CSA STAFF NOTICE 31-313 : REGULATION 31-103 RESPECTING REGISTRATION REQUIREMENTS AND EXEMPTIONS AND RELATED REGULATIONS - FREQUENTLY ASKED QUESTIONS AS OF DECEMBER 18, 2009

Référence : Non disponible

Background

On September 28, 2009, new *Regulation 31-103 respecting Registration Requirements and Exemptions* and amendments to related regulations including *Regulation 33-109 respecting Registration Information* came into force. We have compiled this list of frequently asked questions (FAQs) from the enquiries we have received concerning Regulation 31-103 and Regulation 33-109 in order to assist those working with these regulations.

Regulation 31-103 respecting Registration Requirements and Exemptions

Regulation 31-103 SECTION	QUESTION	ANSWER
PART 1 INTERPRETATION		
1.1 Definitions of terms used throughout this Regulation	**How will accounting terms in Regulation 31-103 work with International Financial Reporting Standards (IFRS) Amendments?**	Proposed amendments to Regulation 31-103 necessary to accommodate IFRS were published for comment on October 23, 2009, except in Québec and New Brunswick where the proposed amendments will be published in early 2010. The comment period will end on January 21, 2010
PART 2 CATEGORIES OF REGISTRATION FOR INDIVIDUALS		
2.2 Client mobility exemption – individuals	**Are sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*]**	Sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*] are independent of each other: individuals may rely on section 2.2 in circumstances where they are not registered in the local jurisdiction even though their firm does not rely on section

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	independent of each other? How do the firm and individual limits work together?	8.30 because the firm is registered in the local jurisdiction. The limits are per jurisdiction. For example a firm using the exemption could have 10 clients in each of several local jurisdictions where it is not registered. An individual could also be using the exemption to have 5 clients in each of several jurisdictions where the individual is not registered. The individual limits are per individual. For example several individuals working for a firm could each have 5 clients in the same local jurisdiction, if their firm was registered in the jurisdiction. Even if a firm is registered in a local jurisdiction and has more than 10 clients served by registered individuals it can have unregistered individuals using the exemption in the jurisdiction. If a firm is not registered in a jurisdiction, the firm may not exceed its 10 client limit, shared among its representatives.
2.3 Individuals acting for investment fund managers	**Do permitted individuals of an investment fund manager (IFM) need to file Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*?**	Although individuals acting on behalf of a registered IFM are not required to register pursuant to section 2.3 of Regulation 31-103, permitted individuals of an IFM must nonetheless file Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*. "Permitted individual" is defined in section 1.1 of *Regulation 33-109 respecting Registration Information.*
PART 3 REGISTRATION REQUIREMENTS – INDIVIDUALS		
Division 1 General proficiency requirements		
3.4 Proficiency – initial and ongoing	**Has the CSA published any additional guidance relating to the**	CSA Staff Notice 33-315 *Suitability Obligation and Know Your Product* was published on September 2, 2009. It discusses the requirement for registered individuals to "know your product",

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	proficiency requirement in section 3.4?	which forms part of the ongoing proficiency obligation.
3.6 Mutual fund dealer – chief compliance officer **3.8 Scholarship plan dealer – chief compliance officer** **3.10 Exempt market dealer – chief compliance officer** **3.13 Portfolio manager – chief compliance officer**	**How do proficiency time limits apply to chief compliance officers (CCO) in Québec?**	The CCO category is new in Québec. Prior to September 28, 2009, an individual could act in Québec in a similar capacity, with activities normally performed by a CCO but without however being identified on NRD in this category. Prior to September 28, 2009, the CCO or compliance officer categories existed only in Ontario, British Columbia and New Brunswick (the CCO jurisdictions). In Québec individuals acting as *personne responsable (ou chef) de la conformité* prior to the coming into force of Regulation 31-103 must register before December 28, 2009 pursuant to subsection 16.9(1) of Regulation 31-103 and have until September 2010 pursuant to subsection 16.9(3) to meet the proficiency requirements set out in sections 3.6, 3.8, 3.10 and 3.13 as the case may be, for the following reasons: Subsection 16.9(2), when referring to "the individual identified on the National Registration Database as the firm's compliance officer", refers to such compliance officers as were identified prior to September 28, 2009. This section can only apply in the CCO jurisdictions. In these jurisdictions, proficiency requirements applied to the compliance officer. In Québec therefore subsection 16.9(2) of Regulation 31-103 does not constitute a "grandfathering" clause for individuals acting as *personne responsable (ou chef) de la conformité* prior to September 28, 2009. As a result, there are in Québec the following 2 options: 1. If the individual acting as *personne responsable (ou chef) de la conformité* in Québec prior to September 28, 2009 was identified as compliance officer or CCO in one of the CCO jurisdictions, the "grandfathering" clause in subsection 16.9(2) applies to this individual. The individual is therefore not required to meet the proficiency requirements of Regulation 31-103, so long as the individual

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		remains registered as the firm's CCO. 2. If the individual acting as *personne responsable (ou chef) de la conformité* in Québec prior to September 28, 2009 was not identified as compliance officer or CCO in one of the CCO jurisdictions, subsection 16.9(3) applies: the individual is required to meet the proficiency requirements of Regulation 31-103, but has 12 months to do so.
3.6 Mutual fund dealer – chief compliance officer **3.10 Exempt market dealer – chief compliance officer** **3.13 Portfolio manager – chief compliance officer** **3.14 Investment fund manager – chief compliance officer**	**Can the chief compliance officer (CCO) of a portfolio manager (PM) whose proficiency is grandfathered under subsection 16.9(2) continue to be its CCO if the firm is registered as a mutual fund dealer (MFD), exempt market dealer (EMD) or investment fund manager (IFM)?**	Although PM CCO proficiency set out in section 3.13 is available as an alternative to other proficiency requirements for CCOs of MFDs, EMDs and IFMs in sections 3.6, 3.10 and 3.14, respectively, there is no corresponding provision that would accommodate a PM CCO whose proficiency is grandfathered under subsection 16.9(2) on the basis of different qualifications than are prescribed in section 3.13. This was not our intention, and we will be issuing an order providing an exemption from proficiency requirements for the CCO of an MFD, EMD or IFM where the firm was registered as a PM on the date Regulation 31-103 came into force and the individual was on that date designated as the CCO of the firm, for so long as they remain registered as the firm's CCO.
3.9 Exempt market dealer – dealing representative	**Will exemptions from the proficiency requirements for exempt market dealer (EMD) dealing representatives in section 3.9 be available?**	We will always consider applications for exemptive relief. However, proficiency is one of the fundamental fitness criteria for individual registrants, so we anticipate granting exemptions from the EMD dealing representative proficiency requirements set out in section 3.9 only in rare cases.
PART 4 RESTRICTIONS ON REGISTERED INDIVIDUALS		
4.2 Associate advising representatives – pre-approval of advice	**If a firm has previously designated an adviser to review the**	No. If a firm has previously designated an adviser, it does not need to re-designate under Regulation 31-103 unless:

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	advice of an associate advising representative (AAR), does it need to re-designate an adviser to review the AAR's advice under subsection 4.2(2) ?	• the firm has hired new AARs subsequent to the original designation, or • the designated advising representative changes This also applies in those jurisdictions that did not have the category of associate advising representative but imposed supervision on "junior" advisers through terms and conditions, if an adviser was designated to review the advice.
PART 7 CATEGORIES OF REGISTRATION FOR FIRMS		
7.1 Dealer categories	**A. Can an exempt market dealer (EMD) trade prospectus-qualified securities to clients such as accredited investors or those making a minimum purchase in an amount sufficient to qualify for prospectus-exempt distribution?** **B. If so, can the EMD provide the investor with a copy of the prospectus?**	A. Yes. As set out in clause 7.1(2)(d)(ii), an EMD can trade a prospectus-qualified security in circumstances where an exemption from the prospectus requirement would be available. B. Yes, the EMD may provide the investor with a copy of the prospectus.
	Can an exempt market dealer (EMD) underwrite a distribution that is not exempt from the prospectus requirement?	No. As set out in clause 7.1(2)(d)(iv), an EMD may only underwrite a distribution of securities that is made under an exemption from the prospectus requirement.
	Can an exempt market dealer (EMD) underwrite a prospectus-qualified distribution if it only distributes securities	No. Although clause 7.1(2)(d)(ii) would permit an EMD to trade in such circumstances, clause 7.1(2)(d)(iv) restricts an EMD to underwriting permitted distributions that are, in fact, made under a prospectus exemption.

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	to accredited investors or other clients who may purchase securities offered under a prospectus exemption?	
	When will the jurisdictions that are participating in the "alternative approach to regulating certain intermediaries in the exempt market" described in Appendix D to the CSA Notice of Regulation 31-103 (published on July 17, 2009) issue their exemptions from exempt market dealer (EMD) registration?	The jurisdictions that have agreed to this alternative approach will issue local blanket orders to exempt certain intermediaries from EMD registration shortly before the registration exemptions in *Regulation 45-106 respecting Prospectus and Registration Exemptions* expire (March 27, 2010).
	Must a mutual fund dealer in Québec or Manitoba also have to register as an EMD in Québec in order to sell principal protected notes (PPNs)?	PPNs include the instruments commonly described as market-linked GICs (market-linked GICs) and linked notes (market-linked notes). Market-linked GICs are described as term deposits that guarantee principal through a CDIC-insured (or equivalent) deposit-taking institution, with a return linked to a number of underlying investments, including stock market indices, mutual funds or hedge funds. Market-linked notes are described as debt instruments that provide a principal guarantee through the credit-worthiness of the issuer, with returns linked to a variety of underlying investments, including stock market indices, mutual funds, and hedge funds. If certain conditions are met in connection with the type of PPN being sold, registration in the EMD category is not required for a mutual fund dealer in Québec. The treatment of PPNs in Québec varies according to whether the PPN is a market-linked GIC or a market-linked note:

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		• market-linked GICs are term deposits to which the *Securities Act* (Québec) applies. Paragraph 9° of section 3 of the Act provides that the dealer registration requirement set out in section 148 of the Act does not apply to term deposits. The sale of market-linked GICs does not therefore require registration • market-linked notes are debt securities to which the *Securities Act* (Québec) applies. Paragraph 14° of section 3 of the Act provides that the dealer registration requirement set out in section 148 of the Act does not apply to debt securities issued or guaranteed by a bank or an authorized foreign bank listed in Schedule I, II or III to the *Bank Act*, except a debt security conferring a right of payment ranking lower than a deposit contemplated in paragraph 9° of section 3 and entrusted to the issuer or the guarantor of the debt security PPNs which meet the conditions of these exemptions may be sold in Québec by mutual fund dealers not also registered as EMDs. In Manitoba, market-linked GICs and market-linked notes are securities. The Manitoba Securities Commission has issued relief which will permit registered mutual fund dealers to trade these products without registration as an EMD.
7.3 Investment fund manager category	**When is investment fund manager (IFM) registration required?** **Examples:** **A. I manage a real estate investment trust (REIT). Do I need to register as an IFM?** **B. I manage a fund that does not invest in securities. Do I need to register as an IFM?**	All managers of investment funds must register as IFMs unless an applicable exemption is available. The threshold question is whether a collective investment vehicle is an "investment fund". The next step is to identify who is the "investment fund manager" for the investment fund. Both terms are defined in local jurisdictions' securities legislation. There is also guidance in section 7.3 of the Policy Statement and in the *Policy Statement to Regulation 81-106 respecting Investment Fund Continuous Disclosure* (Policy Statement 81-106). Examples: A. No. Subsection 1.2(2), of the Policy Statement 81-106 provides that business income trusts, REITs and royalty trusts are not investment funds.

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		B. If the fund falls within the definition of investment fund, you must register unless otherwise exempt. The definition of investment fund is not restricted to funds that invest in securities. There are, for example, funds that invest in uranium or gold bullion. Note that sections 16.5 and 16.6 provide temporary exemptions for a Canadian investment fund manager registered in its principal jurisdiction and for foreign investment fund managers, respectively.
	Must an otherwise unregistered firm that is temporarily exempt from registration as an investment fund manager (IFM) under section 16.4 comply with the requirements in Regulation 31-103 if it seeks registration before the temporary exemption expires?	Yes. While section 16.4 provides a one-year exemption from registration, a firm that chooses to register before the end of that period must comply with Regulation 31-103 as soon as it becomes registered. The transition provisions that provide temporary exemptions from certain IFM requirements (sections 16.8 [*Registration of ultimate designated persons*], 16.9 [*Registration of chief compliance officers*], 16.11 [*Capital requirements*] and 16.13 [*Insurance requirements*]) only apply to firms that were already registered when Regulation 31-103 came into force.
	If a firm was already registered when Regulation 31-103 was implemented, will it lose the benefit of the transitional exemptions set out in Part 16 if it adds registration in another category?	No. A firm would not lose the benefit of the transitional exemptions provided in Part 16 for firms that are registered on the day Regulation 31-103 came into force (sections 16.8 [*Registration of ultimate designated persons*], 16.9 [*Registration of chief compliance officers*], 16.11 [*Capital requirements*] and 16.13 [*Insurance requirements*]) if it adds another registration category to what it had on the day when Regulation 31-103 came into force. Note also that subsection 16.4(3) provides a one-year transitional exemption from the investment fund manager (IFM) insurance requirement for a registered dealer or adviser that was acting as an IFM when Regulation 31-103 came into force.

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PART 8 EXEMPTIONS FROM THE REQUIREMENT TO REGISTER		
Division 1 Exemptions from dealer and underwriter registration		
8.5 Trades through or to a registered dealer	**Can a foreign dealer rely on the exemption in section 8.5 for trades through or to a registered dealer?**	Yes. The exemption requires only that all trading activity that occurs within the local jurisdiction is done through or to a local registered dealer. On that basis, we would regard the "jitney" of a trade through or to an appropriately registered dealer in a local Canadian jurisdiction by an unregistered dealer who is located in a foreign jurisdiction as a trade solely through a registered dealer in the local jurisdiction, consistent with the exemption in section 8.5. The fact that the transaction is executed through an agency arrangement involving intermediation by a dealer in another jurisdiction does not in itself mean that the "trade" in the local jurisdiction ceases to be made "solely" through a registered dealer. However, if the dealer in the other jurisdiction is engaged in other trading activities in the local jurisdiction in connection with the transaction, it would no longer be a trade solely through a registered dealer and the exemption would not be available. It is important to bear in mind that a "trade" includes acts in furtherance of a trade. For example, the trade would not be solely through a registered dealer if the foreign dealer or its client interacted directly with the (prospective) purchaser in the local jurisdiction. One way this could occur would be if the foreign dealer or its foreign client contacted the potential purchaser in the local jurisdiction and directly solicited the purchase of securities. The unregistered foreign dealer should instead solicit the purchase by contacting the registered dealer in the local jurisdiction, leaving it to the local registered dealer to contact potential purchasers in the local jurisdiction.

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	Is this exemption only available to issuers selling their own shares?	No, the exemption is not limited to issuers or sales of one's own shares.
	Can a plan administrator rely on the exemption in section 8.5 in connection with its activity of placing sell orders with brokers in respect of shares of issuers held by plan participants?	Yes, a plan administrator can rely on the exemption in section 8.5 in connection with its activity of placing sell orders with dealers in respect of shares of issuers held by plan participants. The Policy Statement discussion of section 8.5 is not meant to suggest that the exemption is only available in respect of trades in a person's own securities. Section 8.16 [*Plan administrator*] covers the activity of the plan administrator receiving sell orders from plan participants.
8.18 International dealer	**Must a foreign dealer use the international dealer exemption in section 8.18 to trade through or to a registered dealer?**	No. If a foreign dealer's trading activities fall within the exemption in section 8.5 [*Trades through or to a registered dealer*], it does not need to rely on any other exemption from registration.
	A. Can a registered firm also rely on the international dealer exemption? **B. If so, what notice should it provide to clients?**	A. The exemption in section 8.18 is available to a firm that is registered in a jurisdiction in Canada. B. A registered firm that is relying on the exemption may meet the client notification requirement in clause 8.18(4)(b)(i) by notifying the client that it is not registered in the jurisdiction in respect of the activities for which the exemption is being relied upon.
	If a firm is relying on the exemption in section 8.18 in more than one jurisdiction, must it file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* (as required by subsection 8.18(5))	If a firm is relying on the exemption in more than one jurisdiction, it must file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* with the regulator or securities regulatory authority in *each* jurisdiction where it relies on the exemption – see subsection 1.3(2).

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	with *each* regulator or securities regulatory authority or can it use the passport system?	
	Subsection 8.18(5) requires a firm to notify the regulator or securities regulatory authority each year that it continues to rely on the exemption. Does that mean a firm has to file Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* every year ?	No. Subsection 8.18(5) does not prescribe the form of annual notice to the regulator or securities regulatory authority, so an email or letter will be acceptable.
	What must an international dealer in Ontario do to rely on subsection 8.18(6)?	To comply with subsection 8.18(6) in Ontario, a firm must pay participation fees under Part 3 of OSC Rule 13-502 *Fees*. By December 1 of each year, the firm must file a completed Form 13-502F4 *Capital Markets Participation Fee Calculation*. The firm must pay its participation fee by cheque, draft, money order or other acceptable means no later than December 31 each year. The filings and payments should be sent to the Ontario Securities Commission (Attention: Manager, Registrant Regulation).
8.22 Small security holder selling and purchase arrangements	**How should "market value" be determined?**	Where possible, market value should be determined by reference to a quoted value on a recognized exchange or marketplace. If market value is not quoted on an exchange (e.g. bonds) market value may be determined by reference to quotes that are available through brokers. We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and is based on measures considered reasonable in the industry, such as value at cost where there has been no material subsequent event (e.g. a market event or new capital raising by the issuer).

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Division 2 Exemptions from adviser registration		
8.26 International adviser	**How does a foreign adviser act as a sub-adviser to a registered adviser if dealers and advisers are not "permitted clients" for the purposes of the international adviser exemption?**	Foreign sub-advisers may continue to rely on the sub-adviser exemption that remains in section 7.3 of OSC Rule 35-502 *Non Resident Advisers*, and apply for discretionary relief in other jurisdictions. In Québec, a general exemption has been granted on December 18, 2009 on the same terms and conditions as the exemptive relief available in the other jurisdictions. This general exemption will take effect on December 28, 2009 since the exemption available under section 5 of the *Regulation to amend the Securities Regulation* (former 194.2 of the Securities Regulation) remains in force only until that date.
	A. Can a registered firm also rely on the international adviser exemption? **B. If so, what notice should it provide to clients?**	A. The exemption in section 8.26 is available to a firm that is registered in the local jurisdiction or elsewhere in Canada. B. A registered firm that is relying on the exemption may meet the client notification requirement in clause 8.26(4)(e)(i) by notifying the client that it is not registered in the jurisdiction in respect of the activities for which the exemption is being relied upon.
	If a firm is relying on the exemption in section 8.26 in more than one jurisdiction, must it file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* (as required by subsection 8.26(5)) with *each* regulator or securities regulatory authority or can it use the passport system?	If a firm is relying on the exemption in more than one jurisdiction, it must file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* with the regulator or securities regulatory authority in *each* jurisdiction where it relies on the exemption – see subsection 1.3(2).

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	Subsection 8.26(5) requires a firm to notify the regulator or securities regulatory authority each year that it continues to rely on the exemption. Does that mean a firm has to file Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* every year ?	No. Subsection 8.26(5) does not prescribe the form of annual notice to the regulator or securities regulatory authority, so an email or letter will be acceptable.
	What must an international adviser in Ontario do to rely on subsection 8.26(6)?	To comply with subsection 8.26(6) in Ontario, a firm must pay participation fees under Part 3 of OSC Rule 13-502 *Fees*. By December 1 of each year, the firm must file a completed Form 13-502F4 *Capital Markets Participation Fee Calculation*. The firm must pay its participation fee by cheque, draft, money order or other acceptable means no later December 31 each year. The filings and payments should be sent to the Ontario Securities Commission (Attention: Manager, Registrant Regulation).
	Do revenues derived from "portfolio management activities" under paragraph 8.26(4)(d) include revenues from sub-advisory activities?	Yes, in making the calculation required under paragraph 8.26(4)(d), it is necessary to include all revenues derived from portfolio management activities in Canada, which would include any sub-adviser arrangements.
Division 4 Mobility exemption – firms		
8.30 Client mobility exemption – firms	**Are sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*]**	Sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*] are independent of each other: Individuals may rely on section 2.2 in circumstances where they are not registered in the local jurisdiction even though their firm does not rely on section

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	independent of each other? How do the firm and individual limits work together?	8.30 because the firm is registered in the local jurisdiction. The limits are per jurisdiction. For example a firm using the exemption could have 10 clients in each of several local jurisdictions where it is not registered. An individual could also be using the exemption to have 5 clients in each of several jurisdictions where the individual is not registered. The individual limits are per individual. For example several individuals working for a firm could each have 5 clients in the same local jurisdiction, if their firm was registered in the jurisdiction. Even if a firm is registered in a local jurisdiction and has more than 10 clients served by registered individuals it can have unregistered individuals using the exemption in the jurisdiction. If a firm is not registered in a jurisdiction, the firm may not exceed its 10 client limit, shared among its representatives.
	Can a person that is not registered in any jurisdiction in Canada rely on the client mobility exemption?	No. The client mobility exemption is only available to a person that is registered in a jurisdiction of Canada.
PART 11 INTERNAL CONTROLS AND SYSTEMS		
Division 1 Compliance		
11.2 Designating an ultimate designated person	**When can someone be designated for registration as a firm's ultimate designated person (UDP) on the basis that they are acting in a capacity similar to that of the chief executive officer**	The primary purpose of paragraph 11.2(2)(c) is to address the situation where a firm does not have a CEO or sole proprietor (for example, because it is organized as a partnership). It is not normally possible to act in a capacity similar to a CEO or sole proprietor when someone else is the actual CEO or sole proprietor. Consequently, designation pursuant to paragraph 11.2(2)(c) is not available when the

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	(CEO) or sole proprietor?	firm has a CEO or sole proprietor. If a firm has a CEO or sole proprietor, that person must be designated for registration as its UDP, unless another person qualifies under paragraph 11.2(2)(b). To designate someone else in these circumstances would require an exemptive relief order. Given that the intention of section 11.2 is to ensure responsibility for its compliance system rests at the very top of a firm, we would only anticipate granting relief in rare cases. If a firm does not have a CEO and is not a sole proprietorship, and no other person qualifies under paragraph 11.2(2)(b), the most senior decision maker in the firm is the individual who would be most likely to be acting in a similar capacity to a CEO or sole proprietor. They might have the title of managing partner or president, for example, and would be the individual we would expect to see designated as UDP under paragraph 11.2(2)(c). We note that in larger organizations, the UDP is sometimes supported by an officer who has a compliance oversight role and title within the organization that is more senior than the chief compliance officer. This is an acceptable arrangement, so long as it is understood that it in no way diminishes the UDP's regulatory responsibilities.
Division 3 Certain business transactions		
11.9 Registrant acquiring a registered firm's securities or assets	**Does the exemption in subsection 11.9(3) extend to the situation of a parent company registrant that proposes to acquire all of the assets of its wholly-owned registered subsidiary and then cause it to be wound up and dissolved?**	A wind-up and dissolution is not an amalgamation, merger, arrangement or treasury issue and does not qualify as a reorganization. The exemption in subsection 11.9(3) would therefore not be available.

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11.9 Registrant acquiring a registered firm's securities or assets **11.10 Registered firm whose securities are acquired**	**Are sections 11.9 and 11.10 intended to capture minor purchases by individual registrants of securities of their registered employer?**	No. Paragraph 11.9(3)(b) and subsection 11.10(1) both include 10% thresholds that may apply to the purchase of securities of the firm by its registered individuals.
	If the firm is registered in more than one jurisdiction, can the notices required under sections 11.9 and 11.10 be delivered to the principal regulator alone?	No. If a firm is required to give notice, it must be filed with *each* regulator or securities regulatory authority – see subsection 1.3(2).
PART 12 FINANCIAL CONDITION		
Division 1 *Working capital*		
12.1 Capital requirements	**If a firm is registered in a category that requires membership in the Investment Industry Regulatory Organization of Canada (IIROC) or the Mutual Fund Dealers Association of Canada (the MFDA), and also in another category that does not require membership in either self-regulatory organization (SRO), will the firm still need to file Form 31-103F1 *Calculation of Excess Working Capital* with the regulator or securities regulatory**	Yes. The exemptions for IIROC and MFDA member firms in section 9.3 do not include an exemption from the requirement to file Form 31-103F1 *Calculation of Excess Working Capital* with the regulator or securities regulatory authority if a firm is also registered in a category that does not require SRO membership.

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	authority? **Example: A firm that is registered as an investment fund manager and a mutual fund dealer and is a member of the MFDA.**	
Division 2 Insurance		
12.3 Insurance – dealer **12.4 Insurance – adviser** **12.5 Insurance – investment fund manager**	**How do I make the calculations required in sections 12.3, 12.4 and 12.5?**	The calculation required in paragraphs 12.3(2)(b) and (c), 12.4(3)(a) and (b) and 12.5(a) and (b) is based on the lesser of 1% of assets or $25 million (and not 1% of $25 million). The word “and” following “Appendix A” in subsections 12.3(2), 12.4(2) and (3), and 12.5(2) should be ignored. We will remove it in amendments in order to clarify the meaning of these provisions.
	What is the timing of the calculation of insurance requirements – when must a firm adjust its insurance?	The insurance provisions say that the registered firm must “maintain" bonding or insurance in the amounts specified. We do not expect that the calculation would differ materially from day-to-day. If there is a material change in a firm’s circumstances, it should consider the potential impact on its ability to meet its insurance requirements.
	What are the “assets under management” that must be included in the insurance calculations of a firm registered in the categories of portfolio manager (PM) and investment fund manager (IFM)?	Insurance requirements are *not* cumulative. So, for a firm registered in the categories of PM and IFM, insurance coverage must be in the higher amount of the calculations with respect to its IFM or PM registration. Despite being registered as both a PM and an IFM, when calculating the IFM insurance requirement under subsection 12.5(2), an IFM should only include the total assets under management of its own investment funds. It is only with respect to its own funds that the registrant is acting as an IFM. To calculate the PM insurance requirement look

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		to section 12.4. The required level of insurance will depend on whether the PM holds or has access to client assets. See section 12.4 of the Policy Statement for what we consider to be holding or having access to client assets.
Division 4 *Financial reporting*	**How will accounting terms in Regulation 31-103 work with International Financial Reporting Standards (IFRS) Amendments?**	Proposed amendments to Regulation 31-103 necessary to accommodate IFRS were published for comment on October 23, 2009, except in Québec and New Brunswick where the proposed amendments will be published in early 2010. The comment period will end on January 21, 2010.
12.12 Delivering financial information – dealer **12.13 Delivering financial information – adviser** **12.14 Delivering financial information – investment fund manager**	**Is there a transition provision applicable to the requirement to deliver Form 31-103F1 *Calculation of Excess Working Capital?***	There is no transition provision applicable to the requirement to use Form 31-103F1 *Calculation of Excess Working Capital.* Registered firms are required to deliver Form 31-103F1 *Calculation of Excess Working Capital*. However, we recognize that there may be some discrepancies where firms rely on the transitional relief from section 12.1 [*Capital requirements*] that is provided under section 16.11 for firms that continue to comply with former non-harmonized capital requirements. If a firm relies on section 16.11 it must also deliver the capital calculations required under former requirements, if any. In Ontario, we do not expect a firm that calculates its working capital based on consolidated financial statements in reliance on the transitional relief in section 16.11 to deliver a Form 31-103F1 *Calculation of Excess Working Capital*.
	If a firm has multiple registrations, is it required to deliver multiple capital calculations using Form 31-103F1 *Calculation of Excess Working Capital*?	No. If a firm has multiple registrations, it only needs to file only one Form 31-103F1 *Calculation of Excess Working Capital* to the regulators or securities regulatory authorities, but must include all required information. For example, • if the firm is a portfolio manager (PM) and investment fund manager (IFM), it will need to file Form 31-103F1 *Calculation of Excess Working Capital* quarterly and report any net asset value (NAV) adjustments quarterly (to comply with IFM requirements, notwithstanding that a PM has no such requirements)

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		• if the firm is a mutual fund dealer registered in Québec which is also registered as an exempt market dealer in Québec, it will need to file Form 31-103F1 *Calculation of Excess Working Capital* quarterly as well as the bi-monthly net free capital calculation as set out in Appendix I of the *Regulation respecting the trust accounts and financial resources of securities firms*. A firm that is a member of a self-regulatory organization (SRO) may also have capital calculation delivery requirements under the SRO's rules.
12.12 Delivering financial information – dealer	**Is there a transition period for former limited market dealers in respect of the requirements to deliver audited annual financial statements and Form 31-103F1 *Calculation of Excess Working Capital*?**	Yes. For former limited market dealers in Ontario and Newfoundland and Labrador "mapped-over" to exempt market dealers (EMDs) under section 16.3, a transitional relief order was issued on September 28, 2009, exempting them from the requirements in subsection 12.12(1) to deliver audited annual financial statements and prescribed capital calculations for a period of one year, consistent with the other solvency-related transitional relief provided in section 16.3. The relief is only available to the extent a mapped-over EMD is not registered in another category that requires delivery of financial statements or client statements during the applicable transition period.
PART 13 DEALING WITH CLIENTS – INDIVIDUALS AND FIRMS		
Division 1 Know your client and suitability		
13.3 Suitability	**Has the CSA published any additional guidance on section 13.3?**	Yes. CSA Staff Notice 33-315 *Suitability Obligation and Know Your Product* was published on September 2, 2009.
Division 2	**Are registrants still**	No. There is no prescribed form of disclosure

Regulation 31-103 SECTION	QUESTION	ANSWER
Conflicts of interest	**required to provide a specified statement of policies disclosure as was previously required in some jurisdictions (e.g. in Ontario, section 223 of the Regulations)?**	required in the conflicts of interest provisions of Regulation 31-103. The Policy Statement provides additional guidance in regards to disclosure about relationships with related or connected issuers.
Division 3 *Referral Arrangements*		
13.7 Definitions – referral arrangements	**Does "referral fee" include non-monetary compensation?**	Yes. "Referral fee" is defined in section 13.7 as *any* form of compensation. For example, gift certificates would be included.
PART 14 HANDLING CLIENT ACCOUNTS – FIRMS		
Division 2 *Disclosure to clients*		
14.2 Relationship disclosure information	**Does section 14.2 apply to clients who opened accounts before Regulation 31-103 came into effect?**	Yes. Section 14.2 applies to all clients, including those clients who opened accounts prior to September 28, 2009. Section 16.14 provides a one-year transition period from the requirements in section 14.2.
14.4 When the firm has a relationship with a financial institution	**Does section 14.4 apply to accounts opened before Regulation 31-103 came into effect?**	No. Section 14.4 applies only to new accounts opened after September 28, 2009.
14.5 Notice to clients by non-resident registrants	**Does the non-resident notice provision in section 14.5 apply to a Canadian registrant whose head office is located in another Canadian**	Yes. However, it was not our intention to include registrants based in Canada if they have a physical place of business in the jurisdiction. We anticipate issuing an order that provides relief from section 14.5 for registered firms that have their head office in a Canadian jurisdiction and a physical place of business in the local

Regulation 31-103 SECTION	QUESTION	ANSWER
	jurisdiction?	jurisdiction.
Division 3 *Client Assets*		
14.6 Holding client assets in trust	**Is there an exemption for a Canadian manager of an offshore fund that may have difficulty satisfying the requirement of paragraph 14.6(c) that cash be held effectively in Canada?**	No. Regulation 31-103 does not provide an exemption from the requirement in paragraph 14.6(c). However, we recognize that it may be difficult to comply in the circumstances described. We will consider granting discretionary relief on terms consistent with section 14.7.
Division 5 *Account activity reporting*		
14.12 Content and delivery of trade confirmation	**Must all of the information required in subsection 14.12(1) be provided to the client in a single document?**	There is no prescribed confirmation document that must be delivered to the client separately from any other documentation related to the transaction. The requirement for a written confirmation of a transaction can be satisfied by promptly delivering to the client a subscription agreement or other document or combination of documents which, taken together, provide all of the information listed in subsection 14.12(1).
14.12 Content and delivery of trade confirmation **14.13 Semi-annual confirmations for certain automatic plans** **14.14 Client statements**	**Can confirmations and client statements be delivered electronically?**	Yes. Confirmations and client statements can be delivered electronically (i.e., internet, fax or other "written" form) if the client agrees. See *Notice 11-201 related to the Delivery of Documents by Electronic Means*.
14.14 Client statements	**Must a registrant provide a monthly**	Only if the firm is a registered dealer and a client has asked for monthly statements, unless the

Regulation 31-103 SECTION	QUESTION	ANSWER
	statement if there is no activity in the account?	registrant is a mutual fund dealer. Otherwise, statements may be sent on a quarterly basis, except in the case of scholarship plan dealers, who must provide an annual statement.
	If my firm was not subject to client statement requirements before Regulation 31-103 came into force, do I have to send out client statements that include transactions that took place before then?	No. If a firm was not subject to client statement requirements before Regulation 31-103 came into force, only transactions that took place after that date are required to be included in the firm's first monthly or quarterly client statements.
	How should "market value" for the purposes of subsection 14.14(5) be determined?	Where possible, market value should be determined by reference to a quoted value on a recognized exchange or marketplace. If market value is not quoted on an exchange (e.g. bonds) market value may be determined by reference to quotes that are available through brokers. We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and is based on measures considered reasonable in the industry, such as value at cost where there has been no material subsequent event (e.g. a market event or new capital raising by the issuer).
	Does a former limited market dealer "mapped-over" to exempt market dealer (EMD) under section 16.3 have transitional relief from the requirement to deliver client statements?	Yes. For former limited market dealers in Ontario and Newfoundland and Labrador "mapped-over" to EMDs under section 16.3, a transitional relief order was issued on September 28, 2009, exempting them from the requirements in section 14.14 to deliver client statements for a period of two years, consistent with the transitional relief provided for mutual fund dealers (MFDs) in section 16.17. The relief is not available to a mapped-over EMD that is also registered in a category other than MFD or investment fund manager (IFM).
PART 16 TRANSITION		

Regulation 31-103 SECTION	QUESTION	ANSWER
	Are the transition periods flexible?	We will always consider applications for exemptive relief. However, we anticipate granting extensions of the transition periods only in rare circumstances.
	What if a registrant does not meet an applicable requirement under Regulation 31-103 before the end of the applicable transition period?	The registrant should immediately contact the regulator or securities regulatory authority. A registrant in that situation might be required to cease to conduct registerable activities until they comply with the requirement, or a temporary exemption might be granted subject to terms and conditions, depending on the circumstances.
16.3 Change of registration categories – limited market dealers **16.7 Registration of exempt market dealers**	**What is the passport procedure for registration of a former limited market dealer that has been "mapped-over" to exempt market dealer (EMD) in Ontario or Newfoundland and Labrador, but has its principal regulator (PR) in another jurisdiction?**	The mapped-over EMD should file a complete Form 33-109F6 *Firm Registration* with its PR. The application should be filed before the expiry of the transition period in section 16.7.
	Given the different transition periods in section 8.5 of *Regulation 45-106 respecting Prospectus and Registration Exemptions* (expiry of registration exemptions on March 27, 2010) and section 16.7 of Regulation 31-103, when must a person register as an exempt market dealer (EMD) if it is in the business of trading in exempt market securities and unable to rely on the "alternative approach	If the person was in the business of trading in exempt market securities in a jurisdiction when Regulation 31-103 came into effect, they may rely on the transition period in section 16.7 of Regulation 31-103 in that jurisdiction. They must apply for registration by September 28, 2010. If the person did not start operating in the exempt market until after September 28, 2009, they must register by March 28, 2010, which is when the registration exemptions in *Regulation 45-106 respecting Prospectus and Registration Exemptions* expire. The person should apply for registration well in advance of March 28, 2010 to ensure that registration is granted by that date.

Regulation 31-103 SECTION	QUESTION	ANSWER
	to regulating certain intermediaries in the exempt market" described in Appendix D to the CSA Notice of Regulation 31-103 (published on July 17, 2009)?	
	When will the jurisdictions that are participating in the "alternative approach to regulating certain intermediaries in the exempt market" described in Appendix D to the CSA Notice of Regulation 31-103 (published on July 17, 2009) issue their exemptions from exempt market dealer (EMD) registration?	The jurisdictions that have agreed to this alternative approach will issue local blanket orders to exempt certain intermediaries from EMD registration shortly before the registration exemptions in *Regulation 45-106 respecting Prospectus and Registration Exemptions* expire (March 27, 2010).
16.11 Capital requirements **16.13 Insurance requirements**	**If a firm was already registered when Regulation 31-103 was implemented, will it lose the benefit of the transitional exemptions set out in Part 16 if it adds registration in another category?**	No. A firm would not lose the benefit of the transitional exemptions provided in Part 16 for firms that are registered on the day Regulation 31-103 came into force (sections 16.8 [*Registration of ultimate designated persons*], 16.9 [*Registration of chief compliance officers*], 16.11 [*Capital requirements*] and 16.13 [*Insurance requirements*]) if it adds another registration category to what it had on the day when Regulation 31-103 came into force. Note also that subsection 16.4(3) provides a one-year transitional exemption from the investment fund manager (IFM) insurance requirement for a registered dealer or adviser that was acting as an IFM when Regulation 31-103 came into force.

Regulation 31-103 SECTION	QUESTION	ANSWER
FORMS		
FORM 31-103F1 *CALCULATION OF EXCESS WORKING CAPITAL*	**How is "market value" determined?**	Where possible, market value is determined by reference to a quoted value on a recognized exchange or marketplace. If market value is not quoted on an exchange (e.g. bonds) market value may be determined by reference to quotes that are available through brokers. We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and is based on measures considered reasonable in the industry, such as value at cost where there has been no material subsequent event (e.g. a market event or new capital raising by the issuer).
	What margin rate applies to securities (other than bonds and debentures) listed on exchanges in Canada or the United States?	The Canadian and United States exchanges listed in clause (e)(ii) of Schedule 1 (50% margin) should not have been included there. Clause (e)(i) sets out the appropriate rates.
	Who should sign the management certification at the end of Form 31-103F1 *Calculation of Excess Working Capital*?	The most senior decision maker at the firm, who will typically have a title such as chief executive officer, president or managing partner, should be one of the signatories. The firm's chief financial officer or functional equivalent, if there is one, should also sign. If your firm has only one officer, then only one signature is necessary.
FORM 31-103F2 *SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE*	**If I am relying on the international adviser or international dealer exemptions in sections 8.18 and 8.26, respectively, how can I ensure my firm receives communications from the regulator or securities regulatory authority in a timely manner?**	When submitting your firm's Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service*, include the name of the chief compliance officer or equivalent, their email address, and their telephone and fax numbers, as well as the firm's National Registration Database number, if it has one.

Regulation 33-109 respecting Registration Information

Regulation 33-109 SECTION	QUESTION	ANSWER
2.3 Reinstatement	**How can a permitted individual be reinstated on the National Registration Database (NRD) if their position at the new sponsoring firm is not identical to their position at the old sponsoring firm?**	For permitted individuals, NRD will not allow the individual to be reinstated with a sponsoring firm unless the position at the new sponsoring firm is identical to the position at the old sponsoring firm. So, if, for example, an officer wished to transfer to another sponsoring firm as an officer and director, the sponsoring firm would have to use one of two options: 1. Make a reactivation submission using Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*; or 2. Submit Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* to reinstate the individual for the officer position and Form 33-109F2 *Change or Surrender of Individual Categories* to add the director position.
6.1 All registered firms to file Form 33-109F6 – September 30, 2010	**What supporting documents must registered firms submit with their Form 33-109F6 *Firm Registration* within one year of implementation to their principal regulator (PR)? Must audited financial statements as per question 5.13 be included?**	If submitting Form 33-109F6 *Firm Registration* pursuant to this section, do not check off any of the boxes for question 1.3 as the reason for submitting the form. Simply make a note in your cover letter or email that you are submitting the form further to section 6.1 of Regulation 33-109. No supporting documents or audited financial statements are required.
FORM 33-109F4 *REGISTRATION OF INDIVIDUALS AND REVIEW OF PERMITTED INDIVIDUALS*	**Is there a requirement for individuals to update their Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*, since there are updated questions in the form?**	An individual is only required to update the questions in items 12 to 17 if there is a change to the response previously provided.

Regulation 33-109 SECTION	QUESTION	ANSWER
	Do permitted individuals of investment fund managers (IFM) need to submit Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*?	Although individuals acting on behalf of a registered IFM are not required to register pursuant to section 2.3 of Regulation 31-103, permitted individuals of an IFM must nonetheless file Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*. "Permitted individual" is defined in section 1.1 of *Regulation 33-109 respecting Registration Information*.
	When completing Schedule C of Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*, must a chief compliance officer (CCO) check off the "Officer – specify title" box, or only the CCO box?	If an individual's only officer title is CCO, then only the CCO box should be checked-off. However, if they also have an officer title that is listed in the definition of "permitted individual" in section 1.1 of Regulation 33-109 (CEO, CFO, COO or functional equivalent), then they should also check the "Officer" box and specify their title.
	In Québec, when should an authorized firm representative (AFR) submit a professional liability insurance policy and payment of fees payable to the Chambre de la sécurité financière (CSF)?	When an individual is seeking registration in Québec as a dealing representative of a mutual fund dealer or of a scholarship plan dealer who is not already registered in one of these categories.
FORM 33-109F6 *FIRM REGISTRATION*	**If I am a new applicant filing a Form 33-109F6 *Firm Registration* (not a current registrant updating my information), when do I submit payment?**	After Form 33-109F6 *Firm Registration* is received, we will contact you and provide you with a submission number in order that you are able to make payment through the National Registration Database.

Regulation 33-109 SECTION	QUESTION	ANSWER
	What supporting documents must registered firms submit with their Form 33-109F6 *Firm Registration* if registering in an additional jurisdiction or adding a registration category, such as investment fund manager (IFM)? Must audited financial statements as per question 5.13 be included?	Item 1.3 specifies the questions that must be responded to if adding a jurisdiction or category. As question 5.13 is not specified, audited financial statements are not required. However, we will require exempt market dealers (EMDs) registering for the first time (i.e., not already registered in another category in any jurisdiction) and former limited market dealers "mapped-over" to EMD in Ontario and Newfoundland and Labrador under section 16.3 of Regulation 31-103 to provide audited financial statements, since we will not already have them.
	If my firm has audited annual financial statements prepared for its most recent year end, but those audited statements are more than 90 days old as of the date of our application for registration, must we have new audited financial statements prepared?	In appropriate cases, where an applicant files audited annual financial statements prepared for its most recent year end, but those audited statements are more than 90 days old, we will accept unaudited financial statements for the period from the financial year end to the month end prior to application. Since these filings would be made as part of the initial application process, as attachments to the Form 33-109F6 *Firm Registration*, you may request the exemption at that time. No separate exemptive relief application need be filed in respect of this exercise of the Director's discretion.
	Must a firm that has its head office outside of Canada be registered in the foreign jurisdiction where it is based?	Foreign firms applying for registration are normally expected to be registered in a relevant category in their home jurisdiction. This is part of the fit and proper assessment to be registered in Canadian jurisdictions and is also relevant to our compliance oversight capabilities.

Regulation 33-109 SECTION	QUESTION	ANSWER
FORM 33-109F7 *REINSTATEMENT OF REGISTERED INDIVIDUALS AND PERMITTED INDIVIDUALS*	**My firm recently hired an individual that had terms and conditions imposed on his/her registration. What does this mean for our firm?**	By signing Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals*, the authorized partner or officer of the new sponsoring firm certifies that the individual's terms and conditions remain in effect and agrees to assume any ongoing obligations that apply to the sponsoring firm in respect of the individual.

Registration-related fees

	QUESTION	ANSWER
	Where can I get information on the fees payable to the regulators or securities regulatory authorities in different jurisdictions?	There is a link to each of the CSA jurisdiction's fee schedules on the National Registration Database information website at www.nrd-info.ca. The schedules are located under the left-hand navigation bar labelled "Regulatory fees".