

CSA Notice of Amendments to

**National Instrument 33-109 *Registration Information* and Changes
to the Companion Policy to National Instrument 33-109
*Registration Information***

and

**Consequential Amendments to National Instrument 31-103
*Registration Requirements, Exemptions and Ongoing Registrant
Obligations* and Changes to the Companion Policy to National
Instrument 31-103 *Registration Requirements, Exemptions and
Ongoing Registrant Obligations***

**Modernizing Registration Information Requirements, Clarifying
Outside Activity Reporting and Updating Filing Deadlines**

December 16, 2021

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) requires accurate, complete and timely registration information to assess whether an individual or firm is or remains suitable for registration, with regards to their proficiency, integrity and solvency. Investor harm may arise if individuals and entities are inappropriately registered and carry on a securities business. In this regard, registration protects investors from unfair, improper or fraudulent practices and fosters fair and efficient capital markets and confidence in capital markets.

We are adopting targeted amendments to registration information requirements to provide greater clarity on the information to be submitted, to help individuals and firms provide complete and accurate registration information, and to reduce the regulatory burden of doing so, while allowing the CSA to receive the information necessary to carry out its regulatory roles. In this notice, we refer to firms who are registered or applying for registration, and individuals who are registered, are permitted individuals, or are applying for registration or to be permitted individuals, collectively as **Registrants**.

Specifically, we are adopting:

- amendments to National Instrument 33-109 *Registration Information* (**NI 33-109**), including its related forms (the **Registration Forms**), and changes to the Companion Policy 33-109 *Registration Information* (**33-109CP**), and

- consequential amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) and changes to the Companion Policy 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**31-103CP**).

We refer to the amendments to NI 33-109 and NI 31-103 and changes to 33-109CP and 31-103CP collectively as the **Amendments**.

The Amendments are relevant to all Registrants, including members of the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA**, together with IIROC, the **SROs**).

The Amendments have been or are expected to be adopted by each member of the CSA. The CSA worked together with staff of the SROs to develop the Amendments. IIROC and the MFDA plan to implement corresponding amendments to the IIROC Rules and the MFDA Rules, respectively.

In some jurisdictions, ministerial approvals are required for the implementation of the Amendments. Provided all ministerial approvals are obtained, the Amendments will come into force on June 6, 2022.

Substance and Purpose

A Registrant submits registration information to securities regulatory authorities and is required to keep this information up-to-date. Registration information is submitted through seven different Registration Forms, the primary forms being Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* (the **Individual Registration Form**) and Form 33-109F6 *Firm Registration* (the **Firm Registration Form**).

While registered firms are responsible for the oversight of their applicants for registration, registered individuals and permitted individuals¹ (collectively, **Individual Registrants**), registration is an important gatekeeper requirement in securities legislation. Considering the registration information submitted, among other information, we assess whether a Registrant is able to carry out their obligations under securities legislation. High standards of fitness and business conduct, as well as a demonstrated commitment to compliance with securities laws must be met to be registered.

The Amendments address issues identified by CSA staff and respond to concerns raised by Registrants. They will provide greater clarity on the information to be submitted, to help Registrants provide complete and accurate registration information, and to reduce the regulatory burden of doing so, while allowing regulators to receive the information necessary to carry out its regulatory roles. The changes include the following:

- Establishing a new reporting framework for reporting activities carried on by Individual Registrants outside of their sponsoring firms (**Outside Activities**, previously referred to as “outside business activities”),

¹ Permitted individuals are reviewed by regulators due to their association with a registered firm but are not registered.

- Implementing a new rule that will replace the existing practice of imposing terms and conditions which restrict the client base of Individual Registrants whose Outside Activities are positions of influence over certain clients (referred to as “restricted client terms and conditions”)²,
- Extending some deadlines to report changes in registration information,
- Modifying or clarifying certain registration information requirements to adjust the burden of collection with the intended purpose of collecting that information, such as reporting changes to percentage ownership in ownership charts, reporting a change in the annual expiry date of insurance policies, and reporting changes in litigation status,
- Implementing a new rule to reduce multiple filings of the same information by corporate groups by allowing registered firms to delegate to an affiliated registered firm the requirement to notify the securities regulatory authority of changes in certain registration information where the reporting and filing firms have the same principal regulator,
- Amending certain registration information requirements to provide greater clarity on the information asked for and reduce common errors, such as making clear that the following registration information is required to be disclosed:
 - allegations of non-compliance with standards of conduct, such as a firm’s policies and procedures, that existed at the time of resignation or termination from the firm (even if they were not the reason for the resignation or termination),
 - non-compliance with securities laws, SRO rules or bylaws, or standards of conduct (e.g., the sponsoring firm’s policies and procedures or the standards of conduct of a professional body), and other detrimental information that existed at the time of resignation or termination (even if they were not the reason for registration or termination),
 - criminal offences under any foreign law,
 - bankruptcy, consumer proposals and other insolvency events no matter how long ago they occurred, and
 - all non-securities licences, including medical licences,
- Clarifying that Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* (the **Reinstatement Form**) may only be used if, among other requirements, the individual’s registration information was up-to-date at the time the individual previously ceased to be registered or to be a permitted individual,
- Clarifying when certain Registration Forms should be used, such as which forms a permitted individual may be required to submit, to reduce the number of forms returned,
- Consolidating where information is provided on relevant securities experience in the Registration Forms and clarifying that only education and course information required for registration needs to be disclosed,

² The terms and conditions prohibit the registered individual from advising, or trading for, clients who they know from their position of influence.

- Moving the certification to the front of each Registration Form and creating a single certification standard to underscore and clarify the standard of care expected of Registrants when completing the Registration Forms,
- Updating and improving the readability of the privacy notice to provide greater clarity on how personal information is collected and used by the CSA and SROs, and
- Implementing a new requirement to report the business titles and professional designations used by Individual Registrants.

The Amendments are not intended to change the nature of the registration process, the requirement to register or the assessment of fitness for registration. The Amendments are intended to provide the most benefit to Registrants and securities regulatory authorities, given the costs to make changes to the National Registration Database (NRD) and considering that NRD will eventually be replaced by SEDAR+.

Publication for Comment and Stakeholder Testing

We published proposed targeted amendments (the **Proposals**) on February 4, 2021 for a 90-day comment period. The comment period ended on May 5, 2021.

In addition, during the comment period, we conducted a test of the Proposals to the Individual Registration Form to assess whether those changes would have their intended effects.

The test was conducted using an online survey between March 31, 2021 to April 19, 2021. Participants consisted of registered individuals from registered firms of different registration categories, different sizes and different geographical locations. Participants were randomly assigned to view the current language and the Proposals to the Individual Registration Form for the following questions:

- Disclosure of education and course information (Item 8.1);
- Outside Activities (Item 10);
- Allegations of detrimental information at the time of resignation or termination (Item 12);
- Disclosure of other registrations and licences (Item 13.3); and
- Financial disclosure (Item 16).

We thank the registered individuals who participated in the test and the registered firms for their support for this test. 302 registered individuals completed the test.

The overall test results indicate that the group which viewed the language in the Proposals outperformed the group which viewed the current, existing language. There was an 8.4% improvement in accurately disclosing information by those participants that saw the Proposals. This finding is statistically significant. In particular, there was a significant improvement in correct disclosures by participants who saw the Proposals relating to Outside Activities.

Summary of Changes

Annex A – *Summary of notable changes to the Proposals* includes a summary of notable changes

made to the Proposals and our reasons for making them.

The changes from the Proposals include the following:

- We have removed from the Outside Activities reporting framework the requirement to report Category 6 [Specified activities] to securities regulatory authorities.
- We have clarified that activities with an affiliate are to be reported as Outside Activities.
- We have revised the language of the new rule on positions of influence to specify that registered firms and their Individual Registrants should not sell to or advise individuals that the registered firm *knows* the Individual Registrant is in a position of influence over or the registered firm or Individual Registrant *knows* are certain close family members of an individual that the Individual Registrant is in a position of influence over.
- We have provided additional guidance on positions of influence in relation to Individual Registrants who are involved in the activities of community, cultural or religious organizations, or who are elected officials.
- We have changed the deadline to report a cessation of authority of an Individual Registrant or a change in an individual's status to 15 days, such that there are generally two reporting deadlines (i.e., 15 days or 30 days). We have made a consequential change to extend the deadline for the registered firm to provide an Individual Registrant with a copy of Form 33-109F1 *Notice of End of Individual Registration or Permitted Individual Status* from 10 days to 15 days.
- We have removed the requirement in Item 12 of the Individual Registration Form to report resignations and terminations following allegations that the Individual Registrant violated, or failed to appropriately supervise compliance with, the rules or bylaws or standards of conduct of an industry association.
- We have reverted to the original language for Item 12.3 of the Individual Registration Form to report allegations relating to fraud or the wrongful taking of property, including theft.
- We have added instructions for Item 13.3 of the Individual Registration Form that only registration and licensing required to deal with the public in any capacity are to be disclosed.
- We have amended section 2.3 of NI 33-109 to clarify when an Individual Registrant's NRD record is up-to-date so that a Reinstatement Form may be used and have provided guidance in Annex C of this notice relating to when Individual Registrants should review and respond to items in NRD that read "there is no response to this question".
- We have made a consequential amendment to section 12.7 of NI 31-103 that a change in the expiry date of a registered firm's insurance policy does not need to be reported where the insurance policy has not lapsed and there have been no other changes to the insurance policy.

- We have revised the guidance on reporting status updates to litigation to provide more details.
- We have clarified that Individual Registrants are to report their business titles and professional designations.

As these changes are not material, we are not publishing the changes to the Proposals for a further comment period.

Summary of Written Comments Received by the CSA

We received submissions from 21 commenters. We have considered the comments received and thank all of the commenters for their input. The list of the commenters and a summary of comments, together with our responses, are contained in Annex B – *List of commenters and summary of comments on the Proposals and responses* of this notice.

The comment letters can be viewed on the websites of each of the:

- Alberta Securities Commission at www.albertasecurities.com,
- Autorité des marchés financiers at www.lautorite.qc.ca, and
- Ontario Securities Commission at www.osc.gov.on.ca.

Transition

Provided all Ministerial approvals are obtained, the Amendments (including the Amendments to NI 31-103 relating to positions of influence) will come into force on June 6, 2022.

We wish to make it clear that it is not our expectation that current Individual Registrants would update their registration information, such as reporting Outside Activities under the new framework or providing their titles, as of the effective date of the Amendments (*i.e.*, June 6, 2022) or immediately after that date. We would expect Individual Registrants will update their registration information when there has been a change in registration information the Individual Registrant previously provided. At that time, we expect the Individual Registrant to review and update any other registration information that is not complete or accurate in light of the Amendments.

We have also clarified in the Amendments and have provided guidance in Annex C of this notice relating to registration information in NRD, specifically, where NRD states “there is no response to this question”. All Individual Registrants are required to update their information in NRD where it states “there is no response to this question” by the earlier of (i) the date the Individual Registrant reports a change to their registration information and (ii) June 6, 2023.

Local Matters

Where applicable, Annex K provides additional information required by the local securities legislation.

Contents of Annexes

This notice contains the following annexes:

- Annex A – Summary of notable changes to the Proposals
- Annex B – List of commenters and summary of comments on the Proposals and responses
- Annex C – Frequently asked questions on updating registration information on NRD
- Annex D – Adoption of the Amendments
- Annex E – Amendments to NI 33-109
- Annex F – Blackline showing amendments to NI 33-109
- Annex G – Changes to 33-109CP
- Annex H – Blackline showing changes to 33-109CP
- Annex I – Amendments to NI 31-103
- Annex J – Changes to 31-103CP
- Annex K – Local matters

This notice will also be available on the following websites of CSA jurisdictions:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.fcnb.ca
nssc.novascotia.ca
www.osc.gov.on.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

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