

Chapter 6

Request for Comments

- 6.1.1 **Notice and Request for Comment - Proposed National Policy 11-204 *Process for Registration in Multiple Jurisdictions* - Proposed Amendments to Multilateral Instrument 11-102 *Passport System*, Companion Policy 11-102CP *Passport System*, National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*, and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* and Other Related Amendments**

NOTICE AND REQUEST FOR COMMENT

PROPOSED NATIONAL POLICY 11-204 *PROCESS FOR REGISTRATION IN MULTIPLE JURISDICTIONS*

PROPOSED AMENDMENTS TO MULTILATERAL INSTRUMENT 11-102 *PASSPORT SYSTEM*, COMPANION POLICY 11-102CP *PASSPORT SYSTEM*, NATIONAL POLICY 11-202 *PROCESS FOR PROSPECTUS REVIEWS IN MULTIPLE JURISDICTIONS*, AND NATIONAL POLICY 11-203 *PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS IN MULTIPLE JURISDICTIONS*

AND

OTHER RELATED AMENDMENTS

July 18, 2008

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

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

Passport system — overview

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implemented Multilateral Instrument 11-102 *Passport System* (MI 11-102) as phase II of passport for issuers and repealed the provisions of MI 11-101 related to issuers.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

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

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

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

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

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

Passport system – rule and policy changes for registration

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

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

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

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

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

- National Instrument 31-101 *National Registration System* (NI 31-101),
- Form 31-101F1 *Election to use NRS and Determination of Principal Regulator* (Form 31-101F1),
- Form 31-101F2 *Notice of Change* (Form 31-101F2), and
- National Policy 31-201 *National Registration System* (NP 31-201)
(collectively, the proposed repeals).

Purpose and scope of passport for registration

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

Local amendments

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

Amendments to passport for issuers

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

Publication and request for comments

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

- amendments to MI 11-102 (Schedule A)
- amendments to Appendix D of MI 11-102 (in the form of a blackline) (Schedule B)

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

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

Background

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

On March 28, 2007, the passport regulators published a proposed passport system for registration. We received 17 submissions on that publication which also included the passport for issuers. The passport regulators responded to all comments received, except those specifically related to registration, in a notice published on January 25, 2008. We attach a summary of the registration comments, including our response, as Schedule G.

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

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

Summary of proposals

Passport for registration

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

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

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

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

(i) Automatic registration and other regulatory action

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

For a firm, automatic registration also depends on receipt of the submission having been acknowledged. A regulator will acknowledge receipt by updating NRD to show that the firm is registered in the non-principal jurisdiction. This condition would

make the firm's registration effective on the date shown on NRD so that the NRD information would be conclusive. CSA is currently looking at ways to remove the acknowledgement as a condition of registration so that automatic registration in a non-principal passport jurisdiction can occur upon making the required submission, while still preserving the accuracy of NRD as the database of record for firm registration. We did not include the acknowledgement as a condition for automatic registration of individuals because NRD keeps track of every submission date for individuals.

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

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

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

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

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

Section 6.9 of MI 11-102 delays the automatic application of the terms and conditions of the principal regulator in a non-principal passport jurisdiction until 30 days after the effective date of Part 6 of MI 11-102. This is to give a firm or individual time to apply to the regulator in the non-principal jurisdiction for an exemption from section 6.5 of MI 11-102. This means that, if a firm or individual does not apply for the exemption, the firm or individual will generally be subject to a single set of terms and conditions, i.e., those of the principal regulator.

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

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

(iv) Applicable requirements

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

Passport for discretionary exemption applications

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

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

NP 11-204

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

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

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

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

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

Description of other amendments

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

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

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

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

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

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

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

- conforming the definition of 'principal regulator' in NI 31-103 to the concept of 'principal regulator' in proposed Part 6 of MI 11-102,
- eliminating the notice of principal regulator requirement under the mobility exemption in NI 31-103,
- adopting a requirement to give notice before relying on the mobility exemption under NI 31-103 like under MI 11-101,

- giving permission in the companion policy to a firm to submit the notices and filings required under the 'fit and proper' notice and filing requirements of Part 4 of proposed NI 31-103 to the firm's principal regulator only, and
- reflecting the repeal of NRS.

Anticipated Costs and Benefits

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

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

Request for Comment

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

How to Provide Your Comments

Please provide your comments on

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

Please address your submissions to the regulators listed below:

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

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

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

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

Questions

Please refer your questions to any of:

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Request for Comments

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July 18, 2008

NATIONAL POLICY 11-204
PROCESS FOR REGISTRATION IN MULTIPLE JURISDICTIONS

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**NATIONAL POLICY 11-204
PROCESS FOR REGISTRATION IN MULTIPLE JURISDICTIONS**

PART 1 APPLICATION

1.1 Application

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

PART 2 DEFINITIONS

2.1 Definitions

In this policy,

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

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

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

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

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

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

“OSC” means the regulator in Ontario;

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

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

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

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

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

“SRO” means self-regulatory organization.

2.2 Further definitions

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

2.3 Interpretation

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

PART 3 OVERVIEW AND PRINCIPAL REGULATOR

3.1 Overview

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

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

- (ii) The firm or individual is seeking registration or is registered in the firm's or individual's principal jurisdiction, the principal regulator is a passport regulator, and the firm or individual seeks registration in Ontario. This is an "interface registration."

3.2 Passport registration

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

3.3 Interface registration

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

3.4 Registration in passport jurisdictions and Ontario

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

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

3.5 Registration by SRO

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

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

3.6 Principal regulator

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

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

(2) Subject to subsection (5) of this section and section 3.7 of this policy, the principal regulator of a firm is the regulator in the jurisdiction where the firm has its head office, unless the firm's head office is outside Canada. A domestic firm identifies its

head office in item A *Contact Information* of Form 33-109F6. This information is on NRD for a domestic firm registered on [insert effective date of Part 6 of MI 11-102].

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

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

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

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

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

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

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

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

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

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

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

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

3.7 Discretionary change of principal regulator

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

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

PART 4 GENERAL GUIDANCE FOR FIRMS AND INDIVIDUALS

4.1 Effect of submission

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

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

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

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

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

4.2 Fees

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

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

4.3 Firm submissions

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

PART 5 PASSPORT REGISTRATION

5.1 Application

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

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

5.2 Filing of materials

For a firm

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

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

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

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

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

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

For an individual

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

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

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

Fees in non-principal jurisdiction

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

5.3 Registration

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

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

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

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

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

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

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

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

(4) The principal regulator may grant or have granted a discretionary exemption application from a requirement of Part 4 of NI 31-103 or Part 2 of NI 33-109 in connection with an application to register in the principal jurisdiction. In that case, the exemption applies automatically in the non-principal passport jurisdiction in which the firm or individual is registered automatically under MI 11-102 if certain conditions are met. The conditions are set out section 4.7 of MI 11-102. Among other things, section 4.7(1)(c) of MI 11-102 requires the applicant to give notice of intention to rely on the exemption in the non-principal jurisdiction.

PART 6 INTERFACE REGISTRATION

6.1 Application

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

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

6.2 Filing materials

For a firm

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

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

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

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

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

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

- F. *Financial Information* (item 3 insurance)
- G. *Operations* (attachment for policies and procedures manual and client-related documents)
- K. *Collection or personal information*
- M. *Signatures*

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

For an individual

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

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

6.3 Decision-making process

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

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

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

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

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

6.4 Decision

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

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

6.5 Opportunity to be heard

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

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

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

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

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

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

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

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

**AMENDMENTS TO
NATIONAL POLICY 11-202 PROCESS FOR PROSPECTUS REVIEWS IN MULTIPLE JURISDICTIONS**

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

NATIONAL POLICY 11-203
PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS IN MULTIPLE JURISDICTIONS

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- 9.1 Effective date
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Annex A

- Form of decision for passport application

Annex B

Form of decision for a dual application

Annex C

Form of decision for coordinated review application

Annex D

Form of decision for hybrid application

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

PART 1 APPLICATION

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

PART 2 DEFINITIONS

2.1 Definitions – In this policy

“AMF” means the regulator in Québec;

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

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

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

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

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

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

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

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

“filer” means

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

“hybrid application” means an application comprised of both

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

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

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

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

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

“OSC” means the regulator in Ontario;

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

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

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

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

“regulator” means a securities regulatory authority or regulator.

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

PART 3 OVERVIEW, PRINCIPAL REGULATOR AND GENERAL GUIDELINES

3.1 Overview

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

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

3.2 Passport application

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

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

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

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

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

3.6 Principal regulator

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

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

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

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

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

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

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

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

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

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

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

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

- (a) in which the person or company is seeking all of the exemptive relief, and
- (b) with which

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

That regulator will be the principal regulator for the application.

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

- (a) location of reporting issuer status or registration status,
- (b) location of management,
- (c) location of assets and operations,
- (d) location of majority of security holders or clients, and
- (e) location of trading market or quotation system in Canada.

3.7 Discretionary change in principal regulator

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

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

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

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

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

3.8 General guidelines

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

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

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

(4) The regulators are not prepared to extend the availability of a non-harmonized exemption set out in National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) to a non-principal jurisdiction where the non-harmonized

exemption is not available under that rule. If a filer makes a passport application or a dual application that would have that effect, the principal regulator will request that the filer provide a representation that no person or company will rely on the exemption in that non-principal jurisdiction. For example, jurisdictions have adopted two types of offering memorandum exemptions under NI 45-106. A principal regulator would not grant an exemption that would have the effect of allowing the use of a type of offering memorandum exemption that is not available under NI 45-106 in a non-principal jurisdiction, unless the filer gave a representation that no person or company would offer the securities relying on that type of offering memorandum exemption in the non-principal jurisdiction.

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

PART 4 PRE-FILINGS

4.1 General

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

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

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

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

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

4.3 Procedure for dual application pre-filing

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

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

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

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

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

4.4 Procedure for coordinated review application pre-filing

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

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

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

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

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

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

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

PART 5 FILING MATERIALS

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

5.2 Materials to be filed with application

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

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

- (i) a representation stating that the filer and other relevant party are not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, the nature of the default; and
- (ii) resale restrictions, if applicable, based on the securities legislation and securities directions of the principal jurisdiction.

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

- (a) a written application drafted in accordance with the procedures of the principal regulator as to format and content in which the filer:
 - (i) states the basis for identifying the principal regulator under section 3.6 of this policy,
 - (ii) identifies whether another application in connection with the same transaction or matter has been filed in one or more jurisdictions, the reasons for the application, and the principal regulator for that application,
 - (iii) sets out, for any related pre-filing, the information referred to in section 4.5 of this policy,
 - (iv) sets out, under separate headings, each provision of securities legislation listed in Appendix D of MI 11-102 below the name of the principal jurisdiction from which the filer and other relevant party seek an exemption, the relevant provisions of securities legislation in Ontario and an analysis of any differences between the applicable provisions in the principal jurisdiction and Ontario,
 - (v) gives notice of the non-principal passport jurisdictions for which section 4.7(1) of MI 11-102 is intended to be relied upon for each equivalent provision of the local jurisdiction,
 - (vi) sets out any request for confidentiality,
 - (vii) sets out any request to shorten the review period (see section 6.2(3) of this policy) or the opt-out period (see section 7.2(4) of this policy) and provides supporting reasons,
 - (viii) sets out references to previous decisions of the principal regulator or other regulators that would support granting the exemption, or indicates that the exemption sought is novel and has not been previously granted;
 - (ix) includes a verification statement that authorizes the filing of the application and confirms the truth of the facts in the application; and
 - (x) states that the filer and any relevant party are not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, the nature of the default;
- (b) supporting materials; and
- (c) a draft form of decision with terms, conditions, restrictions or requirements, including
 - (i) a representation stating that the filer and other relevant party are not in default of securities legislation in any jurisdiction or if the filer or relevant party is in default, the nature of the default; and
 - (ii) resale restrictions, if applicable, based on the securities legislation and securities directions of the principal jurisdiction.

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

- (a) a written application drafted in accordance with the procedures of the principal regulator as to format and content in which the filer:
 - (i) states the basis for identifying the principal regulator section 3.6 of this policy,

- (ii) identifies whether another application in connection with the same transaction or matter has been filed in one or more jurisdictions, the reasons for the application, and the principal regulator for that application,
 - (iii) sets out, for any related pre-filing, the information referred to in section 4.5 of this policy,
 - (iv) sets out, under separate headings, each provision of securities legislation in the principal jurisdiction from which the filer and other relevant party are seeking exemptive relief, the relevant provisions of securities legislation in each non-principal jurisdiction, and an analysis of any differences between the applicable provisions in the principal jurisdiction and each non-principal jurisdiction,
 - (v) sets out any request for confidentiality,
 - (vi) sets out any request to shorten the review period (see section 6.2(3) of this policy) or the opt-out period (see section 7.2(4) of this policy) and provides supporting reasons,
 - (vii) sets out references to previous decisions of the principal regulator or other regulators that would support granting the exemptive relief, or indicates that the exemptive relief sought is novel and has not been previously granted;
 - (viii) includes a verification statement that authorizes the filing of the application and confirms the truth of the facts in the application; and
 - (ix) states that the filer and any other relevant party are not in default of securities legislation in any jurisdiction or if the filer or other relevant party is in default, the nature of the default;
- (b) supporting materials; and
 - (c) a draft form of decision with terms, conditions, restrictions or requirements, including
 - (i) a representation stating that the filer and any other relevant party are not in default of securities legislation in any jurisdiction or if the filer or other relevant party is in default, the nature of the default; and
 - (ii) resale restrictions, if applicable, based on the securities legislation and securities directions of the principal jurisdiction.

(4) For a hybrid application, the filer should pay the fees, file the application with each regulator and, for each type of application, set out the exemption or exemptive relief sought and submit the relevant information and materials, all as described in this section.

(5) A filer should file an application sufficiently in advance of any deadline to ensure that staff have a reasonable opportunity to complete the review and make recommendations for a decision.

(6) A filer making a passport application or a dual application should identify in the application all the exemptions required and give the required notice for all the passport jurisdictions for which section 4.7(1) of MI 11-102 is intended to be relied upon. The notice given under subsection (1)(a)(v) or (2)(a)(v) above satisfies the notice requirement of section 4.7(1)(c) of MI 11-102.

(7) A filer seeking exemptive relief in Québec should file a French language version of the draft decision when the AMF is acting as principal regulator.

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

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

(2) Under section 4.8(1) of MI 11-102, an exemption from a provision of securities legislation that is now listed in Appendix D of that Instrument and that was granted before March 17, 2008 by the regulator in a specified jurisdiction, as defined in that section, can also become available in a non-principal passport jurisdiction if certain conditions are met. One of the conditions is

that the filer gives the notice under section 4.8(1)(c) of MI 11-102 for the non-principal passport jurisdiction. Under section 4.8(3), the filer is not required to give this notice if the exemption relates to a CD requirement, as defined in Multilateral Instrument 11-101 *Principal Regulator System*, that is now listed in Appendix D of MI 11-102 and other conditions are met. For more guidance on section 4.8(1) of MI 11-102, refer to section 9.3 of this policy and section 4.5 of CP 11-102.

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

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

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

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

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

5.4 Request for confidentiality

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

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

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

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

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

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

- (a) the principal regulator, in the case of a passport application,

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

The filer should also provide an electronic copy of the application materials, including the draft decision document, by e-mail or on CD ROM. Filing the application concurrently in all required jurisdictions will make it easier for the principal regulator and non-principal regulators, if applicable, to process the application expeditiously. In British Columbia, an electronic filing system is available for filing and tracking exemptive relief applications. Filers should file an application in British Columbia using that system instead of e-mail. Filers should file applications related to National Instrument 81-102 *Mutual Funds* on SEDAR.

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

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

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

5.7 Acknowledgment of receipt of filing

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

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

5.8 Withdrawal or abandonment of application

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

(2) If at any time during the review process, the principal regulator determines that a filer has abandoned an application, the principal regulator will notify the filer that it will mark the application as "abandoned". In that case, the principal regulator will close the file without further notice to the filer unless the filer provides acceptable reasons not to close the file in writing within 10 business days. If the filer does not, the principal regulator will notify the filer and any non-principal regulator with whom the filer filed the application that the principal regulator has closed the file.

PART 6 REVIEW OF MATERIALS

6.1 Review of passport application

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

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

6.2 Review and processing of dual application or coordinated review application

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

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

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

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

- (a) where exemptive relief is sought for a contested take-over bid and delay would prejudice the filer's position, and
- (b) other situations in which the filer is responding to a critical event beyond its control and could not have applied for the exemptive relief earlier.

(5) Unless the filer provides compelling reasons as to why it did not start the application process sooner, the principal regulator will not consider the following circumstances as exceptional:

- (a) the mailing of a management information circular for a scheduled meeting of security holders to consider a transaction,
- (b) the filing of a prospectus where the receipt for the prospectus cannot evidence the exemptive relief,
- (c) the closing of a transaction,
- (d) the filing of a continuous disclosure document shortly before the date on which its filing is required, or
- (e) other situations in which the deadline was known before filing the application and the filer could have filed the application earlier.

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

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

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

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

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

PART 7 DECISION-MAKING PROCESS

7.1 Passport application

- (1) After completing the review process and after considering the recommendation of its staff, the principal regulator will determine whether to grant or deny the exemption a filer sought in a passport application.
- (2) If the principal regulator is not prepared to grant the exemption a filer sought in its passport application based on the information before it, it will notify the filer accordingly.
- (3) If a filer receives a notice under subsection (2) and this process is available in the principal jurisdiction, the filer may request the opportunity to appear before, and make submissions to, the principal regulator.

7.2 Dual application or coordinated review application

- (1) After completing the review process and after considering the recommendation of its staff, the principal regulator will determine whether to grant or deny the exemption a filer sought in a dual application or the exemptive relief the filer sought in a coordinated review application and immediately circulate its decision to the non-principal regulators with whom the filer filed the application.
- (2) Each non-principal regulator with whom the filer filed the dual application or coordinated review application will have five business days from receipt of the principal regulator's decision to confirm whether it has made the same decision and is opting in or is opting out of the dual review or coordinated review.
- (3) If the non-principal regulator is silent, the principal regulator will consider that the non-principal regulator has opted out.
- (4) If the filer shows that it is necessary and reasonable in the circumstances, the principal regulator may request, but cannot require, the non-principal regulators to abridge the opt-out period. In some circumstances, abridging the opt-out period may not be feasible. For example, in many jurisdictions, only a panel of the regulator that convenes according to a schedule can make some types of decisions.
- (5) The principal regulator will not send the filer a decision for a dual application or coordinated review application before the earlier of
 - (a) the expiry of the opt-out period, or
 - (b) receipt from a non-principal regulator with whom the filer filed the application of the confirmation referred to in subsection (2).
- (6) If the principal regulator is not prepared to grant the exemption a filer sought in its dual application or the exemptive relief the filer sought in its coordinated review application based on the information before it, it will notify the filer and all non-principal regulators with whom the filer filed the application.
- (7) If a filer receives a notice under subsection (6) and this process is available in the principal jurisdiction, the filer may request the opportunity to appear before, and make submissions to, the principal regulator. The principal regulator may hold a hearing on its own, or jointly or concurrently with the non-principal regulators with whom the filer filed the application. After the hearing, the principal regulator will send a copy of the decision to the filer and all non-principal regulators with whom the filer filed the application.
- (8) A non-principal regulator electing to opt out will notify the filer, the principal regulator and any other non-principal regulator with whom the filer filed the application and give its reasons for opting out. The filer may deal directly with the non-principal regulator to resolve outstanding issues and obtain a decision without having to file a new application or pay any additional related fees. If the filer and non-principal regulator resolve all outstanding issues, the non-principal regulator may opt back into the dual review or coordinated review by notifying the principal regulator and the other non-principal regulators with whom the filer filed the application within the opt-out period referred to in subsection (2).

PART 8 DECISION

8.1 Effect of decision made under passport application

- (1) The decision of the principal regulator under a passport application to grant an exemption from a provision of securities legislation listed below the name of the principal jurisdiction in Appendix D of MI 11-102 is the decision of the principal regulator.

Under MI 11-102, a filer is automatically exempt from the equivalent provision of each notified passport jurisdiction as a result of the principal regulator for the application granting the exemption.

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

8.2 Effect of decision made under dual application

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

- (2) The principal regulator will not issue the decision until the earlier of
- (a) the date that the OSC confirms that it has made the same decision as the principal regulator, or
 - (b) the date the opt-out period referred to in section 7.2(2) of this policy has expired.

8.3 Effect of decision made under coordinated review application

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

- (2) The principal regulator will not issue the decision until the earlier of
- (a) the date that the principal regulator has received confirmation from each non-principal regulator that it has made the same decision as the principal regulator, or
 - (b) the date the opt-out period referred to in section 7.2(2) of this policy has expired.

8.4 Listing non-principal jurisdictions

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

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

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

8.5 Form of decision

- (1) Except as described in subsection (2), the decision will be in the form set out in:
- (a) Annex A, for a passport application,
 - (b) Annex B, for a dual application,
 - (c) Annex C, for a coordinated review application, or
 - (d) Annex D, for a hybrid application.
- (2) A principal regulator may issue a less formal decision where it is appropriate.

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

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

PART 9 EFFECTIVE DATE AND TRANSITION

9.1 Effective date

This policy comes into effect on March 17, 2008.

9.2 Exemptive relief applications filed before March 17, 2008

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

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

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

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

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

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

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

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

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

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

Annex A

Form of decision for passport application

[Citation:[neutral citation]]

[Date of decision]]

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

and

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

and

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

Decision

Background

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

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

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

Interpretation

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

Representations

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

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

Decision

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

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

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

Request for Comments

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

_____ (Name of signatory for the principal regulator)

_____ (Title)

_____ (Name of principal regulator)
(justify signature block)

Annex B

Form of decision for a dual application

[Citation:[neutral citation]]

[Date of decision]]

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

and

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

and

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

Decision

Background

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

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

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

Interpretation

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

Representations

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

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

Decision

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

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

Request for Comments

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

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

_____ (Name of signatory for the principal regulator)

_____ (Title)

_____ (Name of principal regulator)

(justify signature block)

Annex C

Form of decision for coordinated review application

[Citation:[neutral citation]]

[Date of decision]]

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

and

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

and

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

Decision

Background

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

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

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

Interpretation

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

Representations

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

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

Decision

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

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

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

Request for Comments

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

_____ (Name of signatory for the principal regulator)

_____ (Title)
_____ (Name of principal regulator)

(justify signature block)

Annex D

Form of decision for hybrid application

[Citation:[neutral citation]]

[Date of decision]]

In the Matter of
the Securities Legislation of

**[name of principal jurisdiction (for a passport application),
or of principal jurisdiction and Ontario (for a dual application),
and name of each jurisdiction participating in coordinated review application decision]**

and

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

and

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

Decision

Background

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

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

OR

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

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

AND

[For your coordinated review application, insert:]

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

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

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

Interpretation

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

Representations

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

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

Decision

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

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

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

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

OR

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

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

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

AND

[For your coordinated application, insert:]

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

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

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

_____ (Name of signatory for the principal regulator)

_____ (Title)

_____ (Name of principal regulator)

(justify signature block)