to a registered firm or client, possible receipt of inside information and conflicting demands on the representative's time.

Registered firms should consider controlling the conflict by:

- requiring their representatives to seek permission from the firm to serve on the board of directors of an issuer, and

- having policies for board participation that identify the

circumstances where the activity would not be in the best interests of the firm or its clients

The regulator will take into account the potential conflicts of interest that may arise when an individual serves on a board of directors when assessing that individual's application for registration or continuing fitness for registration.

(c) Board of directors of reporting issuers

A representative of a registrant acting as a director of or adviser to a reporting issuer raises concerns with respect to conflicts of interest, particularly in relation to issues of insider information, trading and timely disclosure. All registrants should be conscious of their responsibilities in these situations and weigh the burden of dealing in an ethical manner with the conflicts of interest against the advantages of acting as a director of a reporting issuer, many shareholders of which may be clients of the registrant.

Directors of a reporting issuer have an obligation not to reveal any confidential information about the issuer until there is full public disclosure of the information, particularly when the information might have a bearing on the market price or value of the securities of the issuer.

Any director of a reporting issuer who is a partner, director, officer, employee or agent of a registrant should recognize that the director's first responsibility with respect to confidential information is to the reporting issuer. A director should meticulously avoid any disclosure of inside information to partners, directors, officers, employees or agents of the registrant or to its clients.

If a partner, director, officer, employee or agent of a registrant is not a director but is acting in an advisory capacity to a reporting issuer and discussing confidential matters, the same care should be taken as if that person were a director. Should the matter require consultation with other personnel of the registrant, adequate measures should be taken to guard the confidential nature.

Individuals who have outside business activities

Conflicts can arise when registered individuals are involved in outside business activities, for example, because of the compensation they receive for these activities or because of the nature of the relationship between the individual and the outside entity. Before approving any of these activities, registered firms should consider potential conflicts of interest. If the firm cannot properly control a potential conflict of interest, it should not permit the outside activity.

Registrants must disclose all outside business activities in Form 33-109F4 (or Form 33-109F5 for changes in outside business activities after registration). Required disclosure includes the following, whether the registrant receives compensation or not:

- any employment and business activities outside the registrant's sponsoring firm
- all officer or director positions, and

- any other equivalent positions held, as well as positions of influence.

The following are examples of outside business activities that we would expect to be disclosed:

- paid or unpaid roles with charitable, social or religious organizations where the individual is in a position of power or influence and where the activity places the registered individual in contact with clients or potential clients, including positions where the registrant handles investments or monies of the organization

- being an owner of a holding company

The regulator will take into account the potential conflicts of interest that may arise as a result of an individual's outside business activities when assessing that individual's application for registration or continuing fitness for registration, including the following:

- whether the individual will have sufficient time to properly carry out their registerable activities, including remaining current on securities law and product knowledge

- whether the individual will be able to properly service clients

- what is the risk of client confusion and are there effective controls and supervision in place to manage the risk

- whether the outside business activity presents a conflict of interest for the individual, and whether that conflict of interest should be avoided or can be appropriately managed

- whether the outside business activity places the individual in a position of power or influence over clients or potential clients, in particular clients or potential clients that may be vulnerable

- whether the outside business activity provides the individual with access to privileged, confidential or insider information relevant to their registerable activities

A registered firm is responsible for monitoring and supervising the individuals whose registration it sponsors. In relation to outside business activities, this includes:

- having appropriate policies and procedures to deal with outside business activities, including ensuring outside business activities do not:

    - involve activities that are inconsistent with securities legislation, IIROC requirements or MFDA requirements; and

- interfere with the individual's ability to remain current on securities law and product knowledge

- requiring individual registrants to disclose to their firm, and requiring the firm to review and approve, all outside business activities prior to the activities commencing

- ensuring the firm's chief compliance officer is able to properly supervise and monitor the outside business activities

- maintaining records documenting its supervision of outside business activities and ensuring these records are available for review by regulators

- ensuring that potential conflicts of interest are identified and appropriate steps are taken to manage such conflicts

- ensuring outside business activities do not impair the ability to provide adequate client service, including, where necessary, having an alternate representative available for the client

- ensuring the outside business activity is consistent with the registrant's duty to deal fairly, honestly and in good faith with its clients

- implementing risk management, including proper separation of the outside business activity and registerable activity

- preventing exposure of the firm to complaints and litigation

- assessing whether the firm's knowledge of the individual's lifestyle is commensurate with its knowledge of the individual's business activities and staying alert to other indicators of possible fraudulent activity. For example, if information comes to the firm's knowledge (including through a client complaint) that a registered individual's lifestyle is not commensurate with the individual's compensation by the firm, we would expect the registered firm to make further inquiries to assess the situation.

Failure to discharge these responsibilities may be relevant to the firm's continued fitness for registration.

Compensation practices

Registered firms should consider whether any particular benefits, compensation or remuneration practices are inconsistent with their obligations to clients, especially if the firm relies heavily on commission-based remuneration. For example, if there is a complex product that carries a high commission, the firm may decide that it is not appropriate to offer that product.

13.5 Restrictions on certain managed account transactions

Section 13.5 prohibits a registered adviser from engaging in certain transactions in investment portfolios it manages for clients on a discretionary basis where the relationship may give rise to a conflict of interest or a perceived conflict of interest. The prohibited transactions include trades in securities in which a responsible person or an associate of a responsible person may have an interest or over which they may have influence or control.

Disclosure when responsible person is partner, director or officer of issuer

Paragraph 13.5(2)(a) prohibits a registered adviser from purchasing securities of an issuer in which a responsible person or an associate of a responsible person is a partner, officer or director for a client's managed account. The prohibition applies unless the conflict is disclosed to the client and the client's written consent is obtained prior to the purchase.

If the client is an investment fund, the disclosure should be provided to, and the consent obtained from, each security holder of the investment fund in order for it to be meaningful. This disclosure may be provided in the offering memorandum that is provided to security holders. Like all disclosure about conflicts, it should be prominent, specific, clear and meaningful to the client. Consent may be obtained in the investment management agreement signed by the clients of the adviser that are also security holders of the investment fund.

This approach may not be practical for prospectus qualified mutual funds. Investment fund managers and advisers of these funds should also consider the specific exemption from the prohibition under section 6.2 of National Instrument 81-107 *Independent Review Committee for Investment Funds* (NI 81-107) for prospectus-qualified investment funds.

Restrictions on trades with certain investment portfolios

Paragraph 13.5(2)(b) prohibits certain trades, including, for example, those between the managed account of a client and the managed account of:

- a spouse of the adviser
- a trust for which a responsible person is the trustee, or
- a corporation in which a responsible person beneficially owns 10% or more of the voting securities

It also prohibits inter-fund trades. An inter-fund trade occurs when the adviser for an investment fund knowingly directs a trade in portfolio securities to another investment fund that it acts for or instructs the dealer to execute the trade with the other investment fund. Investment fund managers and their advisers should also consider the exemption from the prohibition that exists for inter-fund trades by public investment funds under section 6.1 of NI 81-107.

Paragraph 13.5(2)(b) is not intended to prohibit a responsible person from purchasing units in the investment fund itself, nor is it intended to prohibit one investment fund from purchasing units of another fund in situations where they have the same adviser.

In instances where an IIROC dealer, who is also an adviser to a managed account, trades between its inventory account and the managed account, the dealer is expected to have policies and procedures that sufficiently mitigate the conflicts of interest inherent in such transactions. Generally, we expect these policies and procedures to ensure that:

- the trades achieve best execution as referenced in National Instrument 23-101 *Trading Rules*, while ensuring that the trades are consistent with the objectives of the managed account

- reasonable steps are taken to access information, including marketplace quotations or quotes provided by arms-length parties, to ensure that the trade is executed at a fair price

- there is appropriate oversight and a compliance mechanism to monitor this trading activity in order to ensure that it complies with applicable regulatory requirements, including the requirements referred to above.

13.6 Disclosure when recommending related or connected securities

Section 13.6 restricts the ability of a registered firm to recommend a trade in a security of a related or connected issuer. The restrictions apply to recommendations made in any medium of communication. This includes recommendations in newsletters, articles in general circulation, newspapers or magazines, websites, e-mail, Internet chat rooms, bulletin boards, television and radio.

It does not apply to oral recommendations made by registered individuals to their clients. These recommendations are subject to the requirements of section 13.4.

Division 3 Referral arrangements

Division 3 sets out the requirements for permitted referral arrangements. Regulators want to ensure that under any referral arrangements:

- individuals and firms that engage in registerable activities are appropriately registered

- the roles and responsibilities of the parties to the written agreement are clear, including responsibility for compliance with securities legislation, and

- clients are provided with disclosure about the referral arrangement to help them evaluate the referral arrangement and the extent of any conflicts of interest

Registered firms have a responsibility to monitor and supervise all of their referral arrangements to ensure that they comply with the requirements of NI 31-103 and other applicable securities laws and continue to comply for so long as the

arrangement remains in place.

Obligations to clients

A client who is referred to an individual or firm becomes the client of that individual or firm for the purposes of the services provided under the referral arrangement.

The registrant receiving a referral must meet all of its obligations as a registrant toward its referred clients, including know your client and suitability determinations.

Registrants involved in referral arrangements should manage any related conflicts of interest in accordance with the applicable provisions of Part 13 *Dealing with clients – individuals and firms*. For example, if the registered firm is not satisfied that the referral fee is reasonable, it should assess whether an unreasonably high fee may create a conflict that could motivate its representatives to act contrary to their duties toward their clients.

13.7 Definitions – referral arrangements

Section 13.7 defines "referral arrangement" in broad terms. Referral arrangement means an arrangement in which a registrant agrees to pay or receive a referral fee. The definition is not limited to referrals for providing investment products, financial services or services requiring registration. It also includes receiving a referral fee for providing a client name and contact information to an individual or firm. "Referral fee" is also broadly defined. It includes sharing or splitting any commission resulting from the purchase or sale of a security.

In situations where there is no expectation of reward or compensation, we would not consider the receipt of an unexpected gift of appreciation to fall within the scope of a referral arrangement. One of the key elements of the referral arrangement is that the registrant agrees to pay or receive a referral fee for the referral of a client. This agreement or understanding is absent in the case of unexpected gifts.

13.8 Permitted referral arrangements

Under section 13.8, parties to a referral arrangement are required to set out the terms of the arrangement in a written agreement. This is intended to ensure that each party's roles and responsibilities are made clear. This includes obligations for registered firms involved in referral arrangements to keep records of referral fees. Payments do not necessarily have to go through a registered firm, but a record of all payments related to a referral arrangement must be kept.

We expect referral agreements to include:

- the roles and responsibilities of each party
- limitations on any party that is not a registrant (to ensure that it is not engaging in any activities requiring registration)

- the disclosure to be provided to referred clients, and
- who provides the disclosure to referred clients

If the individual or firm receiving the referral is a registrant, they are responsible for:

- carrying out all activity requiring registration that results from the referral arrangement, and
- communicating with referred clients

Registered firms are required to be parties to referral agreements. This ensures that they are aware of these arrangements so they can adequately supervise their representatives and monitor compliance with the agreements. This does not preclude the individual registrant from also being a party to the agreement.

A party to a referral arrangement may need to be registered depending on the activities that the party carries out. Registrants cannot use a referral arrangement to assign, contract out of or otherwise avoid their regulatory obligations.

Registrants may wish to refer their clients to other registrants for services that they are not authorized to perform under their category of registration. In making referrals, registrants should ensure that the referral does not itself constitute an activity that the registrant is not authorized to engage in under its category of registration.

We would generally not consider the referral by a registrant of a client to a registered dealer to constitute trading by the referring registrant if, in the referral:

- the referring registrant does not make any statement to the client about the merits of a specific security or trade,
- the referring registrant does not make any recommendation or otherwise represent to the client that a specific trade is suitable for that client or another person or company, and
- the referring registrant does not accept any instructions from the client in respect of trades to be made by the registered dealer.

13.9 Verifying the qualifications of the person or company receiving the referral

Section 13.9 requires the registrant making a referral to satisfy itself that the party receiving the referral is appropriately qualified to perform the services, and if applicable, is appropriately registered. The registrant is responsible for determining the steps that are appropriate in the particular circumstances. For example, this may include an assessment of the types of clients that the referred services would be appropriate for.

13.10 Disclosing referral arrangements to clients

The disclosure of information to clients required under section 13.10 is intended to help clients make an informed decision about the referral arrangement and to assess any conflicts of interest. The disclosure should be provided to clients before or at the time the referred services are provided. A registered firm, and any registered individuals who are directly participating in the referral arrangement, should take reasonable steps to ensure that clients understand:

- which entity they are dealing with
- what they can expect that entity to provide to them
- the registrant's key responsibilities to them
- the limitations of the registrant's registration category
- any relevant terms and conditions imposed on the registrant's registration
- the extent of the referrer's financial interest in the referral arrangement, and
- the nature of any potential or actual conflict of interest that may arise from the referral arrangement

Division 4 Loans and margin

13.12 Restriction on lending to clients

The purpose of section 13.12 is intended to limit the financial exposure of a registered firm. To the extent that products sold to clients are structured in a way that would result in the registrant becoming a lender to the clients, including the registrant extending margin to the client, we would consider the registrant to not be in compliance with section 13.12.

Section 13.12 prohibits registrants from lending money, extending credit or providing margin to clients as we consider that this activity creates a conflict of interest which cannot be easily managed.

We note that SROs are exempt from section 13.12 as they have their own rules or prohibitions on lending, extending credit and providing margin to clients. Direct lending to clients (margin) is reserved for IIROC members. The MFDA has its own rules prohibiting margining and, except in specific limited circumstances, lending.

Division 5 Complaints

13.14 Application of this Division

Investment fund managers are only subject to Division 5 if they also operate under a dealer or adviser registration, in which case the requirements in this Division apply in respect of the activities conducted under their dealer or adviser registration.

In Québec, a registered firm is deemed to comply with this Division if it complies ~~must comply~~ with sections 168.1.1 to 168.1.3 of the Québec *Securities Act*, which provides a substantially similar regime for complaint handling.

The guidance in Division 5 of this Companion Policy applies to firms registered in any jurisdiction including Québec.

However, section 168.1.3 of the Québec *Securities Act*, includes requirements with respect to dispute resolution or mediation services that are different than those set out in section 13.16 of NI 31-103. In Québec, registrants must inform each complainant, in writing and without delay, that if the complainant is dissatisfied with how the complaint is handled or with the outcome, they may request the registrant to forward a copy of the complaint file to the Autorité des marchés financiers. The registrant must forward a copy of the complaint file to the Autorité des marchés financiers, which will examine the complaint. The Autorité des marchés financiers may act as a mediator if it considers it appropriate to do so and the parties agree.

13.15 Handling complaints

General duty to document and respond to complaints

Section 13.15 requires registered firms to document complaints, and to effectively and fairly respond to them. We are of the view that registered firms should document and respond to all complaints received from a client, a former client or a p rospective client who has dealt with the registered firm (complainant).

Firms are reminded that they are required to maintain records which demonstrate compliance with complaint handling requirements under paragraph 11.5(2)(m).

Complaint handling policies

An effective complaint system should deal with all formal and informal complaints or disputes in a timely and fair manner. To achieve the objective of handling complaints fairly, the firm's complaint system should include standards allowing for objective factual investigation and analysis of the matters specific to the complaint.

We take the view that registered firms should take a balanced approach to the gathering of facts that objectively considers the interests of

- the complainant
- the registered representative, and
- the firm

Registered firms should not limit their consideration and handling of complaints to those relating to possible violations of securities legislation.

Complaint monitoring

The firm's complaint handling policy should provide for specific procedures for reporting the complaints to superiors, in order to allow the detection of frequent and repetitive complaints made with respect to the same matter which may, on a cumulative basis, indicate a serious problem. Firms should take appropriate measures to deal with such problems as they arise.

Responding to complaints

Types of complaints

All complaints relating to one of the following matters should be responded to by the firm by providing an initial and substantive response, both in writing and within a reasonable time:

- a trading or advising activity
- a breach of client confidentiality
- theft, fraud, misappropriation or forgery
- misrepresentation
- an undisclosed or prohibited conflict of interest, or
- personal financial dealings with a client

Firms may determine that a complaint relating to matters other than the matters listed above is nevertheless of a sufficiently serious nature to be responded to in the manner described below. This determination should be made, in all cases, by considering if an investor, acting reasonably, would expect a written response to their complaint.

When complaints are not made in writing

We would not expect that complaints relating to matters other than those listed above, when made verbally and when not otherwise considered serious based on an investor's reasonable expectation, would need to be responded to in writing. However, we do expect that verbal complaints be given as much attention as written complaints. If a complaint is made verbally and is not clearly expressed, the firm may request the complainant to put the complaint in writing and we expect firms to offer reasonable assistance to do so.

Firms are entitled to expect the complainant to put unclear verbal issues into written format in order to try to resolve confusion about the nature of the issue. If the verbal complaint is clearly frivolous, we do not expect firms to offer assistance to put the complaint in writing. The firm may nonetheless ask the complainant to put the complaint in writing on his or her own.

Timeline for responding to complaints

Firms should

- promptly send an initial written response to a complainant: we consider that an initial response should be provided to the complainant within five business days of receipt of the complaint

- provide a substantive response to all complaints relating to the matters listed under "Types of complaints" above, indicating the firm's decision on the complaint

A firm may also wish to use its initial response to seek clarification or additional information from the client.
Requirements for providing information about the availability of dispute resolution or mediation services paid for by the firm are discussed below.

We encourage firms to resolve complaints relating to the matters listed above within 90 days.

13.16 Dispute resolution service

Section 13.15 requires a r egistered firm to document and respond to each complaint made to it about any product or service that is offered by the firm or one of its representatives. Section 13.16 provides for recourse to an independent dispute resolution or mediation service at a registered firm's expense for specified complaints where the firm's internal complaint handling process has not produced a timely decision that is satisfactory to the client.

Registered firms may be required to make an independent dispute resolution or mediation service paid for by the firm available to a client in respect of a complaint that

- relates to a trading or advising activity of the firm or its representatives, and
- is raised within six years of the date when the client knew or reasonably ought to have known of the act or omission that is a cause of or contributed to the complaint

As soon as possible after a client makes a complaint (for example, when sending its acknowledgment or initial response to the complaint), and again when the firm informs the client of its decision in respect of the complaint, a registered firm must provide a client with information about

- the firm's obligations under section 13.16,

- the steps the client must take for an independent dispute resolution or mediation service to be made available to the client at the firm's expense, and

- the name of the independent service that will be made available to the client (outside of Québec, this will normally be the

Ombudsman for Banking Services and Investments (OBSI), as discussed below) and how to contact it

A client may escalate an eligible complaint to the independent dispute resolution or mediation service made available by the registered firm in two circumstances:

- If the firm fails to give the client notice of its decision within 90 days of receiving the complaint (telling the client that the firm plans to take more than 90 days to make its decision does not 'stop the clock'). The client is then entitled to escalate the complaint to the independent service immediately or at any later date until the firm has notified the client of its decision.

- If the firm has given the client notice of its decision about the complaint (whether it does so within 90 days or after a longer period) and the client is not satisfied with the decision, the client then has 180 days in which escalate the complaint to the independent service.

In either instance, the client may escalate the complaint by directly contacting the independent service.

We think that it may sometimes be appropriate for the independent service, the firm and the client involved in a complaint to agree to longer notice periods than the prescribed 90 and 180 day periods as a matter of fairness. We recognize that where a client does not cooperate with reasonable requests for information relating to a complaint, a firm may have difficulty making a timely decision in respect of the complaint. We expect that this would be relevant to any subsequent determination or recommendation made by an independent service about that complaint.

The client must agree that the amount of any recommendation by the independent service for monetary compensation will not exceed $350,000. This limit applies only to the amount that can be recommended. Until it is escalated to the independent service, a complaint made to a registered firm may include a claim for a larger amount.

Except in Québec, a registered firm must take reasonable steps to ensure that the dispute resolution and mediation service that is made available to its clients for these purposes will be OBSI. The reasonable steps we expect a firm to take include maintaining ongoing membership in OBSI as a "Participating Firm" and, with respect to each complaint, participating in the dispute resolution process in a manner consistent with the firm's obligation to deal fairly, honestly and in good faith with its client. This would include entering into consent agreements with clients contemplated under OBSI's procedures.

Since section 13.16 does not apply in respect of a complaint made by a permitted client that is not an individual, we would not expect a firm that only has clients of that kind to maintain membership in OBSI.

A registered firm should not make an alternative independent dispute resolution or mediation service available to a client at the same time as it makes OBSI available. Such a parallel offering would not be consistent with the requirement to take reasonable steps to ensure that OBSI will be the independent service that is made available to the client. Except in Québec, we expect that alternative service providers will only be used for purposes of section 13.16 in exceptional circumstances.

We would regard it as a serious compliance issue if a firm misrepresented OBSI's services or exerted pressure on a client to refuse OBSI's services.

If a client declines to make use of OBSI in respect of a complaint, or if a client abandons a complaint that is under consideration by OBSI, the registered firm is not obligated to provide another service at the firm's expense. A firm is only required to make one dispute resolution or mediation service available at its expense for each complaint.

Nothing in section 13.16 affects a client's right to choose to seek other recourse, including through the courts.

Registrants that are members of an SRO, including those that are registered in Québec, must also comply with their SRO's requirements with respect to the provision of independent dispute resolution or mediation services.

Registrants who do business in other sectors

Some registrants are also registered or licensed to do business in other sectors, such as insurance. These registrants should inform their clients of the complaint mechanisms for each sector in which they do business and how to use them.

Division 6 Registered sub-advisers

13.17 Exemption from certain requirements for registered sub-advisers

Section 13.17 contains an exemption from certain client related requirements for registered sub-advisers. These requirements are not necessary because in a sub-adviser arrangement the sub-adviser's client is another registrant. We remind registrants that these exemptions do not apply if the client is not a registrant. One of the conditions of this exemption is that the other registrant has entered into an agreement with its client that it is responsible for losses that arise out of certain failures by the sub-adviser. We expect that a registrant taking on this liability will conduct appropriate initial and ongoing due diligence on the sub-adviser and before making recommendations or investment decisions based on the sub-adviser's advice, ensure the investment is suitable for the registrant's client.

We also expect that the other registrant and the sub-adviser will maintain records of their transactions and that the other registrant will maintain records of the due diligence conducted on the sub-adviser. See Part 11 of this Companion Policy for more guidance.

Part 14 Handling client accounts – firms

If a client consents, documents required in this Part can be delivered in electronic form. For further guidance, see NP 11-201.

Division 1 Investment fund managers

Section 14.1 sets out the limited application of Part 14 to investment fund managers ~~that are not also registered in other categories, including~~. The sections of Part 14 that apply to investment fund managers when performing their investment fund manager activities include section 14.1.1 [*duty to provide information*], section 14.5.2 [*restriction on self-custody and qualified custodian requirement*], section 14.5.3 [*cash and securities held by a qualified custodian*], section 14.6 [~~*holding*~~ *client and investment fund assets* ~~*in trust*~~*held by a registered firm in trust*], section 14.6.1 [*custodial provisions relating to certain margin or security interests*], section 14.6.2 [*custodial provisions relating to short sales*], subsection 14.12(5) [*content and delivery of trade confirmation*] and section 14.15 [*security holder statements*~~].~~]. An investment fund manager that is also registered as a dealer or adviser (or both) is subject to all relevant sections of Part 14 in respect of that firm's dealer or adviser activities.

Section 14.1.1 requires investment fund managers to provide~~, within a reasonable period of time,~~ information that is known to them concerning position cost, deferred sales charges and any other charges deducted from the net asset value of the securities, and trailing commissions to dealers and advisers ~~in order that they~~who have clients that own the investment fund manager's funds. This information must be provided within a reasonable period of time in order that the dealers and advisers may comply with their client reporting obligations ~~under paragraphs 14.12(1)(c) [*content and delivery of trade confirmation*] and 14.17(1)(h) [*report on charges and other compensation*].~~ . This is a principles-based requirement. An investment fund manager must work with the dealers and advisers who distribute fund products to determine what information they need from the investment fund manager in order to satisfy their client reporting obligations. The information and arrangements for its delivery may vary, reflecting different operating models and information systems.

Division 2 Disclosure to clients

14.2 Relationship disclosure information

Registrants should ensure that clients understand who they are dealing with. They should carry on all registerable activities in their full legal or registered trade name. Contracts, confirmation and account statements, among other documents, should contain the registrant's full legal name.

Content of relationship disclosure information

There is no prescribed form for the relationship disclosure information required under section 14.2. A registered firm may provide this information in a single document, or in separate documents, which together give the client the prescribed information.

Relationship disclosure information should be communicated in a manner consistent with the guidance on client communications under section 1.1 of this

Companion Policy. We encourage registrants to avoid the use of technical terms and acronyms when communicating with clients. To satisfy their obligations under section 14.2, registered individuals must spend sufficient time with clients as part of an in-person or telephone meeting, or other method that is consistent with their operations, to adequately explain the information that is delivered to them. We expect a firm to have policies and procedures requiring its registered individuals to demonstrate they have done so. What is considered "sufficient" will depend on the circumstances, including a client's understanding of the delivered documents.

Evidence of compliance with client disclosure requirements at account opening, prior to trades and at other times, can include detailed notes of meetings or discussions with clients, signed client acknowledgements and tape-recorded phone conversations.

Promoting client participation

Registered firms should help their clients understand the registrant-client relationship. They should encourage clients to actively participate in the relationship and provide them with clear, relevant and timely information and communications.

In particular, registered firms should help and encourage clients to:

- **Keep the firm up to date.** Clients should be encouraged to
    - provide full and accurate information to the firm and the registered individuals acting for the firm
    - promptly inform the firm of any change to their information that could result in a change to the types of investments appropriate for them, such as a change to their income, investment objectives, risk tolerance, time horizon or net worth
- **Be informed.** Clients should be
    - helped to understand the potential risks and returns on investments
    - encouraged to carefully review sales literature provided by the firm
    - encouraged to consult professionals, such as a lawyer or an accountant, for legal or tax advice where appropriate
- **Ask questions.** Clients should be encouraged to
    - request information from the firm to resolve concerns about their account, transactions or investments, or their relationship with the firm or a registered individual acting for the firm

- **Stay on top of their investments.** Clients should be encouraged to
    - review all account documentation provided by the firm
    - regularly review portfolio holdings and performance

Disclosure of where and the manner in which client's assets are held or accessed, including the relevant associated risks and benefits

Under paragraphs 14.2(2)(a.1) and 14.2(2)(a.2), registered firms must disclose to clients the location where, and the manner in which, client assets are held or accessed, including the relevant associated risks and benefits to the client. The risks to a client will vary depending on the type of custodial arrangement that is in place. At a minimum, we would generally expect the disclosure to include the following:

- the way(s) that the registered firm holds client's assets, and the associated risks
- the way(s) that the registered firm has access to the client's assets, and the associated risks
- whether a qualified custodian holds any or all of the client's assets
- if a custodian uses any sub-custodians to hold the client's assets in cases where the registered firm directs or arranges which custodian to use to hold client cash and securities
- if the registered firm uses a custodian that is not independent of the registered firm, and whether the registered firm has access to the client's assets through this relationship
- if a foreign custodian or a foreign dealer holds the client's cash and securities in accordance with subsection 14.5.2(3) or 14.6(2) or section 14.6.1 or 14.6.2, the rationale for using the foreign custodian or dealer and a description of the risks of using that foreign custodian or dealer, including the potential difficulty associated with the client's ability to enforce their legal rights and the potential difficulty that the client may face in respect of repatriating their assets on the bankruptcy or insolvency of the foreign custodian or dealer

Description of products and services

Under paragraph 14.2(2)(b), a firm must provide a general description of the products and services it offers to the client. We expect this disclosure to include a general description of all amounts a client might pay during the course of holding a type of investment, including management fees associated with mutual funds. If a registered firm exclusively or primarily invests its clients' money in securities issued by the firm itself or a related party, that information should be disclosed.

Disclosure of charges and other compensation

Under paragraphs 14.2(2)(f), (g) and (h), registered firms must provide clients with information on the operating and transaction charges they might pay in making, holding and selling investments, and a general description of any compensation paid to the firm by any other party. ~~We expect this disclosure to include all charges a client might pay during the course of holding a particular investment~~Examples of compensation paid by other parties would include such things as commissions paid by issuers and bonuses from affiliated companies relating to the client's investments.

A registered firm's charges to a client and the compensation it may receive from third parties in respect of the client will vary depending on the type of relationship with the client and the nature of the services and investment products offered. ~~At account opening, registered firms must provide clients with general information on the operating charges and transaction charges that the clients may be required to pay, as well as other compensation the firms may receive as a result of their business relationship.~~ A firm is not expected to provide information on all the types of accounts that it offers and the fees related to these accounts if it is not relevant to the client's situation.

"Operating charge" is defined broadly in section 1.1 and examples include (but are not exclusive to) service charges, administration fees, safekeeping fees, management fees, transfer fees, account closing fees, annual registered plan fees and any other charges associated with maintaining and using an account that are paid to the registrant. For registered firms that charge an all-in fee for the operation of the account, such as a percentage of assets under management, that fee is the operating charge. We do not expect firms with an all-in operating charge to provide a breakdown of the items covered by the fee.

"Transaction charges" is also defined broadly in section 1.1 and examples include (but are not exclusive to) commissions, transaction fees, switch or change fees, performance fees, short-term trading fees, and sales charges or redemption fees that are paid to the registrant. Although we do not consider "foreign exchange spreads" to be a transaction charge, we encourage firms to include a general notification in trade confirmations and reports on charges and other compensation that the firm may have incurred a gain or loss from a foreign exchange transaction as a best practice.

Operating charges and transaction charges include only charges paid to the registered firm by the client. Third-party charges, such as custodian fees that are not paid to the registered firm, are not included in operating charges or transaction charges. Operating and transaction charges include any sales taxes that are paid on the amounts charged to the client. Registrants may wish to inform clients where a charge includes sales tax, or separately disclose the components of the charge. Withholding taxes would not be considered a charge.

~~Providing general information on charges is appropriate at the time of account opening. However, section 14.2.1 [pre-trade disclosure of charges] requires that, before a registered firm accepts an instruction from a client to purchase or sell a security, the firm must provide more specific information as to the nature and~~

~~amount of the actual charges that will apply. Registrants are encouraged to explain charges to their clients.~~

~~For example, if a client will be investing in a mutual fund security, the description should briefly explain each of the following and how they may affect the investment:~~

- ~~the management fee~~
- ~~the sales charge or deferred sales charge option available to the client and an explanation as to how such charges work. This means registered firms should advise clients that mutual funds sold on a deferred sales charge basis are subject to charges upon redemption that are applied on a declining rate scale over a specified period of years, until such time as the charges decrease to zero. Any other redemption fees or short-term trading fees that may apply should also be discussed~~
- ~~any trailing commission, or other embedded fees~~
- ~~any options regarding front end loads~~
- ~~any fees related to the client changing or switching investments ("switch or change fees")~~

~~Registrants may also wish to explain to clients that trailing commissions are included in the management fees that are charged to their investment funds and are not additional charges paid by the client to the registrant. "Trailing commission" is defined for purposes of NI 31-103 in section 1.1 in broad terms designed to ensure that payments similar to what are generally known as trailing commissions will be subject to similar reporting requirements under this instrument.~~

Registrants should advise clients with managed accounts whether the registrant will receive compensation from third parties, such as trailing commissions, on any securities purchased for the client and, if so, whether the fee paid by the client to the registrant will be affected by this. For example, the management fee paid by a client on the portion of a managed account related to mutual fund holdings may be lower than the overall fee on the rest of the portfolio.

Description of content and frequency of client reporting

Under paragraph 14.2(2)(i), a registered firm is required to provide a description of the content and frequency of reporting to the client. Reporting to clients includes, as applicable:

- trade confirmations under section 14.12
- account statements under section 14.14
- additional statements under section 14.14.1

- security position cost information under section 14.14.2
- annual report on charges and other compensation under section 14.17
- investment performance reports under section 14.18

Guidance about registered firm's client reporting obligations is provided in Division 5 of this Part.

KYC information

Paragraph 14.2(2)(l) requires registrants to provide their clients with a copy of their KYC information at the time of account opening. We would expect registered firms to also provide a description to the client of the various terms which make up the KYC information, and explain how this information will be used in assessing the client's financial situation, investment objectives, investment knowledge and risk tolerance in determining investment suitability.

Benchmarks

Paragraph 14.2(2)(m) requires registered firms to provide clients with a general explanation of how investment performance benchmarks might be used to assess the performance of a client's investments and any options available to the client to obtain information about benchmarks from the registered firm. Other than this general discussion, there is no requirement for registered firms to provide benchmark information to clients. Nonetheless, we encourage firms to do so as a best practice. Guidance on the provision of benchmarks is set out in this Companion Policy at the end of the discussion of the content of investment performance reports under section 14.19.

Scholarship plan dealers

Paragraph 14.2(2)(n) requires an explanation of the important aspects of the scholarship plan that, if not fulfilled, would cause loss to the client. To be complete, this prescribed disclosure could include any options that would allow the investor to retain notional earnings in the event that they do not maintain prescribed payments under the plan and any fees associated with those options.

Order execution trading

Subsections 14.2(7) and (8) provide that only limited relationship disclosure information must be delivered by a dealer whose relationship with a client is limited to executing trades as directed by a registered adviser acting for the client. In a relationship of this kind, each registrant must explain to the client its role and responsibility to the client, and what services and reporting the client can expect of it.

14.2.1 Pre-trade disclosure of charges

For non-managed accounts, section 14.2.1 requires disclosure to a client of charges specific to a transaction prior to the acceptance of a client's

instruction. This disclosure is not required to be in writing. Oral disclosure of charges is sufficient for the purposes of disclosing charges at the time of a transaction. In the case of a client who is a frequent trader, if the firm has good reason to believe applicable "standard" charges are well understood, a brief confirmation that the usual charges will apply would be an acceptable alternative to specifying the actual amount of the charges. Specific charges must be reported in writing on the trade confirmation as required in section 14.12.

For a purchase of a security on a deferred sales charge basis, disclosure that a deferred sales charge might be triggered upon the redemption of the security, and the schedule that would apply if it is sold within the time period that a deferred sales charge would be applicable, must be presented. The actual amount of the deferred sales charge, if any, would need to be disclosed once the security is redeemed. For the purposes of disclosing trailing commissions, the dealing representative may draw attention to the information in the prospectus or the fund facts document if that document is provided at the point of sale.

With respect to a transaction involving a debt security, pre-trade disclosure should include a discussion of any commission the registered firm will receive on the trade. This discussion should include both the number of basis points that the charge represents as well as the corresponding dollar amount, or a reasonable estimate of the amount if the actual amount of the charges is not known to the firm at the time.

If a client will be investing in a mutual fund security, the firm's representative should briefly explain each of the following and how they may affect the investment:

- the management fee
- the sales charge or deferred sales charge option available to the client and an explanation as to how such charges work. This means registered firms should advise clients that mutual funds sold on a deferred sales charge basis are subject to charges upon redemption that are applied on a declining rate scale over a specified period of years, until such time as the charges decrease to zero. Any other redemption fees or short-term trading fees that may apply should also be discussed
- any trailing commission, or other embedded fees
- any options regarding front end loads
- any fees related to the client changing or switching investments ("switch or change fees")

Registrants may also wish to explain to clients that trailing commissions are included in the management fees that are charged to their investment funds and are not additional charges paid by the client to the registrant. "Trailing commission" is defined for the purposes of NI 31-103 in section 1.1 in broad terms designed to ensure that payments similar to what are generally known as trailing

commissions will be subject to similar reporting requirements under this instrument.

Switch or change transactions

Processing a switch or change transaction without client knowledge is contrary to a registrant's duty to act fairly, honestly and in good faith. In our view, compliance with this duty requires that clients are informed, before any switch or change transaction is processed, of charges associated with the transaction, dealers' incentives for such a t ransaction (including increased trailing commissions), and any tax or other implications of such a transaction. In each case, we expect dealers to explain why a p roposed switch or change transaction is appropriate for the client. We consider that providing clients with clear and complete disclosure of the charges at the time of a transaction will help clients to be aware of the implications of proposed transactions and deter registrants from transacting for the purpose of generating commissions. Registrants are also reminded that their obligations in connection with suitability and conflicts of interest apply to such transactions, as well as their obligations under any applicable SRO requirements or guidance.

We expect all changes or switches to a client's investments to be accurately reported in trade confirmations by reporting each of the purchase and sale transactions making up the change or switch, as required in section 14.12, with a description of the associated charges.

14.4 When the firm has a relationship with a financial institution

As part of their duty to clients, registrants who have a relationship with a financial institution should ensure that their clients understand which legal entity they are dealing with. In particular, clients may be confused if more than one financial services firm is carrying on business in the same location. Registrants may differentiate themselves through various methods, including signage and disclosure.

Division 3 Client assets and investment fund assets

14.5.2 Restriction on self-custody and qualified custodian requirement

Section 14.5.2 specifies situations where registered firms must ensure that any custodian used to hold the cash or securities of a client or an investment fund is a Canadian custodian. If a registered firm has physical possession of the cash or securities of a client or an investment fund then we expect the registered firm to transfer those cash and securities to a Canadian custodian. If a registered firm has access to the cash or securities of a client or an investment fund then we expect the registered firm to confirm that those cash and securities are being held at a Canadian custodian. If a registered firm directs or arranges which custodian a client or an investment fund will use to hold their cash or securities then we expect the registered firm to direct that client or investment fund to, or arrange a custodial relationship with, a Canadian custodian.

For the purposes of section 14.5.2, we expect "cash and securities of an investment fund" to include the cash and securities that comprise the portfolio of

an investment fund, as well as cash that may be held by an investment fund manager for investment in, or on the redemption of, securities of the investment fund.

Subsection 14.14(7) sets out when a security is considered to be held by a registered firm for a client. We consider the terms "hold" or "held" in this Division to include the situations identified in subsection 14.14(7). Section 12.4 of this Companion Policy provides examples of when holding or having access to client assets may occur. For the purposes of this Division, we expect all registered firms to consider the examples listed in section 12.4 in determining whether they hold or have access to client assets. For the purposes of section 14.5.2, we interpret the phrase "hold or have access" as not including the handling in transit of a client's cheque made payable to a third party.

We recognize that there may be good reasons for a foreign custodian to be used to hold client or investment fund cash or securities, including where:

- foreign securities comprise all or substantially all of the client's or investment fund's portfolio
- the registered firm's client or the investment fund is resident in a foreign jurisdiction
- a foreign custodian is required to facilitate portfolio transactions in a foreign jurisdiction, or
- using a foreign custodian is more beneficial to the client or investment fund than using a Canadian custodian for tax reasons

In such circumstances, we expect registered firms to assess the risks and benefits of using a foreign custodian compared to the risks and benefits of using a Canadian custodian and determine which custodian is more beneficial for the client. Considerations may include:

- the protections offered by an investor protection fund approved or recognized by the regulator in Canada compared to the comparable investor compensation scheme available in the foreign jurisdiction
- the robustness of the custodial regime in the foreign jurisdiction
- the potential difficulty a client or an investment fund may have enforcing its legal rights in the foreign jurisdiction
- the potential difficulty a client or an investment fund may have repatriating its assets if the foreign custodian declares bankruptcy or becomes insolvent
- the nature of the regulation of the foreign custodian, and
- the sufficiency of the equity of the foreign custodian in the circumstances

A registered firm has a duty to act fairly, honestly and in good faith with its client, or in the best interests of an investment fund that it manages, as applicable. In addition, in compliance with subsection 11.1(b), registered firms are expected to manage any risks associated with the use of a foreign custodian in accordance with prudent business practices. Accordingly, we expect registered firms to consider alternatives in their assessment of the use of a foreign custodian which, among other considerations, might include whether their client, or an investment fund that they manage, may be better served by:

- using a Canadian custodian who can appoint a foreign custodian to act as a sub-custodian, or
- limiting the client's or investment fund's exposure to a particular foreign custodian, which may include using a more diverse range of foreign custodians

Where a foreign custodian is used, we will assess this practice on a case-by-case basis.

Certain investment instruments may be both securities and derivatives. Accordingly, the custodial requirements in this Division apply to these instruments, subject to:

- the definition provision under section 14.5.1, and
- the exemption provided for customer collateral subject to the custodial requirements under National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions*

Exemptions from restriction on self-custody and qualified custodian requirement

Investment fund managers are deemed to have access to the portfolio assets of the investment funds managed by them, and must ensure that the portfolio cash and securities of the investment fund are held at a qualified custodian under section 14.5.2. The exemption under paragraph 14.5.2(7)(d) is not available to investment fund managers with respect to the investment funds managed by them.

Registered advisers often create and use investment funds as a way to invest their clients' money. Registered advisers who also act as the investment fund manager of an investment fund should ensure that the portfolio cash and securities of the investment fund managed by them are held at a qualified custodian. Paragraph 14.5.2(7) (c) provides an exemption for registered firms from the requirement to use a qualified custodian for securities issued by investment funds so long as the securities issued by the investment funds are recorded on the books of the investment fund, or the fund' transfer agent, only in the name of the registered advisers' clients.

Mortgages

We recognize that mortgages may have unique custodial practices which may differ from the custodial practices of other types of securities. Mortgages are exempt from the qualified custodian requirement and restriction on self-custody in all jurisdictions of Canada provided that they meet the conditions as set out under paragraph 14.5.2(7)(f).

Prohibition on self-custody and the use of a custodian that is not functionally independent

Under subsection 14.5.2(1), the registered firm itself cannot be the custodian or sub-custodian for a client or investment fund, except in certain circumstances. Under subsections 14.5.2(5) and 14.5.2(6), the qualified custodian, or the Canadian financial institution with respect to cash, must be functionally independent of the registered firm, except in certain circumstances. For the purposes of paragraphs 14.5.2(1)(b) and 14.5.2(5)(b), we would consider a system of controls and supervision to manage the risks to the client or investment fund associated with the custody of the client's or investment fund's cash or securities to include:

- segregation of duties between the custodial function and other functions
- client asset verification examination performed by a third party

Even when a registered firm is not required to use a qualified custodian under subsections 14.5.2(2) or (3) or a Canadian financial institution under subsection 14.5.2(4), we consider it prudent for the registered firm to use a custodian that is functionally independent of the registered firm. Refer to section 12.4 of this Companion Policy for examples of having access to client assets through the use of a custodian that is not functionally independent of the registered firm. The relationship between a registered firm and a non-independent custodian can give rise to serious conflicts of interest. We remind registered firms of their obligations under section 13.4 to identify and respond to conflicts of interest. If the conflicts of interest cannot be managed fairly and effectively, the registered firm should consider using an independent custodian to hold client assets instead.

General prudent custodial practices

Assets other than cash and securities

Section 14.6 sets out the requirement that if a registered firm holds client assets or investment fund assets, which includes securities, cash and other types of assets, then that registered firm must hold the assets separate and apart from its own property, and in trust for the client or investment fund. In accordance with this Division, where a registered firm holds client assets or investment fund assets directly (for example, the assets held are not cash or securities, or the registered firm is relying on an exemption from the requirement to use a qualified custodian), we will assess those circumstances on a case-by-case basis.

We recognize that in limited cases, it may not be feasible to hold certain asset types at a qualified custodian. For example, bullion requires a custodian that is

experienced in providing bullion storage and custodial services, and is familiar with the requirements relating to the physical handling and storage of bullion. Such a custodian may not meet the definition of a "qualified custodian". In those cases, we expect a registered firm that would otherwise be subject to subsection 14.5.2(2), (3) or (4), had the client assets or investment fund assets been cash or securities, to exercise due skill, care and diligence in the selection and appointment (where applicable) of the custodian. This can involve the registered firm reviewing the facilities, procedures, records, insurance coverage, and creditworthiness of the selected custodian. We would also expect registered firms to conduct a periodic review of custodial arrangements for client assets or investment fund assets.

Delivery of custodial statements

We expect registered firms to encourage clients or investment funds, as applicable, to confirm that they are receiving account statements from their custodian and, as applicable, to compare the custodial statements to the statements sent by the registered firms.

Reconciliation with custodians

Registered firms are expected to reconcile, on a regular basis, their internal records of client assets or investment fund assets and the records of the custodian where client or investment fund assets are held.

Custodial arrangements

For investment fund managers

Investment fund managers should exercise due skill, care and diligence in the selection and appointment of the custodian for the investment funds managed by them. We expect investment fund managers to conduct a periodic review of custodial arrangements for their investment funds. We also expect investment fund managers to consider whether the custodian it appoints uses all reasonable diligence, care and skill in the selection and monitoring of its sub-custodians, whether the sub-custodians would meet the definition of a "qualified custodian" and whether the appropriate segregation arrangements are observed throughout the custody chain of the portfolio assets of the investment fund.

We expect investment fund managers to put in place a written custodial agreement with the custodian on behalf of investment funds managed by them. Written custodial agreements are expected to provide for key matters such as the location of portfolio assets, any appointment of a sub-custodian, the method of holding portfolio assets, the standard of care of the custodian and the responsibility for loss. Prospectus-qualified investment funds are subject to further custodial requirements under National Instrument 81-102 *Investment Funds* and National Instrument 41-101 *General Prospectus Requirements*.

For registered firms other than investment fund managers

Where registered firms, other than investment fund managers, have influence over a client's selection of a custodian, we consider it a prudent business

practice for these registered firms to conduct similar due diligence to that of investment fund managers as outlined in the section above. Registered firms, other than investment fund managers, often direct or arrange the custodial arrangement for their clients; however, the registered firms are not typically a party to the custodial agreement between the client and the custodian used to hold client assets. Nevertheless, we expect registered firms that direct or arrange the custodial arrangement for their clients to understand the material terms of the written custodial agreement and to explain to the clients the main purpose of the agreement. If a custodial agreement allows a custodian to use a sub-custodian, the registered firm should alert the client to that fact and encourage the client to contact the custodian if they have any concerns with the custodial agreement.

14.5.3 Cash and securities held by a qualified custodian

Section 14.5.3 sets out requirements as to how cash and securities should be held by a qualified custodian or a Canadian financial institution. A registered firm can comply with the requirement under subsection 14.5.3(a) by verifying that cash and securities of a client or an investment fund are reported on the custodial account statement of that client or investment fund as issued by the qualified custodian or the Canadian financial institution.

A qualified custodian may arrange for the deposit of securities with a depository, or clearing agency, that operates a book-based system. Such depositories or clearing agencies include The Canadian Depository For Securities Limited, the Depository Trust Company or any other domestic or foreign depository or clearing agency that is incorporated or organized under the laws of a country or a political subdivision of a country and operates a book-based system in that country or political subdivision or operates a transnational book-based system.

14.6 ~~Holding client~~ Client and investment fund assets held by a registered firm in trust

Section 14.6 requires a registered firm to segregate client assets and investment fund assets and hold them in trust. ~~We~~When a registered firm is not required to use a qualified custodian, or a Canadian financial institution for cash, under subsections 14.5.2(2), (3) or (4), we consider it prudent for ~~registrants~~registered firms who are not members of an SRO to only hold client assets in client name ~~only~~, or portfolio assets of the investment fund in the name of the investment fund. This is because the capital requirements for non-SRO members are not designed to reflect the added risk of holding client assets in nominee name.

Investment fund managers may hold cash for investment in, or on the redemption of, securities of the investment fund. For the purposes of section 14.6, such cash-in-transit is considered to be cash and securities of an investment fund of the investment fund manager, and is subject to the requirements under section 14.6. Some investment fund managers choose to outsource certain fund administrative functions to a service provider, including the trust accounting function. Under some outsourcing arrangements, a service provider may be holding cash for investment in, or on the redemption of, securities of the investment fund. Under these arrangements, investment fund managers should

ensure that, at a minimum, the cash is held in a designated trust account at a Canadian custodian, a Canadian financial institution, or a foreign custodian (if it is more beneficial to the investment fund to use the foreign custodian than a Canadian custodian or a Canadian financial institution), and ensure that the cash is held separate and apart from the property of the service provider.

Under other outsourcing arrangements, a service provider may be provided with access to cash for investment in, or on the redemption of, securities of the investment fund, or access to the portfolio assets of the investment fund. Investment fund managers are reminded that they are responsible and accountable for all functions that they outsource to a service provider. Delegating access to investors' cash-in-transit or portfolio assets of an investment fund can increase the risk of loss. Investment fund managers are expected to exercise heightened due diligence and oversight to ensure that the service provider has adequate controls in place and that investors' assets are adequately protected.

14.6.1 Custodial provisions relating to certain margin or security interests

Section 14.6.1 sets out acceptable custodial practices relating to margin posted with, and security interests held by, a foreign dealer or counterparty in respect of certain derivatives transactions. We expect that the assessment of the use of a foreign custodian in section 14.5.2 of this Companion Policy will apply equally to the foreign dealer referenced in this section.

In addition to these custodial practices relating to certain derivatives, a registered firm may also ensure that cash or securities of a client or investment fund are delivered to a person or company in satisfaction of its obligations under a securities lending, repurchase or reverse repurchase agreement if the collateral, cash proceeds or purchased securities that are delivered to the client or investment fund in connection with the transaction are held under the custodianship of a qualified custodian or a sub-custodian of the client or investment fund in compliance with Division 3 of Part 14.

14.6.2 Custodial provisions relating to short sales

Section 14.6.2 sets out acceptable custodial practices relating to cash or securities of a client or investment fund that are deposited with a foreign dealer as security in connection with a short sale of securities. We expect that the assessment of the use of a foreign custodian in section 14.5.2 of this Companion Policy will apply equally to the foreign dealer referenced in this section.

Division 4 Client accounts

14.10 Allocating investment opportunities fairly

If the adviser allocates investment opportunities among its clients, the firm's fairness policy should, at a minimum, indicate the method used to allocate the following:

- price and commission among client orders when trades are bunched or blocked

- block trades and initial public offerings among client accounts

- block trades and initial public offerings among client orders that are partially filled, such as on a pro-rata basis

The fairness policy should also address any other situation where investment opportunities must be allocated.

Division 5 Reporting to clients

Reporting to clients is on an account basis, except that

- securities that are not held in an account (i.e., securities reported under an additional statement) must be included in a report for the account through which they were traded, and

- subsection 14.18(4) permits performance reports for more than one account of a client and also securities not held in an account to be combined with the client's written consent.

Registered firms may choose how they meet their client reporting obligations within the framework set out in the Instrument. We encourage firms to combine client statements, position cost information and client reports into comprehensive documents or send them together. For example, an account statement and an additional statement for securities traded through (but not held) in an account might be combined, perhaps along with position cost information, each quarter. Once a year, an integrated statement such as this could be further combined with the report on charges and other compensation and the performance report, or delivered along with a separate document that combines the two reports.

We believe that integrating client reporting as much as possible within the limitations of firms' systems capabilities will better enable clients to make use of the information and that it is in the interests of registrants to have clients that are well informed about the services they provide. When client reporting information is combined or delivered together, we expect registered firms will give each element sufficient prominence among the others that a reasonable investor can readily locate it.

Consistent with the guidance on clear and meaningful disclosure to clients in section 1.1 of this Companion Policy, we expect registrants to present client statements and reports in an understandable manner and to explain, if applicable, what securities are included in different statements. Registered firms should encourage clients to contact their dealing or advising representative or the firm directly with questions about their statements and reports. We expect registered firms to ensure that clients know how their investments will be held (for example, by the firm or at an issuing fund company) and understand the different implications that this will have for them in such matters as client reporting, investor protection fund coverage and custody of their assets. If a registered firm trades in exempt market securities for a client, the firm should also explain the reasons why it is not always possible for the firm to determine a

market value for products sold in the exempt market or whether the client still owns the security, and the implications that this may have for reporting on exempt-market securities.

It is the responsibility of the registered firm to produce these client statements and reports, not that of individual representatives. Registered firms should have policies and procedures in place to ensure that they are adequately supervising their registered representatives' communications with clients about the prescribed information.

The requirement to produce and deliver a trade confirmation under section 14.12, an account statement under section 14.14, an additional statement under section 14.14.1, position cost information under section 14.14.2, a security holder statement under section 14.15, a scholarship plan dealer statement under section 14.16 or client reports under sections 14.17 and 14.18 may be outsourced by a registered firm to a third-party service provider that acts as its agent. Third-party pricing providers may also be used to value securities for these purposes. Like all outsourcing arrangements, the registrant is ultimately responsible for the function and must supervise the service provider. See Part 11 of this Companion Policy for more guidance on outsourcing.

For the most part, the client reporting requirements in Part 14 do not differentiate between categories of registrant. Except for certain provisions which expressly apply only to a specific registration category (such as those tailored to scholarship plan dealers), differences in the application of these r equirements between different registered dealers or registered advisers will be the result of their different operating models. In particular, exempt market dealers that are not also registered as advisers or in another category of dealer may find that not all of the client reporting requirements will apply to their operating model. Appendix F discusses how these requirements may apply in the case of some of these "sole EMDs".

14.11.1 Determining market value

Section 14.11.1 sets out the basis on which market value must be determined for client reporting purposes.

Paragraph 14.11.1(1)(a) requires the market value of a security that is issued by an investment fund not listed on an exchange to be determined by reference to the net asset value provided by the investment fund manager of the fund on the relevant date.

For other securities, a hierarchy of valuation methods that depend on the availability of relevant information is prescribed in paragraph 14.11.1(1)(b). Registrants are required to act reasonably in applying these methodologies and we understand that this process will often require a r egistrant to exercise professional ~~judgement.~~ judgment. A registered firm may not simply take valuation information from an issuer and pass it on to clients as the market value for purposes of meeting the firm's market value reporting obligations. We expect a firm to use its professional judgment as to the reliability of information provided by an issuer as an input to the firm's determination of market value in accordance with the applicable methodology prescribed in section 14.11.1.

Where possible, market value should be determined by reference to a quoted value on a marketplace. The quoted value will be the last bid or ask price on the relevant date or the last trading day prior to the relevant date. In the case of a liquid security for which a reliable price is quoted on a market place, if it can be demonstrated through use of a periodic assessment that a "last traded price" valuation approach results in security market values that are materially the same as under the "last bid and ask prices" valuation approach, it may be acceptable to use this current "last traded price" valuation approach. Registered firms should ensure that any quoted values used to determine market value do not represent stale or old prices that are not reflective of current values. If no current value for a security is quoted on a marketplace, market value should be determined by reference to published market reports or inter-dealer quotes.

We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and includes procedures that assess the reliability of any valuation inputs and assumptions. If available, valuation inputs and assumptions should be based on observable market data or inputs, such as market prices or yield rates for comparable securities and quoted interest rates. If observable inputs are not available, valuation can be based on unobservable inputs and assumptions. In some cases, it may be reasonable and appropriate to value at cost, where there has been no material subsequent event affecting value (e.g. a market event or new capital raising by the issuer). "Observable" and "unobservable" inputs are concepts under International Financial Reporting Standards (IFRS), and we expect them to be applied consistent with IFRS.

If, having applied the prescribed methodology, a registered firm reasonably believes it cannot determine the market value of a security, the firm must then report its value as "not determinable" and exclude it from the calculations in client statements as prescribed in subsection 14.11.1(3).

This is not the same as determining that the market value of a security *is* zero. However, we would expect that if the market value of a security cannot be determined for a prolonged period of time, that fact may be an indication that the market value of the security should now be determined to be zero.

The following considerations can be used in determining when the market value for a security is not determinable:

- the position is illiquid
- there is little or no issuer and issuer-related financial data available, or the data is stale
- there is little or no financial data available for comparable issuers or for the issuer's business sector
- there is not enough data to use the valuation methodology prescribed in paragraph 14.11.1(1)(b) and/or the results of the various IFRS methodologies used have been determined to be

unreliable because of the use of unreliable data or the results indicate a wide range in possible values

- the acquisition cost of the security is no longer a good estimate of the security's market value as the cost is outside the range of possible values for the security

~~Subsection 14.11.1(3) provides that where the registered firm reasonably believes that it cannot determine the market value of a security, the firm must report that no value can be determined and the security must not be included in the calculation of the total market value of cash and securities in the client's account or in calculations for the investment performance report (see also subsection 14.19(7)).~~

Important to applying these considerations is establishing and maintaining a firm policy as to how many days beyond which the last data available is considered to be stale.

If the market value for a security subsequently becomes determinable, a registered firm must begin to report it in client statements and add that value to the opening market values or deposits included in the calculations in subsection 14.19(1). This would be expected if the firm had previously assigned the security a value of zero in the calculation of opening market values or deposits because it could not determine the security's market value, as required by subsection 14.19(7). This would reduce the risk of presenting a misleading improvement in the performance of the investment by only adding the value of the security to the other calculations required under section 14.19. If the deposits used to purchase the security were already included in the calculation of opening market values or deposits, the registered firm would not need to adjust these figures.

We encourage firms to disclose the foreign exchange rate used in calculating the market value of non-Canadian dollar denominated securities as a best practice.

14.12 Content and delivery of trade confirmation

Section 14.12 requires registered dealers to deliver trade confirmations.

Under paragraph 14.12(1)(b.1), registered dealers must provide the yield on a purchase of a debt security in a trade confirmation. For non-callable debt securities, the yield to maturity would be appropriate. For callable securities, the yield to call may be more useful.

Under paragraph 14.12(1)(c.1), registrants may disclose the total dollar amount of compensation (which may consist of any mark-up or mark-down, commission or other service charge) or, alternatively, the total dollar amount of commission, if any, and if the registrant applied a mark-up or mark-down or any service charge other than a commission, a prescribed general notification. The notification is a minimum requirement and a firm may elect to provide more information in its trade confirmations.

Each trade should be reported in the currency in which it was executed. If a

trade is executed in a foreign currency through a Canadian dollar account, the exchange rate should be reported to the client.

Under subsection 14.12(7), a registered dealer that complies with the requirements of section 14.12 in respect of a purchase or sale of a security is not subject to the corresponding written confirmation requirements contained in any of subsections 37(1), (2) or (3) of the *Securities Act* (Newfoundland and Labrador), subsection 36(1) of the *Securities Act* (Ontario) and subsection 42(1) of *The Securities Act, 1988* (Saskatchewan). For these purposes, a firm that has an exemption from section 14.12 and complies with the terms of that exemption would be considered to have complied with the requirements of that section.

14.14 Account statements

Section 14.14 requires registered dealers and advisers to deliver statements to clients at least once every three months. There is no prescribed form for these statements but they must contain the information referred to in subsections 14.14(4) and (5). The types of transactions that must be disclosed in an account statement include any purchase, sale or transfer of securities, dividend or interest payment received or reinvested, any fee or charge, and any other account activity. A firm must deliver an account statement with the information referred to in subsection (4) if any transaction was made for the client in the reporting period. ~~Effective July 15, 2015, a~~A firm is only required to provide the account ~~balance~~position information referred to in subsection (5) if it holds securities owned by a client in an account of the client.

There is no provision for consolidated statements in section 14.14 (or 14.14.1), so a registered firm must provide every client with an applicable statement for each of their accounts. Firms may provide supplementary reporting that they think a client might find useful. For example, a firm might provide a consolidated year-end statement where a client has requested a consolidated performance report under subsection 14.18(4).

14.14.1 Additional statements

A firm is required to deliver additional statements if the circumstances described in subsection 14.14.1(1) apply. The additional statements must be delivered once every three months, except that an adviser must deliver the statements on a monthly basis if requested by the client as provided in subsection 14.14.1(3). The requirements set out for the frequency of delivering account statements and additional statements are minimum standards. Firms may choose to provide the statements more frequently.

Paragraph 14.14.1(2)(g) requires disclosure about applicable investor protection funds. However, subsection 14.14.1(2.1) exempts a firm from this requirement where a client's securities are held or controlled by an IIROC or MFDA member. SRO rules require members to be participants in specified investor protection funds and prescribe client disclosures about them. To avoid the potential that clients may be confused or misinformed, registrants that are not participants in an investor protection fund should refrain from discussing its terms and conditions with clients.

Firms may choose to include securities that must be reported under the additional statement requirement in a document that it refers to as an account statement, consistent with their clients' expectations that their accounts are not limited to securities held by the firm, provided it satisfies the requirements for content of statements set out in sections 14.14 and 14.14.1.

14.14.2 ~~Position~~Security position cost information

Section 14.14.2 requires the delivery on a quarterly basis of position cost information for securities reported in account statements and additional statements. ~~Position cost may be either the book cost or the original cost, as defined in section 1.1.~~ For purposes of section 14.14.2, a security position is "opened" when the registered firm that is providing a statement to a client first acquires or holds securities for that client or when it first obtains trading authority over securities (as in the case of securities transferred into a discretionary account of a portfolio manager).

Position cost information is an investment performance measurement tool that provides investors with a c omparison to the market value of each security position they have open. Position cost may be either the book cost or the original cost of the securities, determined in accordance with their respective definitions in section 1.1.

Position cost is not tax information and a registered firm may not depart from the defined meaning of "original cost" or "book cost" in order to align position cost with tax cost for a security position. Registered firms may provide clients with tax cost as supplementary information if they wish to do so, provided the difference is made clear to clients. If the tax treatment of a security is an important part of its marketing to investors, we would expect a registered firm to provide tax information as well as position cost information, consistent with the duty to deal fairly, honestly and in good faith with clients.

Registered firms must include the definition of book cost or original cost, depending on which method the firm is using, in the statement or document where the position cost information appears as contemplated under subsection 14.14.2(4). Firms can comply with this requirement in a footnote.

In determining position cost for transferred securities, a registered firm may rely on position cost information provided by the transferring firm, if

- the transferring-out firm is also subject to the requirement to provide individual position cost information to clients, and
- the transferring-in firm has no reason to believe the information is not reliable.

Where securities were transferred from another registrant firm ~~and the information required to calculate position cost is unavailable~~, a registrant may also elect to use market value information as at the date of the transfer as the position cost ~~going forward~~. Firms must ~~include the definition of book cost or original cost in client statements. Firms can comply with that requirement by making reference to the definition in a footnote.~~specify each security position

where market value has been used rather than book or original cost. A footnote could be used for this purpose, with disclosure such as "because book cost information for this security position was unavailable, we have used market value information as of the transfer date as the position cost".

If a security position was opened before July 15, 2015, a registered firm can choose to report (a) the cost of the security position, (b) the market value of the security position as at December 31, 2015, or (c) the market value of the security position as at a date earlier than December 31, 2015, if the firm reasonably believes accurate recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date. Examples of circumstances under which we would consider it to be reasonable and not misleading for a firm to use a date earlier than December 31, 2015 for some but not all of its clients' security positions opened before July 15, 2015 include when a firm that uses the same earlier date for:

- all client accounts or security positions that were transferred to the firm at the same time, or
- all clients that are on the same reporting system of the registered firm, if the firm has more than one reporting system.

If a security position is built up over time with successive transactions (purchases or transfers), an average can be used to determine the cost of the position. The average may include both book or original cost information used for some of the transactions and market value used for others. In such cases, the disclosure applicable where market value has been used should be modified as necessary. For example: "The cost of this security position has been determined using an average of market value as of the date on which some securities were transferred into your account when it was opened, and the book cost of securities that we subsequently purchased for your account." It is also permissible to differentiate between positions in the same security that were opened in separate transactions by reporting positions valued at book cost or original cost separately from those where market value was used, instead of averaging them into a single number. However, this alternative approach has the potential to confuse clients, so clear explanatory notes should be provided if it is used.

Position cost information must be delivered at least quarterly~~, within 10 days after an account statement or additional statement~~. A firm may combine position cost information with ~~the statement(s)~~an account statement or additional statement for the period, or it may send it separately. If it chooses to send position cost information separately, the firm must deliver it within 10 days after the statement(s) have been delivered and must also include the market value information from the statement(s) for the period in order that the client will be able to readily compare the information. Although a firm may deliver statements under section 14.14 or section 14.14.1 more frequently than quarterly, it is not required to provide position cost information except on a quarterly basis.

14.15 Security holder statements

Section 14.15 sets out the client reporting requirements applicable to a

registered investment fund manager where there is no dealer or adviser of record for a security holder on the records of the investment fund manager.

14.16 Scholarship plan dealer statements

Section 14.16 provides that sections 14.14 [*account statements*], 14.14.1 [*additional statements*] and 14.14.2 [*security position cost information*] do not apply to a scholarship plan dealer that delivers prescribed information to a client at least once every 12 months. Subsection 14.19(4) sets out performance reporting requirements for scholarship plans.

14.17 Report on charges and other compensation

Registered firms must provide clients with an annual report on the firm's charges and other compensation received by the firm in connection with their investments. Examples of operating charges and transaction charges are provided in the discussion of the disclosure of charges and other compensation in section 14.2 of this Companion Policy. The annual report must include information about all of the firm's current operating charges that might be applicable to a client's account. A firm is only required to include the charges for those of its services that it would reasonably expect the particular client to utilize in the coming 12 months.

The discussion of debt security disclosure requirements in section 14.12 of this Companion Policy is also relevant with respect to paragraph 14.17(1)(e).

Scholarship plans often have enrolment fees payable in instalments in the first few years of a client's investment in the plan. Paragraph 14.17(1)(f) requires that scholarship plan dealers include a reminder of the unpaid amount of any such fees in their annual reports on charges and other compensation.

Payments that a registered firm or its registered representatives receive from issuers of securities or other registrants in relation to registerable services to a client must be reported under paragraph 14.17(1)(g). This disclosure requirement includes any form of payment to the firm or a representative of the firm linked to sales or other registerable services to the client receiving the report. Examples of payments that would be included in this part of the report on charges and other compensation include some referral fees, success fees on the completion of a transaction, or finder's fees. This part of the report does not include trailing commissions, as they are specifically addressed in paragraph 14.17(1)(h).

Registered firms must disclose the amount of trailing commissions they received related to a client's holdings. The disclosure of trailing commissions received in respect of a client's investments must be included with a notification prescribed in paragraph 14.17(1)(h). The notification must be in substantially the form prescribed, so a registered firm may modify it to be consistent with the actual arrangements. For example, a firm that receives a payment that falls within the definition of "trailing commission" in section 1.1 in respect of securities that are not investment funds can modify the notification accordingly. The notification set out is the required minimum and firms can provide further explanation if they believe it will be helpful to their clients.

Registered firms may want to organize the annual report on charges and other compensation with separate sections showing the charges paid by the client to the firm, and the other compensation received by the firm in respect of the client's account.

Appendix D of this Companion Policy includes a sample Report on Charges and Other Compensation, which registered firms are encouraged to use as guidance.

14.18 Investment performance report

Where more than one registrant provides services pertaining to a client's account, responsibility for performance reporting rests with the registered firm with the client-facing relationship. For example, if a registered adviser has trading authority over a client's account at a registered dealer, the adviser must provide the client with an annual investment performance report; this is not an obligation of the dealer that only executes adviser-directed trades or provides custodial services in respect of the client's account.

Performance reporting to clients is required to be provided separately for each account. Securities of a client required to be reported in an additional statement under section 14.14.1, if any, must be covered in a performance report that also includes any other securities in the account through which they were transacted. However, subsection 14.18(4) provides that with client consent, a registrant may provide consolidated performance reporting for that client. A registrant may also provide a consolidated performance report for multiple clients, such as a family group, but only as a supplemental report, in addition to reports required under section 14.18.

14.19 Content of investment performance report

Subsection 14.19(5) requires the use of each of text, tables and charts in the presentation of investment performance reports. Explanatory notes and the definition of "total percentage return" must also be included. The purpose of these requirements is to make the information as understandable to investors as possible.

To help investors get the most out of their investment performance reports and encourage informed discussion with their registered dealing representative or advising representative, we encourage registered firms to consider including:

- additional definitions of the various performance measures used by the registrant
- additional disclosure that enhances the performance presentation
- a discussion with clients about what the information means to them

Registrants should not mislead a client by presenting a return of the client's capital in a manner that suggests it forms part of the client's return on an investment.

Registered representatives are also encouraged to meet with clients, as part of an in-person or telephone meeting, to help ensure they understand their investment performance reports and how the information relates to the client's investment objectives and risk tolerance.

Appendix E of this Companion Policy includes a sample Investment Performance Report which registered firms are encouraged to use as guidance.

Opening market value, deposits and withdrawals

As part of paragraphs 14.19(1)(a) and (b), registered firms must disclose the market value of cash and securities in the client's account as at the beginning and the end of the 12-month period covered by the investment performance report. The market value of cash and securities at account opening is assumed to be zero.

Under paragraphs 14.19(1)(c), (d) and ~~(d~~subsection 14.19(1.1), registered firms must also disclose the market value of all deposits and transfers of cash and securities into the account, and the market value of all withdrawals and transfers of cash and securities out of the account, for the 12-month period covered by the performance report, as well as, subject to certain exceptions discussed below, since account opening. Deposits and transfers into the account (which do not include reinvested distributions or interest income) should be shown separately from withdrawals and transfers out of the account. ~~Where~~

If an account was opened before July 15, ~~2015 and market values are not available for all deposits, withdrawals and transfers since account opening, under paragraph 14.19(1)(e)~~2015, registered firms must present the market value of all cash and securities in the client's account as at ~~July 15, 2015, and the market value of all deposits, withdrawals and transfers of cash and securities since July 15, 2015.~~one of the following dates:

(a) January 1, 2016 or an earlier date, if the firm's first performance report to the client covered the 2016 calendar year (paragraph 14.19(1.1)(c)).

(b) July 15, 2015 or an earlier date, if the firm's first performance report to the client covered some other period (paragraph 14.19(1.1.)(b)).

A registered firm may choose a date earlier than July 15, 2015 or January 1, 2016, as applicable under paragraphs 14.19(1.1)(b) or (c), only if the firm reasonably believes accurate recorded historical market value information is available for the client's account, and it would not be misleading to the client to provide that information as at the earlier date. As with position cost information, examples of circumstances under which we would consider it to be reasonable and not misleading for a firm to use a date earlier than July 15, 2015 or January 1, 2016, as applicable, for some but not all of its clients' accounts include when a firm that uses the same earlier date for:

- all client accounts that were transferred to the firm at the same

time, or

- all clients that are on the same reporting system of the registered firm, if the firm has more than one reporting system.

The registered firm must also present the market value of all deposits, withdrawals and transfers of cash and securities since the date chosen under paragraphs 14.19(1.1)(b) or (c).

Subsection 14.19(7) requires a registered firm that cannot determine the market value for a security position to assign the security a value of zero for the performance reporting purposes and the reason for doing so must be disclosed to the client. The explanation may be included as a note in the performance report. As described in section 14.11.1 of this Companion Policy, if a registered firm is subsequently able to value that security it may need to adjust the calculation of the market values or deposits to avoid presenting a misleading improvement in the performance of the account.

A registered firm is not required to deliver a nil report in circumstances where it reasonably believes that none of a client's securities have a determinable value. We would expect the firm to tell the client that it will not be delivering an investment performance report for the period and explain why.

Change in market value

The opening market value, plus deposits and transfers in, less withdrawals and transfers out, should be compared to the market value of the account as at the end of the 12-month period for which the performance reporting is provided and also since inception in order to provide clients, in dollar terms, with the performance of their account.

The change in the market value of the account since inception is the difference between the closing market value of the account and total of opening market value plus deposits less withdrawals since inception. The change in the value of the account for the 12-month period is the difference between the closing market value of the account and total of opening market value plus deposits less withdrawals during the period. ~~Where market values since inception are not available,~~If the client's account was opened before July 15, 2015, a registered ~~firms are~~firm is required to disclose the change in value of a client's account since ~~July 15, 2015.~~one of July 15, 2015, January 1, 2016 or an earlier date determined on the basis of the same criteria as described above with reference to paragraphs 14.19(1.1)(b) or (c).

The change in market value includes components such as income (dividends, interest) and distributions, including reinvested income or distributions, realized and unrealized capital gains or losses in the account, and the effect of operating charges and transaction charges if these are deducted directly from the account. Rather than show the change in value as a single amount, registered firms may opt to break this out into its components to provide more detail to clients.

Percentage return calculation method

Paragraph 14.19(1)(i) requires firms to provide the annualized total percentage return using a money-weighted rate of return calculation method. No specific formula is prescribed, but the method used by a firm must be one that is generally accepted in the securities industry. A registered firm may, if it so chooses, provide percentage returns calculated using both money-weighted and time-weighted methods. In such cases, the firm should explain in plain language the difference between the two sets of performance returns.

Paragraph 14.19(1)(j) requires that performance reports ~~provide~~ include a notification with specified information about how the client's percentage return was calculated. This includes an explanation in general terms of what the calculation method takes into account. We do not expect firms to include a formula or an exhaustive list. For example, a firm could explain that under a money weighted method, decisions a client made about deposits and withdrawals to and from the client's account have affected the returns calculated in the report~~. A~~ and that this means it represents the client's personal rate of return. We expect firms to use this notification to help clients understand the most important implications of the calculation methodology. A client's personal rate of return should be compared to the client's target rate of return, if the client has one, so that progress toward that goal can be assessed.We expect a firm that also uses a time weighted method to explain the difference between the two rates of return in plain language. For example, the firm could explain that the returns calculated under ~~this~~a time weighted method may not be the same as the actual returns in the client's account because they do not necessarily show the effect of deposits and withdrawals to and from the account, and that a time weighted return is useful in determining how well a money manager performed, but not necessarily how the client's account actually grew. ~~We do not expect firms to include a formula or an exhaustive list. We expect firms to use this notification to help clients understand the most important implications of the calculation methodology.~~

Performance reporting periods

Subsection 14.19(2) outlines the minimum reporting periods of 1, 3, 5 and 10 years and the period since the inception of the account. For accounts opened before July 15, 2015, a registered firm may use a deemed inception date of January 1, 2016, July 15, 2015 or an earlier date determined on the basis of the same criteria as that described above.

Registered firms may opt to provide more frequent performance reporting. However performance returns for periods of less than one year can be misleading and therefore, must not be presented on an annualized basis, consistent with subsection 14.19(6).

Scholarship plans

Under paragraph 14.19(4)(c), for scholarship plans, the information required to be delivered in the investment performance report includes a reasonable projection of future scholarship payments that the plan may pay to the client or the client's designated beneficiary upon the maturity of the client's investment in the plan.

A scholarship plan dealer is also required under paragraph 14.19(4)(d) to provide a summary of any terms of the plan, which if not met by the client or the client's designated beneficiary under the plan, may cause the client or the designated beneficiary to suffer a loss of contributions, earnings or government contributions in the plan. The disclosure here is not intended to be as detailed as the disclosure at account opening. It is intended to remind the client of the unique risks of the plan and the ways in which the client's scholarship plan may be seriously impaired. This disclosure must be consistent with other disclosures required to be delivered to clients under applicable securities legislation.

To the extent that a scholarship plan dealer and the plan itself are not the same legal entity but are affiliates of one another, the dealer may meet obligations to deliver annual investment performance reports by drawing attention to the plan's direct mailing of reports to a client by the plan's administrator.

Benchmarks and investment performance reporting

The use of benchmarks for investment performance reporting is optional. There is no requirement to provide benchmarks to clients in any of the reports required under NI 31-103.

However, we encourage registrants to use benchmarks that are relevant to a client's investments as a useful way for a client to assess the performance of their portfolio. Benchmarks need to be explained to clients in terms they will understand, including factors that should be considered by the client when comparing their investment returns to benchmark returns. For example, a registrant could discuss the differences between the composition of a client's portfolio that reflects the investment strategy they have agreed upon and the composition of an index benchmark, so that a comparison between them is fair and not misleading. A discussion of the impact of operating charges and transaction charges as well as other expenses related to the client's investments would also be helpful to clients, since benchmarks generally do not factor in the costs of investing.

If a registered firm chooses to present benchmark information, the firm should ensure that it is not misleading. We expect registrants to use benchmarks that are

- discussed with clients to ensure they understand the purpose of comparing the performance of their portfolio to the chosen benchmarks and determine if their information needs will be met
- reasonably reflective of the composition of the client's portfolio so as to ensure that a relevant comparison of performance is presented
- relevant in terms of the investing time horizon of the client
- based on widely recognized and available indices that are credible and not manufactured by the registrant or any of its affiliates using proprietary data

- broad-based securities market indices which can be linked to the major asset classes into which the client's portfolio is divided. The determination of a major asset class should be based on the firm's own policies and procedures and the client's portfolio composition. An asset class for benchmarking purposes may be based on the type of security and geographical region. We do not expect an asset class to be determined by industry sector

- presented for the same reporting periods as the client's annualized total percentage returns

- clearly named

- applied consistently from one reporting period to the next for comparability reasons, unless there has been a change to the pre-determined asset classes. In this case, the change in the benchmark(s) presented should be discussed with the client and included in the explanatory notes, along with the reasons for the change

Examples of acceptable benchmarks would include, but are not limited to, the S&P/TSX Composite index for Canadian equities, the S&P 500 index for U.S. equities, and the MSCI EAFE index as a measure of the equity markets outside of North America.

14.20 Delivery of report on charges and other compensation and investment performance report

Registered firms must deliver the annual report on charges and other compensation under section 14.17 and the investment performance report under section 14.18 for a client together. These client reports may be combined with or accompany an account statement or additional statement for a client, or must be sent within 10 days after an account statement or additional statement for the client.

Appendix A

Contact information

Jurisdiction	E-mail	Fax	Address
Alberta	registration@asc.ca	(403) 297-4113	Alberta Securities Commission, Suite 600, 250–5th St. SW Calgary, AB T2P 0R4 Attention: Registration
British Columbia	registration@bcsc.bc.ca	(604) 899-6506	British Columbia Securities Commission P.O. Box 10142, Pacific Centre 701 West Georgia Street Vancouver, BC V7Y 1L2 Attention: Registration
Manitoba	registrationmsc@gov.mb.ca	(204) 945-0330	The Manitoba Securities Commission 500-400 St. Mary Avenue Winnipeg, MB R3C 4K5 Attention: Registrations
New Brunswick	~~nrs@nbsc-cvmnb~~registration-inscription@fcnb.ca	(506) 658-3059	Financial and Consumer Services Commission of New Brunswick / Commission des services financiers et des services aux consommateurs du Nouveau -Brunswick Suite 300, 85 Charlotte Street Saint John, NB E2L 2J2 Attention: Registration ~~Officer~~
Newfoundland & Labrador	scon@gov.nl.ca	(709) 729-6187	Superintendent of Securities, Service NL P.O. Box 8700, 2nd Floor, West Block Confederation Building St. John's, NL A1B 4J6 Attention: Manager of Registrations
Northwest Territories	SecuritiesRegistry@gov.nt.ca	(867) 873-0243	Government of the Northwest Territories P.O. Box 1320 Yellowknife, NWT X1A 2L9 Attention: Deputy Superintendent of Securities
Nova Scotia	nrs@novascotia.ca	(902) 424-4625	Nova Scotia Securities Commission Suite 400, 5251 Duke Street P.O. Box 458 Halifax, NS B3J 2P8 Attention: Deputy Director, Capital Markets

Nunavut	CorporateRegistrations@gov.nu.ca	(867) 975-6590 (Faxing to NU is unreliable. The preferred method is e-mail.)	Legal Registries Division Department of Justice Government of Nunavut P.O. Box 1000 Station 570 Iqaluit, NU X0A 0H0 Attention: Deputy Registrar
Ontario	registration@osc.gov.on.ca	(416) 593-8283	Ontario Securities Commission 22nd Floor 20 Queen Street West Toronto, ON M5H 3S8 Attention: Compliance and Registrant Regulation
Prince Edward Island	ccis@gov.pe.ca	(902) 368-6288	Consumer and Corporate Services Division, Office of the Attorney General P.O. Box 2000, 95 Rochford Street Charlottetown, PE C1A 7N8 Attention: Superintendent of Securities
Québec	inscription@lautorite.qc.ca	(514) 873-3090	Autorité des marchés financiers Direction de l'encadrement des intermédiaires 800 square Victoria, 22e étage C.P 246, Tour de la Bourse Montréal (Québec) H4Z 1G3
Saskatchewan	~~registrationsfsc~~registrationfcaa@gov.sk.ca	(306) 787-5899	Financial and Consumer Affairs Authority of Saskatchewan Suite 601 1919 Saskatchewan Drive Regina, SK S4P 4H2 Attention: Registration
Yukon	securities@gov.yk.ca	(867) 393-6251	Department of Community Services Yukon Yukon Securities Office P.O. Box 2703 C-6 Whitehorse, YT Y1A 2C6 Attention: Superintendent of Securities

Appendix B

Terms not defined in NI 31-103 or this Companion Policy

Terms defined in National Instrument 14-101 *Definitions*:

- adviser registration requirement
- Canadian securities regulatory authority
- dealer registration requirement
- exchange contract (AB, SK, NB and NS only)
- foreign jurisdiction
- jurisdiction or jurisdiction of Canada
- local jurisdiction
- investment fund manager registration requirement
- prospectus requirement
- registration requirement
- regulator
- securities directions
- securities legislation
- securities regulatory authority
- SRO
- underwriter registration requirement

Terms defined in National Instrument 45-106 *Prospectus Exemptions*:

- accredited investor
- eligibility adviser
- financial assets

Terms defined in National Instrument 81-102 *Investment Funds*:

- money market fund

Terms defined in the *Securities Act* of most jurisdictions:

- adviser
- associate
- company
- control person
- dealer
- director
- distribution
- exchange contract (BC~~, AB, SK and NB~~ only)
- insider
- individual
- investment fund
- investment fund manager
- issuer
- mutual fund
- officer
- person
- promoter
- records
- registrant
- reporting issuer
- security
- trade
- underwriter

Appendix C

Proficiency requirements for individuals acting on behalf of a registered firm

The tables in this Appendix set out the education and experience requirements, by firm registration category, for individuals who are applying for registration under securities legislation.

An individual must not perform an activity that requires registration unless the individual has the education, training and experience that a reasonable person would consider necessary to perform the activity competently, including, in the case of registered representatives, understanding the structure, features and risks of each security the individual recommends.

CCOs must also not perform an activity set out in section 5.2 unless they have the education, training and experience that a reasonable person would consider necessary to perform the activity competently.

Acronyms used in the tables

BMP: Branch Manager Proficiency Exam

CA: Chartered Accountant

CCO: Chief Compliance Officer

CCOQ: Chief Compliance Officers Qualifying Exam

CFA: CFA Charter

CGA: Certified General Accountant Exam/Partners, Directors

CMA: Certified Management Accountant

CIF: Canadian Investment Funds Course Exam

CIM: Canadian Investment Manager designation

CSC: Canadian Securities Course Exam

EMP: Exempt Market Products Exam

IFIC: Investment Funds in Canada Course

MFDC: Mutual Funds Dealer Compliance Exam

PDO: Officers', Partners' and Directors' and Senior Officers Course Exam

SRP: Sales Representative Proficiency Exam

Investment dealer	
Dealing representative	**CCO**
Proficiency requirements set by IIROC	Proficiency requirements set by IIROC
Mutual fund dealer	
Dealing representative	**CCO**
One of these five options: 1. CIF	One of these two options: 1. CIF, CSC or IFIC; and PDO, MFDC or CCOQ and 12 months of relevant

2. CSC 3. IFIC 4. CFA Charter and 12 months of relevant securities industry experience in the 36-month period before applying for registration 5. Advising representative requirements – portfolio manager or exempt from these under section 16.10(1)	securities industry experience in the 36-month period before applying for registration 2. CCO requirements – portfolio manager or exempt from these under section 16.9(2)

Exempt market dealer	
Dealing representative	**CCO**
One of these four options: 1. CSC 2. EMP 3. CFA Charter and 12 months of relevant securities industry experience in the 36-month period before applying for registration 4. Advising representative requirements – portfolio manager or exempt from these under section 16.10(1)	One of these two options: 1. PDO or CCOQ and EMP or CSC and 12 months of relevant securities industry experience in the 36-month period before applying for registration 2. CCO requirements – portfolio manager or exempt from these under section 16.9(2)
Scholarship plan dealer	
Dealing representative	**CCO**
	SRP, BMP, and PDO or CCOQ and 12 months of relevant security industry experience in the 36-month period before applying for registration
Restricted dealer	
Dealing representative	**CCO**
Regulator to determine on a case-by-case basis	Regulator to determine on a case-by-case basis

Portfolio manager		
Advising representative	**Associate advising representative**	**CCO**
One of these two options: 1. CFA and 12 months of relevant investment management experience in the 36-month period before applying for registration 2. CIM and 48 months of relevant investment	One of these two options: 1. Level 1 of the CFA and 24 months of relevant investment management experience 2. CIM and 24 months of relevant investment management experience	One of these three options: 1. CSC except if the individual has the CFA or CIM designation, PDO or CCOQ, and CFA or a professional designation as a lawyer, CA, CGA, CMA, notary in Québec or the equivalent in a foreign jurisdiction, and:

management experience (12 months gained in the 36-month period before applying for registration)		• 36 months of relevant securities experience working at an investment dealer, registered adviser or investment fund manager, or • 36 months providing professional services to the securities industry and 12 months working at a registered dealer, registered adviser or investment fund manager, for a total of 48 months 2. CSC except if the individual has the CFA or CIM designation, PDO or CCOQ and five years working at: • an investment dealer or a registered adviser (including 36 months in a compliance capacity), or • a Canadian financial institution in a compliance capacity relating to portfolio management and 12 months at a registered dealer or registered adviser, for a total of six years 3. PDO or CCOQ and advising representative requirements – portfolio manager

Restricted portfolio manager		
Advising representative	**Associate advising representative**	**CCO**

Regulator to determine on a case-by-case basis	Regulator to determine on a case-by-case basis	Regulator to determine on a case-by-case basis
Investment fund manager		
CCO		
One of these three options: 1. CSC except if the individual has the CFA or CIM designation, PDO or CCOQ, and CFA or a professional designation as a lawyer, CA, CGA, CMA, notary in Québec or the equivalent in a foreign jurisdiction, and: • 36 months of relevant securities experience working at a registered dealer, registered adviser or investment fund manager, or • 36 months providing professional services in the securities industry and 12 months working in a relevant capacity at an investment fund manager, for a total of 48 months 2. CIF, CSC or IFIC; PDO or CCOQ and five years of relevant securities experience working at a registered dealer, registered adviser or an investment fund manager (including 36 months in a compliance capacity) 3. CCO requirements for portfolio manager or exempt from these requirements under section 16.9(2)		

Appendix D

[Name of Firm]

Annual Charges and Compensation Report

Client name	Your
Account Number:	123456
Address line 1	
Address line 2	
Address line 3	

This report summarizes the compensation that we received directly and indirectly in 20XX. Our compensation comes from two sources:

1. **What we charge you directly. Some of these charges are associated with the operation of your account. Other charges are associated with purchases, sales and other transactions you make in the account.**

2. **What we receive through third parties.**

Charges are important because they reduce your profit or increase your loss from investing. If you need an explanation of the charges described in this report, your representative can help you.

Charges you paid directly to us

RSP administration fee	
Total charges associated with the operation of your account	
Commissions on purchases of mutual funds with a sales charge	
Switch fees	
Total charges associated with transactions we executed for you	
Total charges you paid directly to us	

Compensation we received through third parties

Commissions from mutual fund managers on purchases of mutual funds (see note 1)	$503
Trailing commissions from mutual fund managers (see note 2)	$286

Total compensation we received through third parties	**$789**
Total charges and compensation we received in 20XX	**$1,035**

Notes:

1. When you purchased units of mutual funds on a deferred sales charge basis, we received a commission from the investment fund manager. During the year, these commissions amounted to $503.

2. We received $286 in trailing commissions in respect of securities you owned during the 12-month period covered by this report.

Investment funds pay investment fund managers a fee for managing their funds. The managers pay us ongoing trailing commissions for the services and advice we provide you. The amount of the trailing commission depends on the sales charge option you chose when you purchased the fund. You are not directly charged the trailing commission or the management fee. But, these fees affect you because they reduce the amount of the fund's return to you. Information about management fees and other charges to your investment funds is included in the prospectus or fund facts document for each fund.

Our current schedule of operating charges

[*As part of the annual report of charges and compensation, registrants are required to provide their current operating charges that may be applicable to their clients' accounts. For the purposes of this sample document, we are not providing such a list.*]

Appendix E

Your investment performance report **For the period ending December 31, 2030**

Investment account 123456789

Client name
Address line 1
Address line 2
Address line 3

This report tells you how your account has performed to December 31, 2030. It can help you assess your progress toward meeting your investment goals.

Speak to your representative if you have questions about this report. It is important that you tell your representative if your personal or financial circumstances have changed. Your representative can recommend adjustments to your investments to keep you on track to meeting your goals.

Amount invested means opening market value plus deposits including:
the market value of all deposits and transfers of securities and cash into your account, not including interest or dividends reinvested.

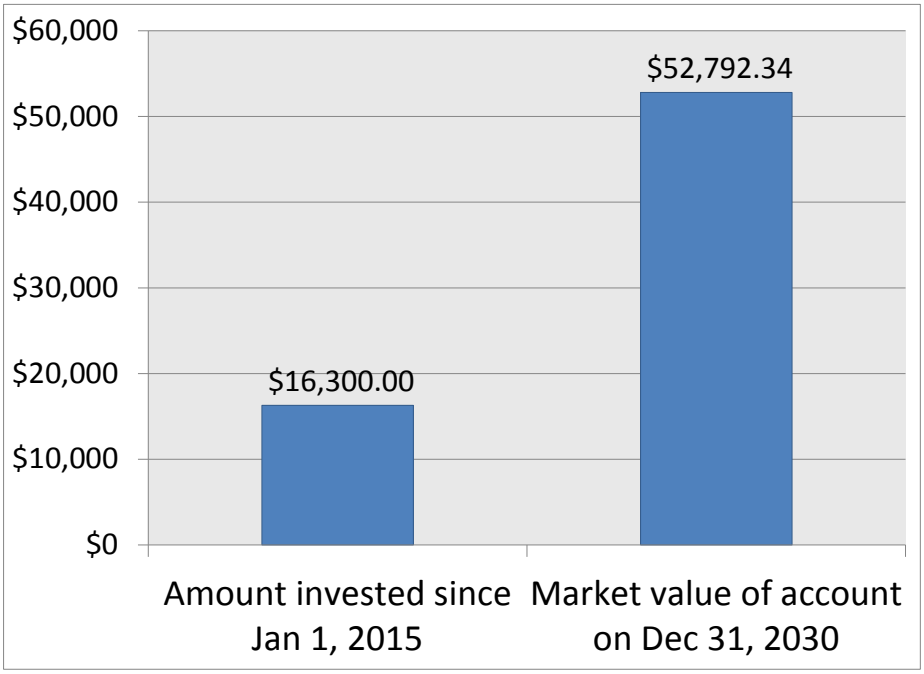
Less withdrawals including:
the market value of all withdrawals and transfers out of your account.

Total value summary

Your investments have increased by $36,492.34 since you opened the account

Your investments have increased by $2,928.85 during the past year

Amount invested since you opened your account on January 1, 2015	$16,300.00
Market value of your account on December 31, 2030	**$52,792.34**


$60,000
$50,000
$40,000
$30,000
$20,000
$10,000
$0
$16,300.00
$52,792.34
Amount invested since Jan 1, 2015
Market value of account on Dec 31, 2030

Change in the value of your account

This table is a summary of the activity in your account. It shows how the value of your account has changed based on the type of activity.

	Past year	Since you opened your account
Opening market value	$51,063.49	$0.00
Deposits	$4,000.00	$21,500.00
Withdrawals	$(5,200.00)	$(5,200.00)
Change in the market value of your account	$2,928.85	$36,492.34
Closing market value	**$52,792.34**	**$52,792.34**

What is a total percentage return?

This represents gains and losses of an investment over a specified period of time, including realized and unrealized capital gains and losses plus income, expressed as a percentage.

For example, an annual total percentage return of 5% for the past three years means that the investment effectively grew by 5% a year in each of the three years.

Your personal rates of return

The table below shows the total percentage return of your account for periods ending December 31, 2030. Returns are calculated after charges have been deducted. These include charges you pay for advice, transaction charges and account-related charges, but not income tax.

Keep in mind your returns reflect the mix of investments and risk level of your account. When assessing your returns, consider your investment goals, the amount of risk you're comfortable with, and the value of the advice and services you receive.

	Past year	Past 3 years	Past 5 years	Past 10 years	Since you opened your account
Your account	5.51%	10.92%	12.07%	12.90%	13.09%

Calculation method

We use a money weighted method to calculate rates of return. Contact your

representative if you want more information about this calculation.

The returns in this table are your personal rates of return. Your returns are affected by changes in the value of the securities you have invested in, dividends and interest that they paid, and also deposits and withdrawals to and from your account.

If you have a personal financial plan, it will contain a target rate of return, which is the return required to achieve your investment objectives. By comparing the rates of return you actually achieved (shown in the table) with your target rate of return, you can see whether you are on track to meet your investment objectives.

Contact your representative to discuss your rate of return and investment objectives.

Appendix F

Part 14 Client reporting requirements and sole EMDs

This appendix discusses how the client reporting requirements in Part 14 may apply to some exempt market dealers that are not also registered as advisers or in another category of dealer (sole EMDs) as a result of their limited operating model.

Overview:

Holding client assets and other specified criteria

The applicability of some of the client statement requirements depends on whether a registered firm holds client assets (account statements) or, if it does not, whether certain other specific criteria apply (additional statements). Other client reporting requirements may or may not apply depending on whether a registered firm has a "client" at the relevant point in time (annual report on charges and other compensation, and annual report on investment performance).

Sole EMDs do not normally hold client assets and where that is the case, they can disregard provisions that only apply where client assets are held by a registered firm. In circumstances where a sole EMD holds client assets (as may be the case with mortgage syndications), it must deliver account statements with the information required under subsections 14.14(4) and 14.14(5) along with position cost information under section 14.14.2. Furthermore, since holding client assets is a clear indication of an ongoing client relationship, a sole EMD is also subject to the requirement to deliver an annual report on charges and other compensation under section 14.17 and an annual investment performance report under section 14.18.

Transactional vs ongoing client relationship

Some sole EMDs have only limited, transactional relationships with their clients – as opposed to the ongoing client relationships that are typical of most other registrants' operating models. An example of a transactional relationship would be where an EMD's relationship with a client is limited to a specific private placement transaction and does not involve

- a security specified in paragraph 14.14.1(1)(c)
- any trailer fee or similar ongoing compensation in relation to the client's ownership of a security
- the EMD holding client assets
- any expectation on the part of the EMD that there may be further transactions with the client or services provided to the client. For example, if an EMD regularly contacts the client regarding any securities offered by the EMD, this will be considered an ongoing relationship
- any expectation on the part of the client that the EMD will continue to provide services to the client after the completion of the transaction. The example described above applies in this case as well.

In this example, the EMD would be required to deliver one account statement with transactional information under subsection 14.14(4), but would not be required to deliver any

- further account statements under section 14.14
- additional statements under section 14.14.1
- position cost information under section 14.14.2

- annual report on charges and other compensation under section 14.17
- annual investment performance report under section 14.18

A sole EMD should consider carefully whether it is in an ongoing client relationship before concluding that any of the client statement requirements do not apply to it.

Section-by-section analysis:

Relationship disclosure information, pre-trade disclosure of charges and trade confirmation

A sole EMD always has a client at the time of the transaction and will be subject to other requirements relating to relationship disclosure (section 14.2), pre-trade disclosure of charges (section 14.2.1) and trade confirmations (section 14.12). However, if it has no other dealings with the investor, the EMD might conclude that it is no longer in a client relationship at the point in time when it would otherwise be required to prepare further client statements and reports, as discussed below.

Account statements

An account statement has two principal elements: transactional information and account position information. Transactional information is specific to the securities involved and is required in almost all circumstances where there has been a transaction. Account position information is a snap-shot of the whole account and is required only where the firm holds client assets.

Subsection 14.14(1) requires an EMD to deliver transactional information prescribed under subsection 14.14(4) to clients on a quarterly basis or, if so requested, each month. This requirement applies regardless of whether the firm holds client assets. For EMDs that hold client assets, account position information under subsection 14.14(5) is also required. Note that subsection 14.14(2) requires an EMD to deliver an account statement with transactional information under subsection 14.14(4) "after the end of ***any month*** in which a transaction was effected in securities ***held*** by the dealer in the client's account" [emphasis added].

The effect of these requirements is that, if one or more transactions occurred in the reporting period, a sole EMD must provide the client with an account statement with transactional information (but not account position information if no clients assets are held) either

- at the end of the month, if requested by a client, or
- at the end of the quarter, by default.

This applies even where an EMD does not have an ongoing client relationship.

Additional statements

An "additional statement" (registered firms subject to the requirements in section 14.14.1 are not required to call it this in client communications – "account statement" would do for those purposes) is the way clients get the equivalent of account position information where the registered firm does not hold their assets. It only applies in certain circumstances. More specifically, subsection 14.14.1(1) requires a registered dealer or adviser that does not hold client assets to provide an additional statement with account position information under subsection 14.14.1(2) on a quarterly basis if

- it has trading authority over the client's account in which the securities are held or were transacted (not, of course, applicable to a sole EMD),
- it receives certain continuing payments in respect of securities it traded for a client (e.g., trailing commission), or
- it is the dealer of record for a client's securities issued by a mutual fund or certain labour-sponsored investment vehicles (EMDs trading securities of an investment fund should be aware of the definition of "mutual fund" under securities legislation).

In effect, a registered firm is deemed to have an ongoing client relationship in these circumstances. If none of these circumstances apply, there is no requirement for a sole EMD to provide clients with an additional statement.

Position cost information

Subsection 14.14.2(1) requires quarterly delivery of position cost information under criteria which effectively mean that if a sole EMD has to provide account position information to a client, either in an account statement or an additional statement, it also has to provide position cost information to the client.

Annual report on charges and other compensation

Subsection 14.17(1) requires delivery of a report on charges and other compensation to a client every 12 months. It will apply if the sole EMD is subject to the requirement to provide account position information to a client, either in an account statement under subsection 14.14(5) or an additional statement under subsection 14.14.(1).

However, even if the requirement in subsection 14.17(1) is triggered, the EMD would not be required to send a "nil" report if it did not receive any of the specified charges or other compensation during the 12-month period.

Annual investment performance report

Subsection 14.18(1) requires annual delivery of an investment performance report to a client. Note that the elements of the performance report set out in section 14.19 will depend on market values that are contained in the account position information provided in the account statements and additional statements sent under sections 14.14 and 14.14.1, respectively. The effect of subsection 14.18(6) is that no investment performance report is required if a firm reasonably believes that either (a) there are no securities of a client in respect of which it would be required to provide account position information to a client, either in an account statement or an additional statement, or (b) if there are such securities, no market value can be determined for any of them.

ANNEX F

The amendments set out in sections 4, 5, 8, 9, 11 and 15 of this Amending Instrument are not being made in certain CSA jurisdictions because these amendments have already been adopted in those jurisdictions by means of other instruments. This will be reflected in the version of this Amending Instrument that is adopted in those jurisdictions.

Amendments to National Instrument 33-109 *Registration Information*

1. ***National Instrument 33-109 Registration Information is amended by this Instrument.***

2. ***Subparagraph 2.3(2)(c)(i) is amended by replacing*** **"**Item 13.3(c)**" *with* "**Item 13.3(a)***".***

3. ***Subsection 7.1 (3) is amended by adding*** **"**Alberta and**" *before* "**Ontario***".***

4. ***Schedule B to Form 33-109F2 is amended***

(a) ***under the heading*** **"New Brunswick"** ***by replacing*** **"**Director of Securities**" *with* "**Registration***",***

(b) ***under the heading*** **"Nunavut"** ***by replacing*** **"**Deputy Registrar of Securities**" *with* "**Superintendent of Securities***", and***

(c) ***under the heading*** **"Prince Edward Island"** ***by replacing*** **"**Deputy Registrar of Securities**" *with* "**Superintendent of Securities***".***

5. ***Schedule A to Form 33-109F3 is amended***

(a) ***under the heading*** **"New Brunswick"** ***by replacing*** **"**Director of Securities**" *with* "**Registration***",***

(b) ***under the heading*** **"Nunavut"** ***by replacing*** **"**Deputy Registrar of Securities**" *with* "**Superintendent of Securities***", and***

(c) ***under the heading*** **"Prince Edward Island"** ***by replacing*** **"**Deputy Registrar of Securities**" *with* "**Superintendent of Securities***".***

6. ***Form 33-109F4 is amended***

(a) ***in the "General Instructions" by replacing "***regulators(s) or in Québec,***" with "***regulator(s) or, in Québec,***", and***

(b) ***in Item 22, under the heading "Individual" and under the heading "Authorized partner or officer of the firm", by replacing "***regulator, or in Québec,***" with "***regulator or, in Québec,***".***

7. ***Schedule C to Form 33-109F4 is amended under the heading "Individual categories and permitted activities" by adding "***as described in paragraph (c) of the definition of "permitted individual" in section 1.1 of National Instrument 33-109 *Registration Information*" after "***Permitted Individual***".***

8. ***Schedule O to Form 33-109F4 is amended***

(a) ***under the heading "New Brunswick" by replacing "***Director of Securities***" with "***Registration***",***

(b) ***under the heading "Nunavut" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***", and***

(c) ***under the heading "Prince Edward Island" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***".***

9. ***Schedule A to Form 33-109F5 is amended***

(a) ***under the heading "New Brunswick" by replacing "***Director of Securities***" with "***Registration***",***

(b) ***under the heading "Nunavut" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***", and***

(c) ***under the heading "Prince Edward Island" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***".***

10. ***Section 4.2 of Form 33-109F6 is amended by adding "***(other than those exemptions with respect to which the firm has already notified the securities regulator or, in Québec, the securities regulatory authority in accordance with the applicable exemption)***" after "***trade or advise in securities or derivatives***".***

11. ***Schedule A to Form 33-109F6 is amended***

(a) ***under the heading "New Brunswick" by replacing "***Director of Securities***" with "***Registration***",***

(b) ***under the heading "Nunavut" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***", and***

(c) ***under the heading "Prince Edward Island" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***".***

12. ***Schedule C to Form 33-109F6 is amended***

(a) ***in the column entitled "Component" in Line 10 of the table by adding*** "or, in Québec, for a firm registered only in that jurisdiction and solely in the category of mutual fund dealer, less the deductible under the liability insurance required under section 193 of the Québec Securities Regulation***" after "***National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations****",***

(b) ***in subparagraph (a)(i) of Schedule 1 by replacing "***Aaa or AAA by Moody's Canada Inc. or its DRO affiliate, or Standard & Poor's Rating Services (Canada) or its DRO affiliate, respectively***" with "***Aaa or AAA, or the short-term ratings equivalent of either of those ratings, by a designated rating organization or its DRO affiliate***", and***

(c) ***in paragraph (d) of Schedule 1 by replacing*** "*Investment Companies Act of 1940*" ***with*** "*Investment Company Act of 1940*"**.**

13. Form 33-109F7 is amended

(a) ***in the "General Instructions" by replacing "***regulator(s) or in Québec,***" with "***regulator(s) or, in Québec,***",***

(b) ***in section 2 of the "General Instructions" and in section 1 of Item 9 by replacing "***Item 13.3(c)***" with "***Item 13.3(a)***", and***

(c) ***in Item 12 under the heading "Individual" and under the heading "Authorized partner or officer of the new sponsoring firm", by replacing "***regulator, or in Québec***" with "***regulator or, in Québec,***".***

14. Schedule B to Form 33-109F7 is amended under the heading "Individual categories and permitted activities" by adding "as described in paragraph (c) of the definition of "permitted individual" in section 1.1 of National Instrument 33-109 *Registration Information****" after "***Permitted Individual***".***

15. Schedule F to Form 33-109F7 is amended

(a) ***under the heading "New Brunswick" by replacing "***Director of Securities***" with "***Registration***",***

(b) ***under the heading "Nunavut" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***", and***

(c) ***under the heading "Prince Edward Island" by replacing "***Deputy Registrar of Securities***" with "***Superintendent of Securities***".***

Coming into force

16. (1) This Instrument comes into force on December 4, 2017.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after December 4, 2017, this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.

ANNEX F1

FINANCIAL AND CONSUMER SERVICES COMMISSION
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réglementation • éducation • protection

CHANGES TO 33-109CP

The changes set out in this Change Document will not be made in those CSA jurisdictions where those changes have already been made.

Changes to Companion Policy 33-109CP *Registration Information*

1. Appendix B to Companion Policy 33-109CP Registration Information is changed as follows:

(a) under the heading "New Brunswick", by replacing "Registration Officer***" with "***Registration***", and***

(b) under the heading "Nunavut", by replacing "Deputy Registrar***" with "***Superintendent of Securities***".***

These changes become effective on December 4, 2017.