

Amendments Modernizing Registration Information Requirements, Clarifying Outside Activity Reporting & Updating Filing Deadlines

Christine Domasik, Manager, Registration, Investment Industry Regulatory Organization of Canada
Gloria Tsang, Senior Legal Counsel, Ontario Securities Commission
Colin Yao, Legal Counsel, Ontario Securities Commission

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Agenda

- A. Outside Activity Reporting and Positions of influence
- B. Multiple Affiliate Filings
- C. Deadlines
- D. Various Clarification Changes
- E. Implementation Timeframes
- F. Questions

Outside Activity Reporting and Positions of Influence

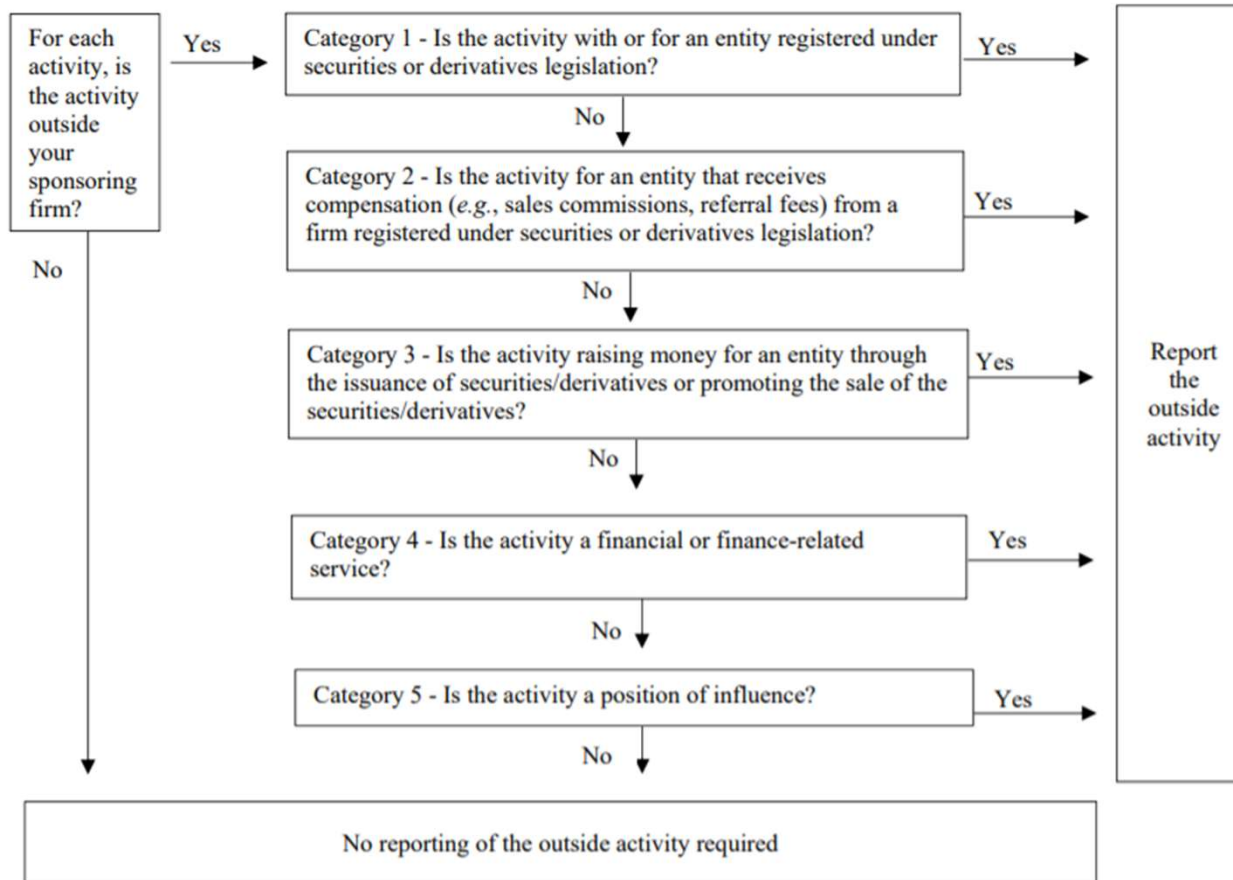
Outside Activity Reporting

- Registered firms must identify and address material conflicts of interest and risks arising from all outside activities of their registered individuals.
- Assessment is not limited to activities reportable to regulators.
- Expectations:
 - Mechanism for registered individuals to report their outside activities to the registered firm.
 - Before approving outside activity, consider existing or potential material conflicts of interest.
 - Not permit the outside activity if conflicts cannot be addressed in best interest of client or if risks cannot be managed.

References: Sections 13.4 and 13.4.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**)

Section 13.4.1 of Companion Policy to NI 31-103 under the subheading "Individuals who have activities outside of the sponsoring firm"

Outside Activity Reporting



References: Appendix C of the Companion Policy to National Instrument 33-109 *Registration Information* (NI 33-109)

Section 2.2 of the Companion Policy to NI 33-109 under the subheading "Uncompensated activities and personal holding companies"

Outside Activity Reporting

Category 1 – Activities with another registered firm

- All activities with registered firms, other than with the sponsoring firm, whether or not compensation is received.
- Examples:
 - Advising or dealing representative for another registered firm
 - Owner or director of another registered firm
 - Human resources manager at another registered firm
 - IT service provider for another registered firm

References: Item 10 of Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* (**Form 33-109F4**)

Item 7 of Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* (**Form 33-109F7**)

Section 2.2 of the Companion Policy to NI 33-109 under the subheading "Reportable activities (Form 33-109F4 – Item 10 and Schedule G; Form 33-109F7 - Item 7 and Schedule D)"

Outside Activity Reporting

Category 2 – Activities with an entity that receives compensation from a registered firm

- Any entity that receives payment or compensation from a registered firm for the activities that you conduct for that registered firm.
- Examples:
 - A personal corporation that receives your sales commissions or referral fees.
 - An entity that has entered into an agreement set out in MFDA Staff Notice MSN-0072 Payment of Commissions to Unregistered Corporations.

References: Item 10 of Form 33-109F4

Item 7 of Form 33-109F7

Section 2.2 of the Companion Policy to NI 33-109 under the subheading "Reportable activities (Form 33-109F4 – Item 10 and Schedule G; Form 33-109F7 - Item 7 and Schedule D)"

Outside Activity Reporting

Category 3 – Other securities-related activities

- Activities that involve raising money for an entity and was carried out anytime in the last 7 years, whether or not compensation is received.
- Examples:
 - Directors and officers of reporting issuers.
 - President of a mortgage investment entity that is seeking capital from investors.

References: Item 10 of Form 33-109F4
Item 7 of Form 33-109F7

Section 2.2 of the Companion Policy to NI 33-109 under the subheading "Reportable activities (Form 33-109F4 – Item 10 and Schedule G; Form 33-109F7 - Item 7 and Schedule D)"

Outside Activity Reporting

Category 4 – Provision of financial or finance-related services

- Certain financial and finance-related activities, whether or not compensation is received.
 - Includes shareholder, partner, director, or officer of such an entity.
- Examples:
 - Insurance broker or agent
 - Accountant
 - Financial planner
 - Member of an investment committee

References: Item 10 of Form 33-109F4

Item 7 of Form 33-109F7

Section 2.2 of the Companion Policy to NI 33-109 under the subheading "Reportable activities (Form 33-109F4 – Item 10 and Schedule G; Form 33-109F7 - Item 7 and Schedule D)"

Outside Activity Reporting

Category 5 – Positions of influence

- All positions of influence are reportable, whether or not compensation is received.
- A position of influence is a position that:
 - a reasonable person would consider the individual to have influence over another individual *due to the nature of the position or the training or specialized knowledge required for the position.*
 - is not with a sponsoring firm.

References: Item 10 of Form 33-109F4
Item 7 of Form 33-109F7
Subsection 13.4.3(1) of NI 31-103

Positions of Influence

- Includes the following:
 - (a) a leader in a religious or similar organization
 - (b) a medical doctor
 - (c) a nurse
 - (d) a professor, instructor or teacher at a degree or diploma granting institution
 - (e) a lawyer
 - (f) a notary

Reference: Subsection 13.4.3(2) of NI 31-103

Positions of Influence

Factors to consider:

- the degree of influence
- the degree to which a person may be confused
- the degree of susceptibility

Reference: Section 13.4.3 of the Companion Policy to NI 31-103

Positions of Influence

- Restriction on clients
- Client cannot be a person who
 - (i) has a relationship with the registered individual in the registered individual's position of influence
 - and*
 - (ii) to a reasonable person, would be considered to be susceptible to the registered individual's influence
- Client cannot also be a spouse, parent, sibling, grandparent or child of a client referred to in the above bullet.

Reference: Subsections 13.4.3(3) and (4) of NI 31-103

Positions of Influence

- Additional regulatory requirements apply where the activity of a registered individual is a position of influence.
- These requirements do not apply where the individual is solely a permitted individual (i.e., the individual is not registered).
- Expectations:
 - Identify all registered individuals who are in a position of influence.
 - Reasonable steps to prevent the registered individual to trade or advise clients who are subject to that influence.
 - Report all positions of influence to regulators.

Reference: Section 13.4.3 of the Companion Policy to NI 31-103

Updating Outside Activities

- Changes in outside activities are to be reported within 30 days of the change.
- What should you do if an outside activity previously reported no longer needs to be reported to regulators?
 - Submit a Form 33-109F5 *Change of Registration Information*
 - Update:
 - End date
 - Reason for end of outside activity

Reference: Subsection 4.1(1) of NI 33-109

Annex C of CSA Notice of Amendments to National Instrument 33-109 *Registration Information* and Changes to the Companion Policy to National Instrument 33-109 *Registration Information* and Consequential Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and Changes to the Companion Policy to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* Modernizing Registration Information Requirements, Clarifying Outside Activity Reporting and Updating Filing Deadlines (**the CSA Notice**)

Multiple Affiliate Filings

Multiple Affiliate Filings

- New rule to reduce multiple filings of the same information by corporate groups.
- Allows registered firms with the same principal regulator to delegate to one of those firms (the **authorized affiliate**) the requirement to notify the securities regulatory authority of changes in certain registration information.
- The registered firms in the corporate group that are not the authorized affiliate do not need to provide an update provided the registered firm has provided a certificate indicating that they are relying on the authorized affiliate.

Reference: Subsection 3.1(2.1) of NI 33-109

Multiple Affiliate Filings

- The certificate must be filed with the firm's principal regulator and executed by an officer or partner of the firm and confirm:
 - that the firm has delegated to the authorized affiliate the duty to notify the regulator of the change; and
 - the full legal name and NRD number of the registered firm and the authorized affiliate.
- The certificate requires the registered firm to certify that every notice of change provided by the authorized affiliate is true and complete to the best of their knowledge.

Multiple Affiliate Filings

- Registered firms can only delegate registration information changes to an authorized affiliate if the change relates to one of the following items of Form 33-109F6:
 - (i) item 3.12 [Ownership chart];
 - (ii) item 4.1 [Securities registration];
 - (iii) item 4.3 [Membership of exchange or SRO];
 - (iv) item 4.5 [Refusal of registration, licensing or membership];
 - (v) item 4.6 [Registration for other financial products];
 - (vi) part 7 [Regulatory action];
 - (vii) part 8 [Legal action];

Reference: Paragraph 3.1(2.1)(a) of NI 33-109

Multiple Affiliate Filings

- The authorized affiliate must include the full legal name and NRD number of the registered firm(s) that have delegated their update obligation to the authorized affiliate with each Form 33-109F5 update.
- Form 33-109F5 filings made by the authorized affiliate are made in the normal manner of making a firm registration information change update.
- The certificate indicating that the registered firm has delegated to an authorized affiliate is only required to be filed once, prior to the authorized affiliate making an update on behalf of the registered firm. In Ontario the certificate is filed on the OSC Portal.

Reference: Paragraph 3.1(2.1)(c) of NI 33-109

Multiple Affiliate Filings

Example:

- Firms A, B, and C are all registered firms and affiliates of each other. Ontario is the PR for all three firms. Firms A and B decide to delegate to Firm C the obligation to make updates for certain registration information.
- Firm A and B file a certificate indicating, among other things, that they have delegated to Firm C.
- As part of a larger corporate reorganization there is change in ownership at the parent level of Firms A, B, and C necessitating an update to Item 3.12 [*Ownership chart*]. Firm A also moves to a different office building across the street necessitating an update to item 2.1 [*Head office address*]

Multiple Affiliate Filings

Example (cont'd):

- Because Firm A and B have delegated to Firm C, Firm A and B do not need to provide an update to Item 3.12 [*Ownership chart*]. Firm C can update for the other two firms, provided Firm C indicates that the update also relates to Firm A and B, and includes the name and NRD number of Firm A and B. If the name and NRD number for the other registered firms is not provided in the update, it will not apply to the other registered firms and in that case, Firm A and B will need to file separately.
- Firm A will also need to file a separate Form 33-109F5 on its own behalf notifying the regulator of their address change for Item 2.1 [*Head office address*] because this item is not one of the items that firms can delegate.

Deadlines

Deadlines

- Reporting deadlines have been changed to 15 and 30 days from 10 and 30 days.
- For firms, all items must be reported within 15 days except for the following items which must be reported within 30 days of the change:
 - (i) part 3 [Business history and structure];
 - (ii) item 4.1 [Securities registration];
 - (iii) item 5.12 [Auditor]
 - (iv) item 6.1 [Client assets];
 - (v) item 6.2 [Conflicts of interest].

References: Subsection 3.1(1.1) of NI 33-109
Appendix A of the Companion Policy to NI 33-109

Deadlines

- For individuals, all items must be reported within 15 days except for the following items which must be reported within 30 days of the change:
 - (i) item 2.1 [Current and previous residential addresses];
 - (ii) item 2.2 [Mailing address];
 - (iii) item 4 [Citizenship];
 - (iv) item 10 [Reportable activities];
 - (v) item 11 [Previous employment and other activities].

Example: Neil becomes a director of a reporting issuer. Previously he had 10 days to report. Now he has 30 days.

References: Subsection 4.1(1) of NI 33-109

Appendix A of the Companion Policy to NI 33-109

Various Clarification Changes

Various Clarification Changes

Reporting of allegations of non-compliance with policies and procedures

- Individuals must report whether they have resigned or been terminated from a position or contract when at the time of their resignation or termination, there existed allegations that the individual contravened any statutes or failed to meet standards of conduct,
- Standards of conduct may be internal to the sponsoring firm, such as a sponsoring firm's policies and procedures, or may be external to the sponsoring firm, such as the standards of conduct of a professional body. Standards of conduct may include codes of conduct. Sales targets of the firm are not considered standards of conducts.

Reference: Section 2.2 of the Companion Policy to National Instrument 33-109 under the subheading "Resignation and terminations (Form 33-109F4 - Item 12 and Schedule I)"

Various clarification changes

Reporting of allegations of non-compliance with policies and procedures

- If allegations of contravention or non-compliance (including non-compliance with the firm's policies and procedures) existed at the time the individual ceased to act in registerable capacity, then regardless of whether the allegations caused or contributed to the individual ceasing to act in a registerable capacity, these allegations must be reported.

Example: Jim is investigated by Rising Capital Inc. for an alleged contravention of the firm's policies and procedures. Jim resigns prior to the investigation being completed. Jim applies for registration at a different firm one year later. The investigation by Rising Capital Inc. must be reported.

References: Item 12 of Form 33-109F4

Section 2.2 of the Companion Policy to NI 33-109 under the subheading "Resignation and terminations (Form 33-109F4 – Item 12 and Schedule I)"

Various Clarification Changes

Allegations of non-compliance and Form 33-109F7 *Reinstatement of Registration of Individuals and Permitted Individuals*

- If certain allegations existed at the time of the individual leaving a sponsoring firm, then regardless of whether the allegations caused or contributed to the individual leaving, the individual may not use the Form 33-109F7.
- In addition, at the time the individual ceased to be a registered individual or permitted individual with the former sponsoring firm, all of the information previously submitted in Form 33-109F4, must have been up-to-date.
- If the individual cannot use a Form 33-109F7, then the individual must complete a Form 33-109F4 by making the NRD submission entitled "*Reactivation of Registration*".

References: Paragraph 2.3(2)(b) of NI 33-109

Section 2.5 of the Companion Policy to NI 33-109

Various Clarification Changes

Bankruptcy and Consumer Proposals

- Item 16 of Form 33-109F4 has been amended to make it clear that "consumer proposals" are required to be disclosed.
- Item 16 of Form 33-109F4 has also been amended to indicate that bankruptcies and consumer proposals must be disclosed even if they are over 7 years old.
- Registered firms are encouraged to inform sponsored individuals when they receive the Form 33-109F4 that bankruptcies and consumer proposals that are over 7 years old must be disclosed, as this is a common areas of non-disclosure.

Reference: Item 16 of Form 33-109F4

Various Clarification Changes

Education and Experience

- We will assess whether an individual has gained relevant securities experience on a case-by-case basis.
- This may include experience acquired during employment, in related investment fields, in legal, accounting or consulting practices related to the securities industry and in other professional service fields that relate to the securities industry.
- Education is only required to be disclosed when it is required for the registration categories or SRO approval categories that are being applied for.

Reference: Section 2.2 of the Companion Policy to NI 33-109 under the subheading "Relevant securities experience (Form 33-109F2 – Item 4.3 and Schedule A; Form 33-109F4 - Item 8.4 and Schedule F)"

Various Clarification Changes

Firm Ownership Changes

- Ownership chart disclosure has been revised so that only ownership changes that result in changes (above or below) the 10%, 20%, and 50% thresholds are now reportable.
- Previously all changes were required to be disclosed.

Example: Ming is a shareholder of EMD Ltd. and increases her holding in the firm from 9% to 12%. This is reportable. Ming then increases her ownership from 12% to 23%. This is also reportable. Ming then decreases her interest from 23% to 19%. This is also reportable. Ming then increases their interest from 19% to 51%. This is also reportable. Ming then increase their interest from 51% to 95%. This is not reportable since it does not cross one of the three thresholds of 10%, 20%, and 50%.

“Cessation” in place of “Termination”

- The word “Termination” has been changed to “Cessation”.
- The importance of this change is to lay emphasis on when a Form 33-109F1 *Notice of Individual Registration or Permitted Individual Status* (Form 33-109F1) is required. The Form 33-109F1 is required when a registered individual ceases to perform registerable activities and not merely when the individual terminates their employment.
- Example: A registered individual takes on a new role at their firm that does not require registerable activities to be performed. Their employment has not been terminated. A Form 33-109F1 is required because they have ceased to engage in registerable activity.

“Cessation” in place of “Termination”

- Item 12 of Form 33-109F4 requires individuals to provide information about resignations or terminations. Individuals are required to indicate the date they ceased to carry on activities for the firm they resigned or were terminated from.
- The date provided should be the date the individual ceased to carry on activities and not the end of an individual’s employment, partnership or agency relationship. These dates may not be the same.

“Cessation” in place of “Termination”

Example

- Example: An individual tenders their resignation to a registered firm on January 17, 2022. Upon receipt of the individual’s resignation letter, the firm removes access of the individual’s credentials and asks the individual to leave the premises. The firm continues to pay the individual until January 31, 2022, in compliance with their employment contract or applicable employment laws. Although the firm continues to pay the individual for two weeks, the date the individual ceased to carry on duties/activities for the entity would be January 17, 2022. This is the date that would be entered on NRD on Form 33-109F1.

Implementation Timeframes

“There is no Response to this Question”

- Previous amendments to registration information requirements were made in 2009 and in 2015 and at that time, responses in NRD to certain questions were replaced with “there is no response to this question”.
- Individual Registrants may already have this statement in their NRD responses due to these prior changes.

Implementation Timeframes

“There is no Response to this Question”

- The amendments add two new questions to Form 33-109F4:
 - (i) The first new question requires the reporting of titles for reportable activities (item 3(e) of Schedule G for item 10).
 - (ii) The second new question requires the reporting of non-securities licence numbers (item 13.3(a) of Schedule J for item 13).

Example: In Schedule J, item 13.3 (a) is a new question which states “For each registration or license, state below ...”. On June 6, 2022, the response in NRD will be “there is no response to this question”.

Implementation Timeframes

“Updating NRD”

- All Individual Registrants or Permitted Individuals are required to update their information on NRD for any item where it states “there is no response to this question” by the earlier of:
 - (i) the date the Individual Registrant reports a change to their registration information, and
 - (ii) June 6, 2023

Business Titles and Professional Designations

New questions

- Two new questions in the amendments:
 - Individual Registrants are required to report their business title with their sponsoring firm and any title they may use with an outside activity that is reported.
 - Individual Registrants are required to report any non-securities licensing including their license numbers
- Individual Registrants to provide responses to these questions, no later than June 6, 2023

Updating NRD

Example:

A registered individual's title at their registered firm is "dealing representative". They also engage in licensed insurance sales outside of the firm and have the title "insurance broker" for that activity. After a review of their NRD information they realize that the answer for Item 15 *Civil Disclosure* of their Form 33-109F4 information states "There is no response to this question".

The registered individual makes a note to disclose the title "dealing representative" for their current employment with their firm and also to disclose the title "insurance broker" for their reportable outside activity selling insurance as well as the license number associated with this activity. They also make a note to update their Item 15 *Civil Disclosure*.

Each update would normally be required by June 6, 2023.

Updating NRD

Example

Example (continued) :

On December 1, 2022 the registered individual moves and is required to update their residential address on NRD by no later than December 31, 2022.

December 31, 2022 is the first date that the registered individual is required to report a change to their registration information after June 6, 2022 and is earlier than June 6, 2023.

As a result, December 31, 2022 becomes the deadline for this individual to update their NRD with respect to not only their address change but all answers that state "there is no response to this question", (which in the case of this individual is their titles information, license number for their insurance sale activity, and their response to Item 15 *Civil Disclosure*)

If the individual had not moved or otherwise did not need to update their NRD information after June 6, 2022, then the deadline to report would be June 6, 2023.

Updating NRD

Failure to update

- A registered individual who does not update any response that states "there is no response to this question" by the required deadline will be in breach of s. 4.3 of NI 33-109.
- The new questions (items 10 and 13.3, which are in regards to titles and licensing) that have been added as part of the amendments.
- If Registered Individuals fail to provide their updates within the required time frame, they will be ineligible to use the reinstatement process. Individuals will be required to complete the Form 33-109F4 on NRD by making a "*Reactivation of Registration*" submission.

Questions?