

Chapter 6

Request for Comments

6.1.1 Request for Comment - Notice of Proposed Amendments to NI 31-101 National Registration System and NP 31-201 National Registration System

REQUEST FOR COMMENT

NOTICE OF PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 31-101 – *NATIONAL REGISTRATION SYSTEM* AND TO NATIONAL POLICY 31-201 – *NATIONAL REGISTRATION SYSTEM*

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing for comment proposed amendments to National Instrument 31-101 – *National Registration System (NI 31-101)* and to National Policy 31-201 – *National Registration System (NP 31-201)*.

NI 31-101 and NP 31-201 are currently in force in all Canadian jurisdictions. The National Registration System (**NRS**) may be used by investment dealers, advisers, mutual fund dealers and their sponsored individuals in connection with their application for initial registration, amendments to registration or reinstatement of registration or for approval or review of certain sponsored individuals.

The purpose of the NRS is to improve the registration system through a mutual reliance process. Principles of mutual reliance are applied to the analysis of registration applications or applications for approval or review of investment dealers, advisers and mutual fund dealers and their sponsored individuals in order to reduce unnecessary duplication in the analysis of applications made in multiple jurisdictions or in subsequent jurisdictions.

Substance and Purpose of Proposed Amendments

Section 3.2(4) of NP 31-201 lists factors a firm filer should consider when selecting its principal regulator. In the CSA Staff Notice 31-308 issued on April 22, 2005 (the **Notice**), we indicated that the appropriate principal regulator will normally be the jurisdiction in which the firm's head office is located. If the firm selects a different jurisdiction as its principal regulator, the regulators will seek further information from the firm to substantiate the firm's decision.

Unless there are compelling reasons for the firm's principal regulator to be in a different jurisdiction, the regulators will exercise their discretion as described in section 3.3 of NP 31-201 to designate the jurisdiction in which the firm's head office is located as the firm's principal regulator.

The substance and purpose of the proposed amendments to NI 31-101 and NP 31-201 are to require that a firm filer select as its principal regulator the local securities regulatory authority or regulator in the jurisdiction where the filer's head office is located. In exceptional circumstances, factors other than the firm's head office may be considered when the firm filer applies for a change of principal regulator, as provided in the proposed amendment to section 3.3 of NP 31-201.

The proposed amendments are consistent with the selection of an issuer's principal regulator under:

- National Policy 43-201 – *Mutual Reliance Review System for Prospectuses and Annual Information Forms*, and
- Multilateral Instrument 11-101 – *Principal Regulator System*.

Summary of Proposed Amendments

The proposed amendments revise NI 31-101 and NP 31-201 to require that a firm filer select as its principal regulator the local securities regulatory authority or regulator in the jurisdiction where the filer's head office is located.

Authority for Proposed Amendments

In Ontario, paragraph 143(1)1 of the *Securities Act* (Ontario) (the **Ontario Act**) authorizes the Ontario Securities Commission (the **Ontario Commission**) to make rules prescribing requirements in respect of applications for registration and the renewal, amendment, expiration or surrender of registration. Paragraph 143(1)2 of the Ontario Act authorizes the Ontario Commission to make rules prescribing conditions of registration or other requirements for registrants or any category or subcategory of registrant.

Unpublished Materials

In proposing the amendments to NI 31-101 and NP 31-201, the Ontario Commission has not relied on any significant unpublished study, report or other written materials.

Alternatives Considered

The Ontario Commission did not consider any alternatives to the proposed amendments to NI 31-101 and NP 31-201.

Anticipated Costs and Benefits

It is anticipated that the proposed amendments to NI 31-101 and NP 31-201 will reduce the time and costs of a firm filer associated with determining its principal regulator.

Comments

Interested parties are invited to make written submissions with respect to these proposed amendments. Submissions received by March 1, 2006 will be considered. If you are not sending your submissions by e-mail, please include a diskette or CD containing your submission (in Windows format, Word).

Submissions should be addressed to all of the CSA members listed below:

Autorité des marchés financiers
Ontario Securities Commission
Alberta Securities Commission
British Columbia Securities Commission
Saskatchewan Financial Services Commission

It is not necessary to send your comments separately to all CSA members. Please send them to the following people. CSA staff will ensure they are sent to the other CSA members.

c/o John Stevenson
Secretary to the Commission
Ontario Securities Commission
20 Queen Street West, Suite 1903, Box 55 Toronto, ON M5H 3S8
Fax: (416) 593-2318
e-mail: jstevenson@osc.gov.on.ca

c/o Me Anne-Marie Beaudoin
Directrice du Secrétariat
Autorité des marchés financiers
Tour de la Bourse
800, Square Victoria
C.P. 246
Montréal (Québec) H4Z 1G3
Fax : (514) 864-8381
e-mail consultation-en-cours@lautorite.qc.ca

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

Questions

Please refer your questions to any of:

Jim Wahl
Manager, Registration & Compliance
Alberta Securities Commission
4th Floor, 300 - 5th Avenue S.W.
Calgary, AB T2P 3C4
Direct: (403) 297-4281
Fax: (403) 297-4113
E-mail: jim.wahl@seccom.ab.ca

Sandy Jakab
Manager-Policy
Capital Markets Regulation
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 - West Georgia Street
Vancouver, BC V7Y 1L2
Direct: (604) 899-6869
Fax: (604) 899-6814
E-mail: sjakab@bcsc.bc.ca

Douglas R. Brown
General Counsel &
Director - Legal, Enforcement & Registration
The Manitoba Securities Commission
1130 - 405 Broadway
Winnipeg, MB R3C 3L6
Direct: (204) 945-0605
Fax: (204) 945-0330
E-mail: doubrown@gov.mb.ca

Andrew Nicholson
Director Market Regulation
New Brunswick Securities Commission
606 - 133 Prince William Street
Saint John, NB E2L 2B5
Direct: (506) 658-3021
Fax: (506) 658-3059
E-mail: andrew.nicholson@nbsc-cvmb.ca

Douglas J. Connolly
Director of Financial Services Regulation
Financial Services Regulation Division
Department of Government Services
Government of Newfoundland and Labrador
2nd Floor, West Block
Confederation Building
P.O. Box 8700
St. John's, NL A1B 4J6
Direct: (709) 729-2954
Fax: (709) 729-6187
E-mail: dconnolly@gov.nl.ca

Request for Comments

Brian W. Murphy
Deputy Director, Capital Markets
Nova Scotia Securities Commission
Joseph Howe Building
2nd Floor, P.O. Box 458
Halifax, Nova Scotia B3J 2P8
Direct: (902) 424-4592
Fax: (902) 424-4625
E-mail: murphybw@gov.ns.ca

David M. Gilkes, BA, MA, CFE
Manager, Registrant Regulation
Capital Markets Branch
Ontario Securities Commission
18th Floor, 20 Queen Street West
Toronto, ON M5H 3S8
Direct: (416) 593-8104
Fax: (416) 593-8240
E-mail: dgilkes@osc.gov.on.ca

Mark Gallant
Registrar of Securities
PEI Securities Division
Office of the Attorney General
P.O. Box 2000
95 Rochford Street
4th Floor, Shaw Building
Charlottetown, PE C1A 7N8
Direct: (902) 368-4552
Fax: (902) 368-5283
E-mail: mlgallant@gov.pe.ca

Maryse Pineault
Directrice des pratiques de distribution
Autorité des marchés financiers
800 square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montréal, QC H4Z 1G3
Direct: (514) 940-2199 ext. 4781
Fax: (514) 864-7854
E-mail: maryse.pineault@lautorite.qc.ca

Dean Murrison
Deputy Director, Legal/Registration
Securities Division
Saskatchewan Financial Services Commission
6th Floor, 1919 Saskatchewan Drive
REGINA SK S4P 3V7
Tel: 306 787-5879
Fax: 306 787-5899
E-mail: dmurrison@sfsc.gov.sk.ca

Gary Crowe
Registrar of Securities
Legal Registries Division, Department of Justice
Government of Nunavut
P.O. Box 1000, STN 570
1st Floor, Brown Building
Iqaluit, NU X0A 0H0
Direct: (867) 975-6586
Fax: (867) 975-6594
E-mail: gcrowe@gov.nu.ca

Request for Comments

M. Richard Roberts
Manager, Corporate Affairs
Registrar of Securities
Corporate Affairs / Community Services
Government of Yukon
P.O. Box 2703
2134 Second Avenue
Whitehorse, YT Y1A 5H6
Direct: (867) 667-5225
Fax: (867) 393-6251
E-mail: richard.roberts@gov.yk.ca

The text of the proposed amendments follow or can be found elsewhere on a CSA member website.

November 25, 2005

**AMENDMENTS TO NATIONAL INSTRUMENT 31-101
NATIONAL REGISTRATION SYSTEM**

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 31-101

- 1.1 National Instrument 31-101 *National Registration System* is amended by this Instrument.
- 1.2 Paragraph (a) of the definition of “principal regulator” is repealed and the following is substituted:
- “for a firm filer, the securities regulatory authority or regulator of the jurisdiction in which the firm filer’s head office is located;”
- 1.3 Section 2.3 is repealed and the following is substituted: “If a firm filer changes its head office to another jurisdiction, the firm filer must immediately notify its principal regulator of such change by submitting a completed Form 31-101F2.”
- 1.4 Item 3 of Form 31-101F1 is repealed and the following is substituted:
- “3. Reasons for Designation of Principal Regulator
- State here the location of firm filer’s head office.”
- 1.5 Form 31-101F2 is amended
- (a) Item 1 of the General Instructions is repealed and replaced by the following:
1. The Form must be submitted by a firm filer to notify its principal regulator if a firm filer changes its head office to another jurisdiction.”
- (b) Item 2 by striking out “the factors considered by the firm filer to determine the jurisdiction with which the firm filer has the most significant connection” and substituting “the head office”.

PART 2 EFFECTIVE DATE

- 2.1 This Instrument is effective June 1, 2006.

**AMENDMENTS TO NATIONAL POLICY 31-201
NATIONAL REGISTRATION SYSTEM**

PART 1 AMENDMENTS

1.1 National Policy 31-201 is amended by deleting sections 3.2, 3.3 and 3.4 and substituting the following:

3.2. Designation of Principal Regulator

- (1) The firm filer must select as its principal regulator the securities regulatory authority or regulator of the jurisdiction in which the firm filer's head office is located.
- (2) The principal regulator for an individual filer is the securities regulatory authority or the regulator of the jurisdiction in which the individual filer's working office is located.

3.3. Change of principal regulator applied for by filer

- (1) A filer may apply for a change of principal regulator if it believes that its principal regulator is not the appropriate principal regulator. However, a change of a firm filer's principal regulator based on factors other than the head office criterion set out in section 3.2 (1) will generally not be permitted unless exceptional circumstances justify the change. The factors that may be considered in assessing an application for a change of a filer's principal regulator are:
 - (a) location of management,
 - (b) operational headquarters,
 - (c) business office,
 - (d) workforce, and
 - (e) clientele.
- (2) If a filer applies for a change of its principal regulator, the application should be submitted in paper form to the principal regulator and the requested regulator at least thirty days in advance of any filing of materials under NRS to permit adequate time for staff of the relevant securities regulatory authorities to consider and resolve the application. If the application is not resolved before the date of any filing of materials, the principal regulator will continue to act as principal regulator for that filing, and the change requested, if granted, will relate to materials filed after the issuance of the final MRRS decision document.

3.4. Change of Principal Regulator - by the Regulators

- (1) The securities regulatory authorities and regulators may change the principal regulator designated by the filer where the securities regulatory authorities and regulators determine that changing the principal regulator of a filer would result in greater administrative and regulatory efficiencies in connection with the filer's registration or approval.
- (2) If the securities regulatory authorities and regulators propose to change a filer's principal regulator, the principal regulator will notify the filer in writing of the proposed change and will identify the reasons for the proposed change.

3.5. Effect of Change of Principal Regulator

Unless otherwise consented to by the principal regulator and the redesignated principal regulator, a change of principal regulator pursuant to sections 3.3 and 3.4 will take effect immediately. Requirements applicable to the filer will change accordingly, subject to the temporary exemption contained in section 3.2 of NI 31-101 for the benefit of registered filers.

PART 2 EFFECTIVE DATE

2.1. These amendments come into force on June 1, 2006.