

## Notice of

### **National Policy 11-204 *Process for Registration in Multiple Jurisdictions* and 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***

#### **Introduction — Passport/Interface System**

Members of the Canadian Securities Administrators (CSA or we), other than the Ontario Securities Commission (OSC), (passport regulators) will implement the next phase of the passport system for registrants and amend phase II of passport for issuers effective on September 28, 2009 when National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) is implemented. Phase II of passport for issuers covers continuous disclosure, prospectuses and discretionary exemption applications. The amendments deal with issues that have arisen since implementation in March 2008.

All CSA members, including the OSC, will implement a new national policy setting out the processes for registration in multiple jurisdictions (NP 11-204) and amend the national policies for the filing and review of prospectuses (NP 11-202) and exemptive relief applications (NP 11-203). CSA members will also repeal National Instrument 31-101 *National Registration System* (NI 31-101) and its related policy and forms.

On December 19, 2008, CSA published a notice that the passport regulators intended to implement the passport for registrants and amend the passport for issuers and CSA intended to adopt NP 11-204 and amend NP 11-202 and NP 11-203. We are republishing the documents because we revised them to reflect the final versions of NI 31-103 and the various registration rules.

#### **Passport system**

The amendments to Multilateral Instrument 11-102 *Passport System* (MI 11-102) and Companion Policy 11-102CP *Passport System* (CP 11-102) are initiatives of the passport regulators.

Each of the passport regulators will make the amendments to MI 11-102 as a rule or regulation and will adopt the amendments to CP 11-102. The text of the amendments to MI 11-102 is set out in Schedule A. Appendix D to MI 11-102 as amended is in Schedule B and CP 11-102 as amended is in Schedule C.

MI 11-102 and CP 11-102 implement, in the main areas of securities regulation, a system that gives a market participant access to the capital markets in multiple jurisdictions by dealing only with its principal regulator and meeting the requirements of one set of harmonized laws. The amendments to MI 11-102 and CP 11-102 implement the next phase of the passport system for registrants and deal with issues that have arisen since the implementation of phase II of passport for issuers.

Although the OSC is not adopting MI 11-102 or the amendments to MI 11-102, it can be a principal regulator under the instrument, thereby giving market participants in Ontario access to the capital markets in passport jurisdictions by dealing only with the OSC.

***National policy on the process for registration in multiple jurisdictions***

NP 11-204 is an initiative of the CSA. Each member of the CSA will adopt NP 11-204. The text of NP 11-204 is in Schedule D.

NP 11-204 and the amendments to MI 11-102 replace NI 31-101 and its related policy and forms. Each CSA member will repeal:

- NI 31-101,
- Form 31-101F1 *Election to use NRS and Determination of Principal Regulator*, and
- Form 31-101F2 *Notice of Change*,

and will rescind

- National Policy 31-201 *National Registration System* (collectively, NRS)

An instrument repealing NI 31-101 is attached as Schedule E.

NP 11-204 sets out the procedures for a firm or individual to register in more than one jurisdiction. It includes an interface similar to NRS for registrants in passport jurisdictions to gain access to the Ontario market. Ontario registrants get direct access to passport jurisdictions under the amendments to MI 11-102.

Under MI 11-102 and NP 11-204, the principal regulator for a firm will usually be the regulator of the jurisdiction where the firm's head office is located and for an individual will be the regulator of the jurisdiction where the individual's working office is located. Firms and individuals that register in their principal jurisdiction through the Investment Industry Regulatory Organization of Canada will continue to do so.

***Consequential amendments***

All CSA members will also adopt consequential amendments to the following policies:

- NP 11-202

- NP 11-203

The text of the consequential amendments to NP 11-202 is in Schedule F and NP 11-203 as amended is in Schedule G.

In addition, consequential amendments related to passport are included in NI 31-103 and its companion policy and in the related amendments to National Instrument 31-102 *National Registration Database* (NI 31-102) and National Instrument 33-109 *Registration Information* (NI 33-109).

### **Local non-harmonized requirements and NRS**

Most regulatory requirements for registrants will be harmonized through NI 31-103. However, registrants will be subject to a few additional local requirements that continue to exist in some jurisdictions. CP 11-102 includes a description of these requirements.

In addition, NI 31-103 transition provisions allow registrants to carry on their activities on the basis of the current capital and insurance requirements that apply in their principal jurisdiction under NRS. After the transition period, registrants must comply with the new, harmonized capital and insurance requirements in NI 31-103. NI 31-103 also harmonizes proficiency requirements across the country so applicants for registration no longer need an exemption from the proficiency requirements in non-principal jurisdictions. Please refer to NI 31-103 for further details.

### **Effective date and transition**

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 registrants depends on the adoption of NI 31-103. CSA members expect to implement consequential amendments to national and local rules when we adopt NI 31-103. In addition, governments in some jurisdictions will need to proclaim act amendments to harmonize registration requirements. We will implement the changes described in this notice on September 28, 2009 when we implement NI 31-103.

The amendments to MI 11-102 apply to an individual or firm seeking registration outside the principal jurisdiction on or after the effective date of NI 31-103. In addition, the amendments apply to an individual or firm that is registered in more than one jurisdiction on that date unless the individual or firm requests and obtains an exemption under section 4A.9(2) of MI 11-102.

The amendments to passport for issuers apply to prospectuses filed under National Instrument 71-101 *The Multijurisdictional Disclosure System* on or after September 28, 2009.

The amendments to MI 11-102 and CP 11-102 refer to rules (e.g., NI 31-103) and Act provisions that CSA expects to be in force on the effective date.

## **Background**

CSA published the proposal to streamline the process for registration on July 18, 2008. All CSA members published NP 11-204 and the amendments to NP 11-202 and NP 11-203 and the repeal of NRS. In the same publication, the passport regulators published the amendments to MI 11-102 and CP 11-102.

On December 19, 2008, CSA published notice that we intended to implement the passport for registrants and amend the passport for issuers when we adopt NI 31-103. We also published a summary of the comments we received in response to the request for comments published in July 2008 and noted the CSA responses to comments.

CSA has now completed its work on NI 31-103, NI 31-102 and NI 33-109 and today, published advance notice that we intend to adopt these instruments. Since the December 2008 publication, we made only minor changes to the documents. We revised them to reflect the final versions of NI 31-103, NI 31-102 and NI 33-109 and the registration act amendments in each jurisdiction. We also renumbered the passport for registration in MI 11-102 as Part 4A instead of Part 6.

## **Questions**

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