

**Notice of
Regulation 11-102 respecting Passport System,
Policy Statement to Regulation 11-102 respecting Passport System, and
Related Consequential Amendments**

***Policy Statement 11-202 respecting Process for Prospectus Reviews in Multiple
Jurisdictions, and
Policy Statement 11-203 respecting Process for Exemptive Relief Applications in
Multiple Jurisdictions,***

and

**Rescission of
Notice 12-201 relating to the Mutual Reliance Review System for Exemptive Relief
Applications, and
Notice 43-201 relating to the Mutual Reliance Review System for Prospectuses**

Introduction

Members of the Canadian Securities Administrators (CSA), other than the Ontario Securities Commission (OSC), (passport regulators) are implementing the next phase of the passport system for continuous disclosure, prospectuses and discretionary exemptions effective March 17, 2008. All CSA members, including the OSC, are implementing new policy statements for the filing and review of prospectuses and exemptive relief applications and rescinding the corresponding mutual reliance review notices on the same date.

Passport system

Regulation 11-102 respecting Passport System (Regulation 11-102) and *Policy Statement to Regulation 11-102 respecting Passport System* (Policy Statement 11-102) are initiatives of the passport regulators.

Each of the passport regulators has made or will make Regulation 11-102 as a rule or regulation. Each passport regulator has also adopted or will adopt Policy Statement 11-102 as a policy. The text of Regulation 11-102 and Policy Statement 11-102 are published with this Notice.

The purpose of Regulation 11-102 and Policy Statement 11-102 is to 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.

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

Consequential amendments to regulations and related documents

The passport regulators are also adopting consequential amendments to the following regulations and policy statements (together, the related consequential amendments):

- National Instrument 14-101, *Definitions* (NI 14-101)
- *Regulation 58-101 respecting Disclosure of Corporate Governance Practices* (Regulation 58-101)

- *Regulation 81-104 respecting Commodity Pools* (Regulation 81-104)
- *Policy Statement to Regulation 81-104 respecting Commodity Pools* (Policy Statement 81-104)
- *Regulation 11-101 respecting Principal Regulator System* (Regulation 11-101), including Form 11-101F1 *Notice of Principal Regulator under Multilateral Instrument 11-101* (Form 11-101F1)
- *Policy Statement to Regulation 11-101 respecting Principal Regulator System* (Policy Statement 11-101)
- *Regulation 52-110 respecting Audit Committees* (Regulation 52-110)
- *Policy Statement to Regulation 52-110 respecting Audit Committees* (Policy Statement 52-110)

The purpose of the consequential amendments to Regulation 11-101, Policy Statement 11-101 and Form 11-101F1 is to allow for the implementation of passport in stages. They repeal the principal regulator system for continuous disclosure, prospectuses and discretionary exemptions, but preserve the provisions related to the mobility exemptions (see *Background* below for further details).

The OSC did not and was not required to publish for comment the consequential amendments to NI 14-101, Regulation 58-101, Regulation 81-104, Policy Statement 81-104, Regulation 52-110 and Policy Statement 52-110 because the amendments are not material or do not apply in Ontario. The OSC made the amendments to NI 14-101 on December 18, 2007 and delivered them to the Minister of Finance on December 27, 2007 for approval. The OSC will change the references to Regulation 52-110 in Regulation 58-101 at the earliest opportunity, to reflect that Regulation 52-110 is a national instrument. The OSC will reflect the consequential amendments to the other regulations on its website.

The text of the related consequential amendments is published with this Notice. [_](#)

National filing and review process policies

The following policies are initiatives of the CSA:

- *Policy Statement 11-202 respecting Process for Prospectus Reviews in Multiple Jurisdictions* (Policy Statement 11-202); and
- *Policy Statement 11-203 respecting Process for Exemptive Relief Applications in Multiple Jurisdictions* (Policy Statement 11-203).

Each member of CSA has adopted or will adopt Policy Statement 11-202 and Policy Statement 11-203. Their text is published with this Notice.

Each member of CSA is rescinding:

- *Notice 12-201 relating to the Mutual Reliance Review System for Exemptive Relief Applications* (Notice 12-201)¹, and
- *Notice 43-201 relating to the Mutual Reliance Review System for Prospectuses* (Notice 43-201)².

¹ In jurisdictions other than Québec, this notice corresponds to National Policy 12-201, *Mutual Reliance Review System for Exemptive Relief Applications*.

² In jurisdictions other than Québec, this notice corresponds to National Policy 43-201, *Mutual Reliance Review System for Prospectuses*.

Policy Statement 11-202 and Policy Statement 11-203 (together the interface policies) set out the processes for the filing and review of prospectuses and exemptive relief applications in multiple jurisdictions. These policies include interfaces for market participants in passport jurisdictions to gain access to the Ontario market. CSA intends to give access to exemption decisions made under Policy Statement 11-203 through the CSA website at www.csa-acvm.ca.

Under Regulation 11-102 and the interface policies, the principal regulator for a prospectus offering or discretionary exemption application will usually be the regulator in the jurisdiction where the market participant's head office is located.

Consequential amendments to local rules

CSA members in some jurisdictions are also publishing a local notice to make consequential amendments to local rules.

The British Columbia Securities Commission (BCSC) is adopting Regulation 52-110, Policy Statement 52-110 and the related forms, and repealing its local audit committee rule, BC Instrument 52-509 *Audit Committees*. Consequently, CSA is amending the title of Regulation 52-110 to reflect that it is a national instrument³. The BCSC is publishing with the BC notice published at the same time as this notice a consolidated version of Regulation 52-110 and Policy Statement 52-110 that includes the consequential amendments.

The BCSC is giving reporting issuers that obtained a discretionary exemption from Regulation 52-110 and certain provisions of Regulation 81-104 and Regulation 58-101 in another Canadian jurisdiction before March 17, 2008 an equivalent exemption in British Columbia. This will put these reporting issuers in the same position in British Columbia as elsewhere in Canada when the BCSC adopts Regulation 52-110 and the amendments to Regulation 81-104 and Regulation 58-101. For more information, see the BC notice published at the same time as this notice.

Effective date and transition

Regulation 11-102 applies to a continuous disclosure document filed on or after March 17, 2008. It also applies to a preliminary prospectus or pro forma prospectus and their related prospectus, and to an amendment to a prospectus, filed on or after March 17, 2008. Regulation 11-102 does not apply to a preliminary prospectus amendment if the related preliminary prospectus was filed before March 17, 2008.

Regulation 11-102 also applies to an application for discretionary exemption filed

- on or after March 17, 2008, or
- before March 17, 2008, if the regulator in a specified jurisdiction granted the exemption before, on or after March 17, 2008 and a filer wishes to have an equivalent exemption in a passport jurisdiction after March 17, 2008.

Regulation 11-102 and Policy Statement 11-102 refer to rules (e.g., *Regulation 62-104 respecting Take-Over Bids and Issuer Bids*) and Act provisions that CSA expects to be in force on March 17, 2008.

The process set out in Notice 12-201 will continue to apply to a discretionary exemptive relief application and any related pre-filing filed before March 17, 2008. Similarly, the process set out in Notice 43-201 will continue to apply to

³ This amendment does not apply in Québec, as all instruments, whether multilateral or national, are referred to as "regulations".

- a preliminary prospectus, pro forma prospectus, a preliminary prospectus amendment and prospectus amendment filed before March 17, 2008,
- a prospectus if the related preliminary prospectus or pro forma prospectus was filed before March 17, 2008, and
- a preliminary prospectus amendment if the related preliminary prospectus was filed before March 17, 2008.

Passport for registration

When the passport regulators published draft Regulation 11-102 and related documents for comment in March 2007, the draft regulation included passport for registration provisions. The passport regulators plan to amend Regulation 11-102 and Policy Statement 11-102 to include the passport for registration at the same time as, or after, implementing draft *Regulation 31-103 respecting Registration Requirements* (Regulation 31-103). CSA expects to publish draft Regulation 31-103 for a second comment period early in 2008 and expects to publish draft *Policy Statement 11-204 respecting Process for registration in multiple jurisdictions* for comment in due course.

Impact of new Securities Acts on discretionary exemptions

The governments of Prince Edward Island and Yukon each plan to proclaim into force a new *Securities Act* by March 17, 2008 and to adopt concurrently Regulation 11-102 and all the other CSA national instruments as rules. The governments of Northwest Territories and Nunavut each expect to introduce a new *Securities Act* and, if enacted, to adopt all CSA national instruments as rules. It is expected that the new *Securities Act* for all four jurisdictions will be highly harmonized.

The references to the securities legislation in the appendices to Regulation 11-102 for Prince Edward Island and Yukon are to their new *Securities Act* and related rules. The references for Northwest Territories and Nunavut are to their current securities legislation.

Background

The passport regulators published for comment Regulation 11-102, Policy Statement 11-102, the related consequential amendments and the repeal of Regulation 11-101, Form 11-101F1, Policy Statement 11-101, and Notice 43-201 on March 28, 2007. The OSC did not publish Regulation 11-102 related materials for comment. Rather, on March 28, 2007, it published OSC Notice 11-904 *Request for Comment regarding the Proposed Passport System*.

At that time, passport regulators indicated that CSA had published for comment in draft Regulation 31-103 a revised mobility exemption that would replace the mobility exemption in Part 5 of Regulation 11-101. Passport regulators also indicated that, subject to comments received, CSA would move that exemption into a separate regulation between the repeal of Regulation 11-101 and the implementation of Regulation 31-103.

Instead, the passport regulators are amending Regulation 11-101, Policy Statement 11-101 and Form 11-101F1 to repeal the provisions dealing with passport for continuous disclosure, prospectuses and discretionary exemptions and retain the provisions for the mobility exemptions. Subject to comments received, CSA anticipates including the modified mobility exemptions in draft Regulation 31-103 when CSA finalizes that regulation and the passport regulators expect repealing amended Regulation 11-101 at the same time.

CSA published for comment Policy Statement 11-202 and Policy Statement 11-203 and the rescission of Notice 12-201 and Notice 43-201 on August 31, 2007.

Summary of Written Comments

The passport regulators received 17 submissions on Regulation 11-102 and Policy Statement 11-102, seven of which the OSC also received in response to OSC notice 11-904. CSA received three submissions on the interface policies. All the comment letters are posted on the Alberta Securities Commission website at www.albertasecurities.com. Comments received by the OSC are also published on its website at www.osc.gov.on.ca. CSA thanks commenters for their submissions on the two requests for comment.

CSA considered the comments and is publishing a combined summary of comments and responses with this Notice. The summary includes the names of the commenters, a summary of their comments, and the CSA responses to comments that do not relate specifically to the passport for registration. Passport regulators will respond to those comments when finalizing the passport for registration.

Summary of Changes

Regulation 11-102

Passport regulators made amendments to Regulation 11-102 to implement passport first for continuous disclosure, prospectuses and exemption applications. This means the provisions relating to passport for registration were deleted from the regulation. Passport regulators also removed the concept of determination date to identify the principal regulator for a prospectus offering made under Regulation 11-102 and instead provided guidance in Policy Statement 11-202 and Policy Statement 11-203 on how to identify the principal regulator for a pre-filing or waiver application. Passport regulators clarified how to determine the principal regulator for an exemption application in certain situations. In addition, passport regulators added transition provisions and removed the provision that allows the regulators to grant an exemption from the regulation because the passport regulators' authority for these exemptions is in their respective *Securities Act*. The changes to Regulation 11-102 are not material and do not need to be republished for comment.

Policy Statement 11-102

Passport regulators made changes to Policy Statement 11-102 to delete the guidance for the passport for registration, add a discussion of how Regulation 11-102 and the interfaces with Ontario work, and delete information that is now included in Policy Statement 11-202 and Policy Statement 11-203. Passport regulators clarified that the OSC can be a principal regulator despite not adopting Regulation 11-102.

Interface policies

CSA made changes to Policy Statement 11-202 and Policy Statement 11-203 to deal with technical issues raised in comment letters or otherwise.

Questions

Please refer your questions to any of:

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January 25, 2008

***Regulation 11-102 respecting Passport System
Policy Statement 11-202 respecting Process for Prospectus Reviews in Multiple Jurisdictions
and
Policy Statement 11-203 respecting Process for Exemptive Relief Applications in Multiple Jurisdictions***

List of commenters

1. Jean-François G. Labbé, MBA, CFA, ¹
Planificateur financier, Investia Services Financiers Inc.
2. Fédération des caisses Desjardins du Québec ²
3. Trust Banque Nationale ³
4. Independent Financial Brokers
5. Legal Advisory Committee to the Autorité des marchés financiers
6. Edward Jones
7. Raymond James⁴
8. IGM Financial⁵
9. Investment Industry Association of Canada
10. TSX Group ⁶

¹ Comment letter addressed to the Autorité des marchés financiers.

² Comment letters addressed to the Autorité des marchés financiers.

³ Comment letter addressed to the Autorité des marchés financiers.

⁴ Comment letter addressed to passport jurisdictions and OSC in response to OSC Notice 11-904 *Request for Comment Regarding the Proposed Passport System*.

⁵ Comment letter addressed to passport jurisdictions and similar letter sent to the OSC in response to OSC Notice 11-904 *Request for Comment Regarding the Proposed Passport System*.

⁶ Comment letter addressed to passport jurisdictions and OSC in response to OSC Notice 11-904 *Request for Comment Regarding the Proposed Passport System*.

11. Investment Funds Institute of Canada
12. BMO Nesbitt Burns inc., Private Client Division
13. Canadian Bankers Association
14. BC Investment Management Corporation ⁷
15. Borden, Ladner, Gervais – Toronto Securities and Capital Markets practice group ⁸
16. Investment Dealers Association of Canada (IDA)
17. Canadian Coalition for Good Governance⁹

⁷ Comment letter addressed to British Columbia Securities Commission.

⁸ Comment letter addressed to passport jurisdictions and OSC in response to OSC Notice 11-904 *Request for Comment Regarding the Proposed Passport System*.

⁹ Comment letter sent to passport jurisdictions and OSC in response to OSC Notice 11-904 *Request for Comment Regarding the Proposed Passport System*.

Summary of comments and responses

*Regulation 11-102 respecting Passport System
(Regulation 11-102)*

Comments

#	Themes	Comments	Responses
1.	Passport System – General	<p>The passport regulators received 17 comment letters on the passport system.</p> <p>Of these 15 expressed support for a variety of reasons, including that the passport system would reduce the regulatory burden, improve regulatory efficiency, streamline regulatory decision-making and generally simplify the securities regulatory regime while adequately protecting investors. Many indicated passport was a step in the right direction while noting that their ultimate preference is a national regulator.</p> <p>Two commenters did not support the passport system. They think that Canada needs a single securities regulator to simplify the regulatory system and provide maximum benefits to market participants.</p>	<p>Regulation 11-102 implements the second phase of the passport initiative contemplated in the Provincial/Territorial Memorandum of Understanding regarding Securities Regulation (Passport MOU). The objective of the Passport MOU is to set up a system that gives a single window of access to market participants in areas where securities laws are already highly harmonized or could be harmonized quickly.</p> <p>The structural changes suggested by some of the commenters as their ultimate preference for Canada's securities regulatory system are not within the powers of securities regulators to consider. However, the passport regulators and the OSC are continuing to work to harmonize and streamline securities legislation and requirements across jurisdictions and to implement the interfaces and administrative and other processes necessary to make the Canadian securities regulatory system more efficient and effective.</p> <p>See item 2 below for the response on the issues related to Ontario's decision not to participate in the passport system.</p>
2.	Ontario's non-participation in passport	<p>Six commenters expressed views on Ontario's decision not to participate in the passport system.</p> <p>Two commenters were disappointed that the Ontario government</p>	<p>The OSC is not adopting Regulation 11-102, but CSA is implementing the passport system and interfaces that make the securities regulatory system as efficient and effective as possible in the circumstances for all</p>

Comments

#	Themes	Comments	Responses
		<p>and the OSC are declining to participate in passport. They urged them to reconsider their position.</p> <p>Half the commenters thought that, without Ontario, the passport system would not work, should not proceed, or its benefits would be substantially reduced. They invoked several reasons, including that</p> <ul style="list-style-type: none"> • market participants would have to contend with two systems • the regulatory system would be more complicated than it is now • market participants in the passport jurisdictions would have an unfair advantage 	<p>market participants who want to gain access to the capital markets in both passport jurisdictions and Ontario. The OSC has participated in developing the interfaces between the passport jurisdictions and Ontario.</p> <p>See item 3 below for more details on the interface with Ontario.</p>
3	Interface with Ontario	<p>Twelve commenters expressed views on the proposal to repeal the existing mutual reliance review systems (MRRS) and national registration system (NRS) and the lack of interface with Ontario.</p> <p>Most commenters disagreed with the passport jurisdictions' proposal if Ontario does not participate in passport. Three said passport should not proceed in those circumstances or without the involvement of Ontario.</p> <p>Most commenters thought the regulators should maintain MRRS and NRS or provide similar mechanisms to ensure that market participants do not lose the benefits those systems provide, or that no one, inside or outside Ontario, is disadvantaged. Two commenters suggested incorporating the improvements of passport into MRRS and NRS.</p>	<p>The passport regulators designed the proposed passport system for adoption by all Canadian securities regulatory authorities to show how the system could operate to streamline Canadian securities regulation. On that basis, we proposed repealing MRRS (except to deal with a few types of exemptive relief applications) and NRS because the passport system would have replaced them. When we published the passport system for comment, we did not address what would happen if a jurisdiction did not adopt it.</p> <p>As indicated above, passport regulators are implementing the passport system even though the OSC is not adopting Regulation 11-102. However, to make the system as efficient and effective as possible in the circumstances for all market participants who want to gain access to the capital markets in both passport jurisdictions and Ontario, passport regulators and the OSC worked together to develop interfaces between the passport jurisdictions and Ontario.</p>

Comments			
#	Themes	Comments	Responses
			<p>On August 31, 2007, CSA published a Notice and Request for Comment on draft <i>Policy Statement 11-202 respecting Process for Prospectus Reviews in Multiple Jurisdictions</i> (Policy Statement 11-202) and <i>Policy Statement 11-203 respecting Process for Exemptive Relief Applications in Multiple Jurisdictions</i> (Policy Statement 11-203). The policy statements replace the MRRS notices for prospectuses and exemptive relief applications. They set out the processes for making regulatory decisions in multiple jurisdictions for market participants based in passport jurisdictions and in Ontario. They maintain the processes in the current MRRS system to give market participants in passport jurisdictions coordinated access to Ontario and give Ontario market participants direct access to passport jurisdictions.</p> <p>CSA received three comment letters on Policy Statement 11-202 and Policy Statement 11-203 (the draft policy statements). The commenters generally supported the draft policy statements and provided some technical and other comments. See items 21 and following below for a summary of the comments on these policy statements and our responses.</p> <p>CSA is adopting Policy Statement 11-202 and Policy Statement 11-203 at the same time as the passport jurisdictions are adopting Regulation 11-102.</p>
4	Harmonized requirements	<p>Five commenters said that harmonized requirements were critical to the proper functioning of the passport system. Most of them noted that the rules should be the same regardless of the location of the market participant and asked that differences be resolved.</p> <p>Most of them also said that market participants operating in more than one jurisdiction should only be subject to harmonized</p>	<p>CSA has been working cooperatively for many years on harmonizing securities requirements and has developed regulations and policy statements in many regulatory areas. For example, CSA has already implemented national continuous disclosure requirements for investment funds and other reporting issuers.</p> <p>A key foundation for the passport system is a set of nationally</p>

Comments

#	Themes	Comments	Responses
		<p>requirements. Others noted the challenges that lie ahead to complete the harmonization projects necessary to implement the proposed passport system at both the CSA and government levels.</p> <p>Some made more specific comments, including the following:</p> <ul style="list-style-type: none"> • One commenter suggested CSA should have a rule generating body to make recommendations to commissions and provincial governments for rule changes applicable across the country. • Another suggested that CSA and governments adopt mechanisms other than consensus to govern how CSA makes or amends national rules before finalizing the passport system. The mechanisms should include a formal agreement to minimize local 'opt-outs' and local regulation and an agreement on the specific and very limited circumstances when local regulations would be considered necessary. Another suggested the mechanism for making or amending existing harmonized laws be transparent. • Two commenters noted that an unintended consequence of having non-harmonized requirements is that small issuers raising capital only in one province may be subject to potentially more onerous requirements than those raising capital in two or more. • One commenter noted that much of securities regulation is outside the scope of the passport system, e.g., the prospectus and registration exemption regime, insider reporting, take-over bid regulation, early warning reporting, civil remedies, trading rules etc. and thought the passport system should address all regulations. • Two commenters suggested that CSA should also work 	<p>harmonized regulatory requirements. Therefore, the passport regulators are implementing the passport system for prospectuses, continuous disclosure and exemptive relief applications at the same time as CSA is implementing <i>Regulation 41-101 respecting General Prospectus Requirements</i>.</p> <p>CSA is also harmonizing securities regulations in other areas. For example, the passport regulators have announced that we expect to implement <i>Regulation 62-104 respecting Take-Over Bids and Issuer Bids</i> on February 1, 2008. The OSC has requested that amendments to Part XX of the Ontario <i>Securities Act</i> and OSC Rule 62-504 <i>Take-Over Bids and Issuer Bids</i> come into force on February 1, 2008. These rules and act amendments harmonize the take-over bid and issuer bid requirements in all jurisdictions. CSA is working on other harmonization initiatives, e.g., insider reporting requirements.</p> <p>CSA developed processes to avoid undue delay and resolve differences of view among jurisdictions as we work on harmonization and other projects. For instance, CSA project committees elevate contentious issues to the CSA's Policy Coordination Committee (PCC) for resolution as they arise.</p> <p>The rule-making process is a local process that varies from jurisdiction to jurisdiction. In the passport MOU, Ministers agreed to make best efforts to achieve and maintain a high degree of harmonization in securities legislation.</p> <p>CSA recognizes that local issuers or registrants may be subject to different or additional non-harmonized requirements than those</p>

Comments

#	Themes	Comments	Responses
		<p>together and with provincial governments, in appropriate cases, to harmonize their rule-making procedures, enforcement powers, compliance procedures and SRO oversight regimes.</p> <ul style="list-style-type: none"> • A last commenter expressed concern about the fact that under the passport system, cancellations, amendments, revocations or other changes to terms and conditions of registration could vary across jurisdictions because any existing terms and conditions imposed by a non-principal regulator through a settlement or decision made before passport would continue to apply only in the non-principal jurisdiction. 	<p>operating or offering securities in more than one jurisdiction. In every project we undertake, we work to eliminate or harmonize remaining non-harmonized requirements. We also consider the impact unique local requirements would have on local market participants.</p> <p>Some CSA jurisdictions have proposed to their governments a number of legislative changes to harmonize our enforcement powers. For example, the legislature in many jurisdictions have adopted or governments are considering a provision that would enable the securities regulator to reciprocate an enforcement order made by a court or securities regulatory authority or a settlement agreement reached in another Canadian or a foreign jurisdiction.</p> <p>The passport system for discretionary exemptions covers discretionary exemptions from harmonized requirements in most areas of regulation (e.g., take-over bids and insider reporting, as well as prospectus, continuous disclosure and registration). Policy Statement 11-203 sets out the process for making regulatory decisions on discretionary exemption applications made in multiple jurisdictions for filers in passport jurisdictions and in Ontario. It also includes a process modelled on MRRS for exemptive relief applications that fall outside the scope of Regulation 11-102.</p> <p>As part of our work to implement the passport system and the draft policy statements, CSA assessed the risks of the system, and developed and are implementing processes and procedures to mitigate those risks. Before implementation, we focused our efforts on ensuring consistency in decision-making among passport jurisdictions. We are now reviewing our compliance review processes in the relevant areas to ensure</p>

Comments			
#	Themes	Comments	Responses
			consistent application of harmonized requirements across jurisdictions.
			We will respond to the last comment, which specifically relates to registration, when we finalize passport for registration.
5	Consistency in application and interpretation under passport system	Six commenters noted the importance of CSA members providing uniform interpretation and application of securities legislation. Some also suggested making the practices and procedures the CSA implements to achieve that result transparent.	<p>CSA agrees that it is important to apply and interpret harmonized securities legislation consistently under the passport system. As mentioned in response to item 4 above, as part of our work to implement the passport system and the draft policy statements, CSA assessed the risks of the system. CSA developed and we are implementing processes and procedures to mitigate this type of risk in relevant areas while ensuring that we maintain the increased efficiencies of the securities regulatory system for market participants.</p> <p>In addition, we put in place a training program to ensure staff are familiar with the passport system and the draft policy statements and we conduct regular training on the interpretation and application of harmonized requirements.</p> <p>Finally, we reviewed our processes and procedures for continuous disclosure reviews to ensure that we have mechanisms in place to produce consistent review outcomes across CSA jurisdictions.</p>
6	Consultation among passport jurisdictions	<p>One commenter noted that there is a risk, under passport, that regulators will take a different approach to the same issue without consultation among regulators before making a decision. However, the commenter acknowledged that entrenching consultation among regulators would create regulatory paralysis and make the system less efficient than it is today.</p> <p>Another commenter asked that there not be a mandatory</p>	<p>As mentioned in response to item 4 above, as part of our work to implement the passport system and the draft policy statements, CSA assessed the risks of the system. CSA developed and we are implementing processes and procedures in relevant areas to mitigate this type of risk while ensuring that we maintain the increased efficiencies of the securities regulatory system for market participants.</p> <p>We will respond to this comment when we finalize passport for</p>

Comments			
#	Themes	Comments	Responses
		requirement for the principal regulator to consult with a non-principal regulator before making a registration-related decision.	registration.
7	Inherent complexities of the passport system	One commenter said that, while the regulation itself is relatively simple, the Policy Statement contains 44 pages of details and five appendices. It will be difficult for regulators to keep the details up to date. The Policy Statement also contains mandatory language that more properly belongs in the regulation.	The passport regulators streamlined the Policy Statement and moved much of the guidance to the draft policy statements (e.g., the guidance on principal regulator and the appendices that described the administrative processes for each passport area). The remaining guidance expands on many of the provisions of the rule to assist market participants.
8	Discretionary change of principal regulator (sections 3.2, 4.8 and 5.3 of Regulation 11-102)	One commenter requested guidance on the circumstances in which a securities regulator would initiate a change in principal regulator and noted that a market participant should receive notice of the securities regulator's intention to exercise its discretion and have an opportunity to respond and make submissions as to why this should not happen.	The guidance on principal regulator is now in Policy Statement 11-202 and Policy Statement 11-203. The draft policy statements provide that the principal regulator will consult with the filer and the appropriate regulator if it wants to initiate a change in principal regulator.
9	Fees	Four commenters suggested eliminating or reducing fees in non-principal jurisdictions under passport because they believe that non-principal regulators will do no work or less work under passport. One commenter acknowledged that fees support the entire regulatory system and suggested that market participants pay all fees to the principal regulator. Another commenter recommended against that approach for registered firms.	<p>The proposed passport system maintains the status quo with respect to fees for prospectuses and registration. It extends the benefit given to reporting issuers who sought an exemption from continuous disclosure requirements under <i>Regulation 11-101 respecting Principal Regulator System</i> to all discretionary application exemptions. Regulation 11-102 requires a market participant to pay fees for a discretionary exemption application only in its principal jurisdiction.</p> <p>The Passport MOU contemplates a review of fees to assess whether to change them so they are more consistent with the objectives of the passport system. The Council of Ministers under the Passport MOU asked CSA to review the fee structure of its members and propose changes to the Ministers. CSA has initiated this project and will report</p>

Comments			
#	Themes	Comments	Responses
			to the Ministers.
			We will respond to the comment relating to the collection of fees for firm registration, when we finalize passport for registration.
10	Cost benefit analysis (CBA)	Two commenters suggested that CSA do a cost-benefit analysis about the passport system given Ontario's non-participation.	The passport regulators, working with the OSC, developed interfaces for Ontario market participants who want to access the capital markets of passport jurisdictions, and for market participants in passport jurisdictions who want access to the Ontario capital market. The interfaces make the securities regulatory system as efficient and effective as possible in the circumstances for all market participants who want to gain access to the capital markets in both passport jurisdictions and Ontario.
11	Re-publication of passport for comment	Two commenters suggested republishing the passport system for comment with or after the underlying harmonized rules are in place and once the regulators have developed an interface for Ontario market participants. Otherwise, market participants would be commenting on an incomplete proposal.	It is important for market participants to understand how the passport system will work in light of Ontario's decision not to adopt Regulation 11-102. Consequently, we published for comment Policy Statements 11-202 and 11-203. See items 21 and following below for a summary of the comments on these Policy Statements and our responses. We have not made material changes to Regulation 11-102 to implement the interfaces between the passport jurisdictions and Ontario. For that reason, we did not republish it for comment.
12	Operational constraints for regulators	One commenter thought that the passport system would increase the need for the regulators to have staff with appropriate financial market and product expertise and suggested regulators focus on allocating resources appropriately to prevent an escalation in costs.	As is our usual practice, we published for comment the harmonized rules underlying the passport system. As mentioned in response to item 4 above, as part of our work to implement the passport system, CSA jurisdictions assessed the risks of the system. CSA developed and we are implementing processes and procedures in relevant areas to mitigate this type of risk while ensuring that we maintain the increased efficiencies of the securities regulatory

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13	National Registration Database (NRD)	<p>One commenter said that regulators should postpone developing passport for registration or implementing major changes to NRD until the regulators have finalized all their registration-related proposals.</p> <p>Another commenter recommended that CSA not implement the passport rule until it makes changes to NRD because, otherwise, regulators will have to put in place burdensome administrative workarounds and the accuracy of the data on NRD will be compromised. This commenter added that for the passport system to work, all regulators should record any detrimental information relating to an individual on NRD.</p>	<p>system for market participants.</p> <p>CSA is working to ensure that the passport for registration and draft <i>Regulation 31-103 respecting Registration Requirements</i> (Regulation 31-103) will work together to provide an efficient system of regulation. CSA expects to publish a draft policy statement for registration in due course and will work with the IDA to accommodate passport and the interfaces on NRD.</p>
14	Registration implementation issues if Ontario does not adopt Regulation 11-102	<p>Two commenters asked specific questions about implementing the passport system for registration without Ontario:</p> <ul style="list-style-type: none"> • Could an individual whose firm has its head office in Ontario participate in passport? • If so, which regulator would act as principal regulator for the individual and could the firm have a principal regulator in each jurisdiction where it has representatives? • How will opting in and opting out of passport work for a firm whose head office and a majority of its representatives are in Ontario? If a firm cannot participate because of the location of its head office, will it have to file any documentation? • If a firm opts-out and Ontario decides to join passport, will the firm have the opportunity to revisit its decision? • How would NRD be updated to reflect the automatic registration process under the passport system? How will the 	<p>We will respond to these questions when we finalize passport for registration.</p>

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		system be different especially in light of the fact the Ontario residents will not be able to participate in passport?	
15	Transition issues for registration	Two commenters submitted that the 30-day transition period proposed for firms to opt out of the passport system is too short and should be at least 180 days.	We will respond to this comment when we finalize passport for registration.
16	Technical registration issues	<p>One commenter raised several technical registration issues about</p> <ul style="list-style-type: none"> the information an individual should provide on NRD to register in additional jurisdictions whether the IDA will continue to approve individuals before they are registered by their principal regulator in the jurisdictions that do not delegate registration to the IDA the meaning of the phrase “date on which the filing is made” on Form 11-102F1 where to request a hearing when the IDA registers firms or individuals in a jurisdiction 	We will respond to these comments when we finalize passport for registration.
17	Delegation of registration to self-regulatory organizations (SROs)	Three commenters suggested all CSA members should consider delegating their registration function to the IDA to ensure a single point of contact in every jurisdiction and a common and consistent approach.	We will respond to these comments when we finalize passport for registration.
18	Mobility exemption	One commenter said the decision to retain the limits on the number of eligible clients a firm or individual may service under the mobility exemption is inconsistent with the principles of the passport system. Also, the limits are too low and the cost of compliance too high, which means dealers will choose to register instead of using the exemption.	CSA published a revised mobility exemption in draft Regulation 31-103. The purpose of the exemption is to provide relief on a <i>de minimis</i> basis to a firm or individual whose clients move to another jurisdiction. On that basis, if the number of clients in the non-principal jurisdiction exceeds the limit set out in the exemption, we consider the registrant's level of activity in the jurisdiction to be sufficient to warrant registration. Passport for registration will allow firms and individuals to register in multiple jurisdictions by dealing only with their principal

Comments			
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			regulator.
19	Cease-trade orders (CTOs)	One commenter encouraged CSA to include in the regulation a system to treat CTOs consistently across the country. Specifically, the commenter sought guidance on how to comply with CTOs issued in one or more Canadian jurisdictions, but not all of them.	CSA is developing a draft policy statement on CTOs to harmonize the procedures for issuing CTOs. We will consider this comment in developing the draft policy statement.
20	Publication of regulations on CSA website	One commenter urged CSA to publish draft regulations and policy statements on the CSA website instead of on each regulator's website.	CSA initiated a project to determine how best to use our website. As part of this review, we will consider whether our website should contain regulations and policy statements.

**Policy Statement 11-202 and Policy Statement 11-203
(draft policy statements)**

21	Draft policy statements - General	<p>CSA received three comment letters on the draft policy statements. The three commenters supported the proposed interfaces with Ontario.</p> <p>One said it was time to move forward with passport to allow the system to show its potential. The commenter continues to hope the Ontario government and the OSC will adopt passport.</p> <p>Another said that a common regulator would create a more efficient and effective regulatory system, but encouraged Ontario to become a full participant in passport to support the momentum for reform of regulatory content and structure.</p> <p>The last commenter urged CSA to address the un-level playing field between Ontario and passport jurisdiction market participants as soon as possible. This commenter was concerned that the proposed interfaces did not provide Ontario with any incentive to reconsider its position and adopt passport.</p>	<p>The proposed interfaces with Ontario make the securities regulatory system as efficient and effective as possible in the circumstances for all market participants who want to gain access to the capital markets in both passport jurisdictions and Ontario. The changes to the regulatory structure suggested by one commenter are not within the powers of securities regulators to consider.</p>
22	Draft policy statements – Two-year review	<p>One commenter thought the CSA's plan to review the direct access to passport for Ontario market participants two years after the implementation of passport is reasonable. The commenter is confident it will show the effectiveness of the system and that this should convince Ontario to adopt passport.</p> <p>Another commenter was concerned that the review of the interfaces two years after the implementation of passport introduces an element of uncertainty and encouraged CSA to develop a permanent solution that all jurisdictions support.</p>	<p>The passport jurisdictions plan to review the direct access provided to Ontario market participants in due course and continue to work with the OSC to make the regulatory system as effective and efficient as possible in the circumstances.</p>
23	Draft policy statements -	<p>One commenter recommended that CSA requires issuers to pay</p>	<p>The Passport MOU contemplates a review of fees to assess whether to</p>

	Fees	prospectus filing fees only to their principal regulator (and the OSC for passport jurisdiction issuers). The commenter acknowledged that these fees are an important source of revenue for regulators and its recommendation may disrupt the functioning of the regulatory framework and suggested CSA consider this as part of its planned two-year review of the passport interfaces.	change them so they are more consistent with the objectives of the passport system. The Council of Ministers under the Passport MOU asked CSA to review the fee structure of its members and propose changes to the Ministers. CSA has initiated this project and will report to the Ministers.
24	Transparency	<p>One commenter requested CSA to</p> <ul style="list-style-type: none"> provide details of the mechanisms it will utilize to monitor the effectiveness of the interfaces, and consult with market participants on the strategies to mitigate the risk of inconsistent interpretation and application of harmonized law. <p>The commenter specifically suggested CSA create a precedent database to ensure consistent treatment of novel and substantive issues.</p>	<p>Up to now, CSA focused our efforts on establishing appropriate processes and procedures to implement the passport system and the interfaces and to mitigate the risks of the system. We will be considering the need to develop mechanisms to evaluate the effectiveness of passport and the interfaces as we implement passport.</p> <p>We plan to create an internal precedent database to ensure consistent interpretation and application of harmonized law, but view this as a longer-term objective. In the meantime, we are implementing other mechanisms in relevant areas to mitigate this risk while ensuring that we maintain the increased efficiencies of the securities regulatory system for market participants.</p>
25	Draft policy statements – review of dual application for discretionary relief	One commenter was concerned that, in a dual application under Policy Statement 11-203, the principal regulator would have to consider the comments of any non-principal regulator with which the filer files the application (s. 6.2(1)) and each of those non-principal regulators would be able to opt-out of the dual review (s. 7.2(2)). The commenter recommended making clear that only the principal regulator and the OSC would review the application and only the OSC could opt-out of a dual application review.	Section 5.2(2) of Policy Statement 11-203 makes it clear that a filer making a dual application has to file the application only with the principal regulator and the OSC. Therefore, in the context of a dual application, the reference to the ‘non-principal regulator with which the filer filed the application’ are references to the OSC only. We will establish a better connection between these provisions to ensure there is no confusion.
26	Policy Statement 11-202 – Technical comments	<p>One commenter recommended:</p> <ul style="list-style-type: none"> requiring the principal regulator to review and respond to an application for a change of principal regulator within the 30-day period. including language to the effect that, for a mutual fund 	<ul style="list-style-type: none"> We will clarify that the regulators will use best efforts to resolve a request filed on a timely basis within 30 days of receiving it. We will clarify in Parts 7 and 10 that the filer only has to provide the confirmation when an underwriter’s certificate is required.

prospectus, it is not necessary for the filer to confirm in its cover letter that at least one underwriter has signed the certificate page of the prospectus.

- deleting the requirement for the principal regulator to issue a second receipt for a dual prospectus evidencing that the OSC has issued its receipt for the prospectus when the OSC is closed on the day the principal regulator issued its receipt.
- clarifying whether a filer that needs to identify another principal regulator for a pre-filing or waiver application because it does not require the relief from its principal regulator should request a discretionary change in principal regulator and whether the filer can file the related prospectus materials with the principal regulator for the pre-filing or waiver application.

In addition, the commenter asked whether a waiver applications under *Regulation 81-102 Mutual Funds* (Regulation 81-102) should be included in Appendix A.

- The OSC needs to be open for a receipt to be issued on its behalf for a preliminary prospectus, prospectus or amendment.

- We will clarify in section 4.5 of Regulation 11-102 that, if a filer does not require an exemption in its principal jurisdiction, the filer does not have to request a discretionary change of principal regulator for the waiver application. The filer's principal regulator will be the securities regulatory authority or regulator in the specified jurisdiction where the filer is seeking the exemption and has the most significant connection. The filer will deal with its usual principal regulator for the related prospectus.

It would not be appropriate to include applications for discretionary exemptions under Regulation 81-102 in Appendix A of Policy Statement 11-202. These applications are covered by Part 4 of Regulation 11-102 and guidance is in Policy Statement 11-203.