

## CSA Notice of Publication

### Regulation repealing and replacing *Regulation 13-102 respecting System Fees for SEDAR and NRD*

March 23, 2023

#### Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are repealing and replacing *Regulation 13-102 respecting System Fees for SEDAR and NRD* (**Regulation 13-102**),<sup>1</sup> with a new regulation published with this notice (the **Amendments**, or the **New Regulation**). This notice should be read together with the CSA notice relating to the adoption of *Regulation 13-103 respecting System for Electronic Data Analysis and Retrieval + (SEDAR+)* (**Regulation 13-103**), which is also being published today. Reference is made in this Notice to the version of the Amendments published for comment on May 2, 2019 (the **Proposed Amendments**).

Provided all ministerial approvals are obtained, the Amendments will come into force on June 9, 2023.

The CSA is renewing its national records filing systems. A new system (**SEDAR+**) will replace:

- existing CSA national systems including the System for Electronic Document Analysis and Retrieval (**SEDAR**), the System for Electronic Disclosure by Insiders (**SEDI**) and the National Registration Database (**NRD**); and
- various local records filing systems.

In connection with the development of SEDAR+, the CSA has reviewed system fees for specified filings made by market participants. As a result of this review, Regulation 13-102 is being repealed and replaced, primarily to change the structure of the system fees provided by Regulation 13-102. Under the Amendments,

- system fees continue to be established on a cost-recovery basis, and
- the total system fees collected by the CSA are projected to decline.

We note that system fees are separate from any regulatory fees users must pay in any province or territory.

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<sup>1</sup> While the Manitoba Securities Commission has not adopted Regulation 13-102, it is a participant in the system fee regime as a result of Regulation 158/2013 under *The Securities Act* (Manitoba). Corresponding amendments to Regulation 158/2013 are expected as a result of the repeal and replacement of Regulation 13-102.

This notice is available on the websites of CSA jurisdictions, including:

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

## **Background**

In 2013, Regulation 13-102 was adopted to replace the filing service charge schedules under the SEDAR Filer Manual and the NRD User Guide. Adopting Regulation 13-102 reduced some fee rates to reflect cost saving opportunities based on filing patterns, but retained the fee structure. The fee structure had remained unchanged since the fee models were implemented in 1997 for SEDAR and in 2003 for NRD.

SEDAR+ is intended to

- accept most securities law filings and documents,
- be secure and easy to use, and
- be more cost-effective to operate and change.

SEDAR+ is projected to be delivered in phases starting in June 2023. The first phase (**Phase 1**) will replace SEDAR, the Cease-Trade Order Database, the Disciplined List and certain filings in the British Columbia Securities Commission eServices system and the Ontario Securities Commission Electronic Filing Portal.

Additional requirements applicable to insiders (SEDI), registrants (NRD), regulated entities such as exchanges and self-regulatory organizations, and derivatives market participants will be addressed in future phases.

## **Purpose**

In conjunction with the systems renewal, the CSA is revising system fees to align them to projected national system operating costs and to provide for future developments and enhancements. The changes are designed to

- reduce annual system fee revenue,
- minimize fee changes, especially for smaller filers,
- simplify the fee design by adopting flat fees and eliminating some fees, and
- add new fees for significant new services.

## Substance of the Amendments

The Amendments replace principal and non-principal regulator fees with flat fees per filing type (**flat fee design**) paid only to a filer's principal regulator. This change substantially simplifies the system fee regime. Further, system fees for certain filing types are being removed, while some new fees for filing types will be introduced, as described below. System fees will rise in some cases (or be newly created) and fall in other cases, based primarily on filing behaviour and volume of use. Total system fees collected by the CSA are projected to decline by approximately \$1.7 million (7%).

## Summary of the Amendments

### *(i) Flat fee design*

Currently, the majority of system fees are based on the number of jurisdictions with which market participants file. The Amendments instead reflect a flat fee design. This flat fee design better aligns system fees that users must pay with the CSA's anticipated costs to operate SEDAR+, based on market participants' expected system usage. A flat fee design offers significantly improved administrative simplicity for both market participants and the CSA.

### *(ii) Eliminating certain system fees*

We have eliminated system fees associated with certain filing types, which reduces costs and simplifies the system fees levied in some areas. The filing types and their related fees that we have removed from Regulation 13-102 are as follows:

- Prospectus – Distribution outside Quebec;
- Registration of an individual in an additional jurisdiction;
- Related Party Transaction Filings;
- Going Private Transaction Filings.

SEDAR users currently pay a one-time charge for creating a profile in SEDAR. Under SEDAR+, there is no charge for creating a profile.

### *(iii) Harmonizing system fees for similar filings and introducing system fees for new filing types*

Under Item 2 of Appendix A of the New Regulation, international dealers and advisers pay a new system fee for filing a notice of reliance on the international dealer or adviser registration exemption in *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**Regulation 31-103**). However, international dealers and advisers will not be required to file this document using SEDAR+ until a future phase.

Items 13 and 14 of Appendix A of the New Regulation also provide new system fees for a “pre-filing” or “application” transmitted through SEDAR+. “Pre-filing” and “application” are defined broadly at the beginning of Appendix A. Both definitions include applications for exemptions, but

do not cover filer profiles. However, a system fee under Item 14 is nil if it relates to a pre-filing for which a system fee has already been paid under Item 13.

Requiring a system fee for all applications aligns with the existing requirement to pay a system fee for applications for exemptions sought in connection with a prospectus filing or exemptions relating to *Regulation 81-102 respecting Investment Funds*. This means, for example, that once registrant activities are included in SEDAR+, a registrant that requires an exemption from a registration requirement would file that application for an exemption through SEDAR+ and would pay a system fee for filing that application.

Under SEDAR+, all jurisdictions require reports of exempt distribution (Form 45-106F1 *Report of Exempt Distribution*) to be filed through SEDAR+ and filers to pay a system fee. Today, most jurisdictions require that form to be filed on SEDAR and to pay a system fee, while British Columbia and Ontario currently require that form to be filed using local filing systems and do not require a system fee.

The above-noted new filings represent significant new activities to be handled by SEDAR+.

*(iv) Transitional provision*

The replacement for NRD is not a part of Phase 1. Subsection 7(1) of the New Regulation provides that all system fees relating to a registrant requirement that are required to be paid by registrants will continue to be paid through NRD until Regulation 13-103 requires filings and renewal through NRD to be made through SEDAR+.

Likewise, notices of reliance on an international dealer or adviser registration exemption filed by international dealers and advisers are not part of Phase 1. Under subsection 7(2) of Regulation 13-102, system fees for this notice do not come into effect until the notices are required to be filed through SEDAR+.

**Related Provisions under Regulation 13 103 – determination of principal regulator**

Under Regulation 13-103, system fees are to be paid to a filer’s “principal regulator”, as defined in section 5 of Regulation 13-103. Regulation 13-103 clarifies how a filer’s principal regulator is determined for the purposes of system fees. The approach taken in Regulation 13-103 aligns with the approach taken today in *Regulation 11-102 respecting Passport System (Regulation 11-102)*.

**Summary of Written Comments Received by the CSA**

As noted above, the Proposed Amendments, together with proposed Regulation 13-103, were published for comment on May 2, 2019.

We received submissions from 6 commenters on the Proposed Amendments. Most of these submissions combined comments on proposed amendments to Regulation 13-102 and proposed Regulation 13-103. We have considered the comments received and thank all of the commenters for their input. The names of the commenters are contained in Annex A. A summary of comments

together with our responses is in Annex B.

Copies of the comment letters were posted on the following websites:

- [www.albertasecurities.com](http://www.albertasecurities.com);
- [www.lautorite.qc.ca](http://www.lautorite.qc.ca);
- [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

### **Summary of Changes in the New Regulation**

There have been no substantive changes made to the New Regulation arising from the public comment period. References to the Renewed System have been changed to “SEDAR+” to reflect the name of the new system.

### **List of Annexes**

This notice contains the following annexes:

- Annex A - List of commenters
- Annex B - Summary of Comments
- Annex C - Local matters – this annex is being published in any local jurisdiction that is making related changes to local securities laws, local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

## Questions

Please refer your questions to any of the following:

*Autorité des marchés financiers*  
Mathieu Laberge  
Legal Counsel  
Legal Affairs  
514 395-0337, ext. 2537  
1 877 525-0337, ext. 2537  
[mathieu.laberge@lautorite.qc.ca](mailto:mathieu.laberge@lautorite.qc.ca)

*Alberta Securities Commission*  
Lanion Beck  
Senior Legal Counsel  
Corporate Finance  
403 355-3884  
[lanion.beck@asc.ca](mailto:lanion.beck@asc.ca)

*British Columbia Securities Commission*  
Noreen Bent  
Chief  
Corporate Finance Legal Services  
604 899-6741  
[nbent@bcsc.bc.ca](mailto:nbent@bcsc.bc.ca)

*Ontario Securities Commission*  
Ashley Hsu  
Legal Counsel  
General Counsel's Office  
416 597-7247  
[ahsu@osc.gov.on.ca](mailto:ahsu@osc.gov.on.ca)

*Financial and Consumer Services Commission  
(New Brunswick)*  
Frank McBrearty  
Senior Legal Counsel  
Securities  
506 658-3119  
[frank.mcbrearty@fcnb.ca](mailto:frank.mcbrearty@fcnb.ca)

*Nova Scotia Securities Commission*  
Doug Harris  
General Counsel, Director of Market  
Regulation and Policy and Secretary  
902 424-4106  
[doug.harris@novascotia.ca](mailto:doug.harris@novascotia.ca)

## **ANNEX A**

### **List of Commenters**

1. Canadian Investor Relations Institute (Yvette Lokker)
2. Portfolio Management Association of Canada (Katie Walmsley and Margaret Gunawan)
3. The Investment Funds Institute of Canada (Minal Upadhyaya)
4. Borden Ladner Gervais LLP (Rebecca Cowdery, Prema K.R. Thiele, Stephen Robertson and Jessica Evans)
5. Investment Industry Association of Canada (Susan Copland)
6. CI Investments Inc. (Tim Currie)

## ANNEX B

### Summary of Comments and CSA Responses

The following is a summary of comments and CSA responses in respect of the Proposed Amendments, as described in CSA Notice of Consultation, *Proposed Repeal and Replacement of Regulation 13-102 respecting System Fees for SEDAR and NRD*, published on May 2, 2019.

#	TOPIC	SUMMARIZED COMMENT	CSA RESPONSE
1	<b>Support for the adoption of a new national filing system</b>	<p>The commenters generally support the adoption of a new national system to replace the CSA national systems.</p> <p>The following are examples of the comments received:</p> <ul style="list-style-type: none"> <li>• We are broadly supportive of the updates being made by the CSA to the CSA national systems, including SEDAR.</li> <li>• Our members look forward to the implementation of a new integrated national information and filing system.</li> <li>• The potential benefits of the National Systems Renewal Program (NSRP) to regulators, market participants and investors are clear and significant. For regulators, a single structured database presents the opportunity to streamline internal workflow processes, break down silos, develop analytics to optimize organizational performance, and identify compliance review priorities. For market participants, the opportunity to easily access the information and data they are required to file would reduce the need for multiple manual data entries, streamline their own internal work processes, and improve compliance by enabling firms to leverage this data in their business operations and compliance supervision activities.</li> <li>• We are very supportive of the CSA’s proposed centralized information technology system, as well as the harmonized approach the CSA is taking</li> </ul>	We acknowledge the comments of support and thank the commenters.



#	TOPIC	SUMMARIZED COMMENT	CSA RESPONSE
		<p>with respect to SEDAR+. We believe that replacing outdated, fragmented reporting systems and databases with more efficient, centralized, and secure technology is a key step in reducing regulatory burden, increasing information security, and facilitating information flow in an efficient and cost-effective manner.</p> <ul style="list-style-type: none"> <li>• We view SEDAR+ as an important opportunity to improve information flow that is worth the short-term investment for the longer-term benefit of all stakeholders, including for investors and the CSA.</li> <li>• We thank the CSA for the work being done to create and roll out SEDAR+. Technology and database updates are often more complex than they seem, but this undertaking is well overdue and, we believe, very worth the resources and time devoted by CSA staff to make it a reality.</li> <li>• We have been an advocate for modernizing the national records filing system for years and [are] pleased that the CSA has moved forward on long awaited revisions to this system.</li> <li>• The redevelopment of the existing outdated and unwieldy systems into an integrated framework is an important step in ensuring that the regulatory infrastructure employs appropriate technology and system design to meet the industry’s current and future requirements.</li> <li>• We commend the CSA for undertaking the proposed integrated information and filing system, as the existing databases and processes are outdated and have exceeded their useful lifespan.</li> <li>• We are very encouraged that the CSA has adopted a harmonized approach to the NSRP as we anticipate that this approach</li> </ul>	

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		<p>will result in a more efficient exchange of information, thereby increasing productivity for both registrants and regulators.</p> <ul style="list-style-type: none"> <li>• We are fully in support of the <i>concept</i> behind SEDAR+. Replacing these outdated platforms with a single, nationally harmonized platform could reduce the regulatory burden of compliance while improving the efficient flow of information that underpins fair and transparent capital markets.</li> <li>• The NSRP will provide long-term added value to industry, regulators and investors if an open architecture path is chosen.</li> </ul>	
2	<b>Comments related to NSRP generally</b>	<p>Many of the commenters provided feedback and suggestions on matters related to the design, development and implementation of the new NSRP system. These include comments related to system design, implementation, testing prior to launch, search functionality, systems governance, functionality related to data mining and data. We also received comments on the design of the components of this system, related to the Disciplined List, the Cease Trade Order Database, and the National Registration Database, and comments related to filing of reports of exempt distribution reports and associated fees.</p>	<p>We thank the commenters for their feedback and suggestions, however these comments are outside of the scope of Regulation 13-102. NSRP staff are reaching out directly to commenters to discuss these comments further in connection with their ongoing work on system design, development and implementation.</p> <p>Comments related to system fees are addressed in this annex.</p>
3	<b>General support for proposed system fees</b>	<p>Five commenters were generally supportive of the proposed system fees. The following are examples of the comments received:</p> <ul style="list-style-type: none"> <li>• We are generally supportive of the CSA’s proposed system fees for specified filings</li> </ul>	<p>We acknowledge the comments of support and thank the commenters.</p>

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		<p>made by market participants. We agree that the flat fee structure, paid only to the principal regulator, will simplify and improve upon the current fee system.</p> <ul style="list-style-type: none"> <li>• We are generally supportive of the system fees consultation and applaud the CSA for simplifying its fee design through the imposition of flat fees, the elimination of certain fees, minimizing fee changes – especially for small registrants, and for reducing system fees overall.</li> <li>• The CSA’s proposal that filers only will pay fees to their principal regulator is a sensible way to simplify fee calculations and payment.</li> <li>• We are pleased that the CSA devised a new system fee schedule that is anticipated to result in only 1% of filers having fee increases of over \$1000.</li> <li>• We are supportive of the CSA proposed system fees revisions to provide filers with a simplified one-stop process for submitting required disclosure documentation to the various regulators across Canadian capital markets. We also believe that the adoption of a flat fee design as opposed to the current multi-jurisdictional fee structure to both principal and non-principal regulators is a major improvement. Both of these changes are expected to reduce the administrative burden and complexity faced by reporting issuers and others as they meet their commitment to fulsome continuous disclosure.</li> <li>• We appreciate that the new approach to system user fees has the potential to improve the simplicity of calculating, inputting and transmitting system user fees.</li> <li>• The proposed fee structure provides a coherent, simplified, and fair means for</li> </ul>	

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		<p>charging for access and use of the system. The flat fee design, payable only to the filer’s principal regulator significantly simplifies the process and will reduce the resources required by users to manage these administrative takes. It is appropriate and fair that system fees will be based primarily on filing behaviour and volume of use. We are pleased that SEDAR+ will be run on a cost recovery basis and it has been developed in an efficient manner, so that the total system fees are expected to decline.</p>	
4	<p><b>Impact of proposed system fees on investment fund managers</b></p>	<p>Two commenters were concerned that investment fund managers can expect their system fees to increase by approximately 8%, due mainly to the new \$40 fee proposed for Ontario and British Columbia exempt distribution filings in SEDAR+. The commenters noted that many investment fund managers may need to pass these increased costs on to investors.</p> <p>One of the commenters noted that increased costs resulting from the growing regulatory burden is contrary to the objectives of most fund companies, as they negatively affect investors’ ability to achieve their savings objectives.</p> <p>The other commenter noted that it is difficult for the industry to lower investment product costs for investors if regulatory costs continue to increase and urged the CSA to be mindful of the impact of fee increases on the costs of products and services to investors.</p>	<p>The system fee proposal sought to have a balanced approach to fees. Overall there is a projected 7% reduction in system fees. As system fees are a very small part of an investment fund managers cost structure, we do not anticipate a noticeable resulting increase in investment product costs.</p>
5	<p><b>Provide regular reports</b></p>	<p>One commenter noted that the proposed fee model is designed to reflect the costs of using SEDAR+ and allow for future enhancements. The commenter encouraged the CSA to provide regular reports on system fees, finances, operations and progress updates to users of</p>	<p>The proposed fee model is designed to reflect the costs of using SEDAR+. In some cases, relief has been provided in connection with start-</p>

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		<p>SEDAR+.</p> <p>A second commenter noted that the CSA acknowledge that certain issuers, most notably investment funds, will see their fees increase under the new system, and there will also be significant fee increases applicable to non-Canadian firms who rely on the international adviser and international dealer exemptions provided for in Regulation 31-103. The commenter considers it incumbent on the CSA to explain how it arrived at the overall distribution of fees amongst the various constituents using SEDAR+, and continuously report on a regular basis on that distribution. The commenter suggested that changes may be necessary based on experience in the use of SEDAR+.</p>	<p>up cost of SEDAR+ (i.e, no charge for intial profiles). Regular reports of the nature noted are contemplated.</p>
6	<p><b>New annual fee to file notice of reliance on the international adviser exemption</b></p>	<p>One commenter discussed the new annual fee payable by international advisers to file a notice of reliance on the international adviser exemption, other than for those operating solely in Ontario and satisfying the Ontario rule requirements. The commenter suggested that the proposal is unclear about how to determine the CSA member to which payment should be made, and remarked that, since the new fee model is generally dictated by a registrant's principal regulator, further clarity is needed as to how international advisers should pay the new fee.</p>	<p>We thank the commenter for its comment.</p> <p>Subsection 5(3) of Regulation 13-103 outlines how a filer must determine their principal regulator for the purposes of determining the jurisdiction that is to be paid the system fee for a filing that is not otherwise addressed in Regulation 11-102. This test was designed to apply to all filers, including foreign filers.</p> <p>Under this test, foreign filers will generally need to determine their principal regulator by identifying the</p>

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			<p>jurisdiction with which they have the most “significant connection”. The factors for determining “significant connection” are found in section 3.4 of <i>Policy Statement 11-202 respecting Process for Prospectus Reviews in Multiple Jurisdictions</i>. Relying on this “significant connection” approach provides the most flexibility to a person filing a document that is not otherwise addressed by Regulation 11-102.</p> <p>We note that registration-related filing requirements are not part of this phase of the systems replacement. Accordingly, international dealers and advisers will not be filing in SEDAR+ until a later phase of this project. They will not pay a fee until they are required to file in SEDAR+.</p>
7	<b>Late fee waiver</b>	One commenter suggested that there should be a waiver of late fees levied under OSC Rule 13-502 and other equivalent provincial fee rules if delays are caused by SEDAR+.	There are no late fees provided in proposed Regulation 13-102, so a waiver under

#	TOPIC	SUMMARIZED COMMENT	CSA RESPONSE
			<p>Regulation 13-102 is not necessary. Under section 6 of Regulation 13-103, temporary exemptive relief is available in the event of unanticipated technical difficulties. The temporary exemption provides 2 extra business days for a person to file a document with, or deliver a document to, the securities regulatory authority or regulator, if unanticipated technical difficulties prevent the person from transmitting the document through SEDAR+ within the time required or permitted under securities legislation.</p>

## ANNEX C

### Local Matters

Regulation 13-102 is made under section 331 of the *Securities Act*, CQLR, c. V-1.1, and must be approved, with or without amendment, by the Government. As such, this regulation is published in the Bulletin of the Autorité des marchés financiers following its publication for comment in the *Gazette officielle du Québec*, Part 2, n° 12 of March 22, 2023. Subject to the necessary government approval, the coming into force of this regulation should be concurrent with the coming into force of Regulation 13-103 published in section 6.2.2 of this Bulletin.