

These documents may be delivered electronically. Registrants should refer to *National Policy 11-201 Delivery of Documents by Electronic Means* and, in Québec, *Notice 11-201 Delivery of Documents by Electronic Means*.

See Appendix A for contact information for each regulator.

1.2. Definitions

Unless defined in Regulation 31-103, terms used in Regulation 31-103 and in this Policy Statement have the meaning given to them in the securities legislation of each jurisdiction or in *Regulation 14-101 respecting Definitions*. See Appendix B for a list of some terms that are not defined in Regulation 31-103 or this Policy Statement but are defined in other securities legislation.

In this Policy Statement, “regulator” means the regulator or securities regulatory authority in a jurisdiction.

Permitted client

The following discussion provides guidance on the term “permitted client”, which is defined in section 1.1 of Regulation 31-103.

“Permitted client” is used in the following sections:

- 8.18 *International dealer*
- 8.26 *International adviser*
- 13.2 *Know your client*
- 13.3 *Suitability*
- 13.13 *Disclosure when recommending the use of borrowed money*
- 14.2 *Relationship disclosure information, and*
- 14.4 *When the firm has a relationship with a financial institution*

Exemptions from registration when dealing with permitted clients

Regulation 31-103 exempts international dealers and international advisers from the registration requirement if they deal with certain permitted clients and meet certain other conditions.

Exemptions from other requirements when dealing with permitted clients

Under section 13.3, permitted clients may waive their right to have a registrant determine that a trade is suitable. In order to rely on this exemption, the registrant must determine that a client is a permitted client at the time the client waives their right to suitability.

Under sections 13.13, 14.2 and 14.4, registrants do not have to provide certain disclosures to permitted clients. In order to rely on these exemptions, registrants must determine that a client is a permitted client at the time the client opens an account.

Determining assets

The definition of permitted client includes monetary thresholds based on the value of the client's assets. The monetary thresholds in paragraphs (o) and (q) of the definition are intended to create “bright-line” standards. Investors

who do not satisfy these thresholds do not qualify as permitted clients under the applicable paragraph.

Paragraph (o) of the definition

Paragraph (o) refers to an individual who beneficially owns financial assets with an aggregate realizable value that exceeds \$5 million, before taxes but net of any related liabilities.

In general, determining whether financial assets are beneficially owned by an individual should be straightforward. However, this determination may be more difficult if financial assets are held in a trust or in other types of investment vehicles for the benefit of an individual.

Factors indicating beneficial ownership of financial assets include:

- possession of evidence of ownership of the financial asset
- entitlement to receive any income generated by the financial asset
- risk of loss of the value of the financial asset, and
- the ability to dispose of the financial asset or otherwise deal with it as the individual sees fit

For example, securities held in a self-directed RRSP for the sole benefit of an individual are beneficially owned by that individual. Securities held in a group RRSP are not beneficially owned if the individual cannot acquire and deal with the securities directly.

“Financial assets” is defined in section 1.1 of *Regulation 45-106 respecting Prospectus and Registration Exemptions* (Regulation 45-106).

Realizable value is typically the amount that would be received by selling an asset. Market value may be used to estimate realizable value when a market for an asset exists.

Paragraph (q) of the definition

Paragraph (q) refers to a person that has net assets of at least \$25 million. “Net assets” under this paragraph is total assets minus total liabilities. The value attributed to assets should reasonably reflect their estimated fair value.

1.3. Fundamental concepts

This section describes the fundamental concepts that form the basis of the registration regime:

- requirement to register
- business trigger for trading and advising, and
- fitness for registration

Requirement to register

The requirement to register is found in securities legislation. Firms must register if they are:

- in the business of trading
- in the business of advising
- holding themselves out as being in the business of trading or advising

- acting as an underwriter, or
- acting as an investment fund manager

Individuals must register if they trade, underwrite or advise on behalf of a registered dealer or adviser, or act as the ultimate designated person (UDP) or chief compliance officer (CCO) of a registered firm. Individuals who act on behalf of a registered investment fund manager do not have to register.

There is no renewal requirement for registration, but fees must be paid every year to maintain registration.

Multiple categories

Registration in more than one category may be necessary. For example, an adviser that also manages an investment fund may have to register as a portfolio manager and an investment fund manager. An adviser that manages a portfolio and distributes units of an investment fund may have to register as a portfolio manager and as a dealer.

Registration exemptions

Regulation 31-103 provides exemptions from the registration requirement. Some exemptions do not need to be applied for if the conditions of the exemption are met. In other cases, on receipt of an application, the regulator has discretion to grant exemptions for specified dealers, advisers or investment fund managers, or activities carried out by them if registration is required but specific circumstances indicate that it is not otherwise necessary for investor protection or market integrity.

Business trigger for trading and advising

We refer to trading or advising in securities for a business purpose as the “business trigger” for registration.

We look at the type of activity and whether it is carried out for a business purpose to determine if an individual or firm must register. We consider the factors set out below, among others, to determine if the activity is for a business purpose. For the most part, these factors are from case law and regulatory decisions that have interpreted the business purpose test for securities matters.

Factors in determining business purpose

This section describes factors that we consider relevant in determining whether an individual or firm is trading or advising in securities for a business purpose and, therefore, subject to the dealer or adviser registration requirement.

This is not a complete list. We do not automatically assume that any one of these factors on its own will determine whether an individual or firm is in the business of trading or advising in securities.

(a) Engaging in activities similar to a registrant

We usually consider an individual or firm engaging in activities similar to those of a registrant to be trading or advising for a business purpose. Examples include promoting securities or stating in any way that the individual or firm will buy or sell securities. If an individual or firm sets up a business to carry out any of these activities, we may consider them to be trading or advising for a business purpose.

(b) Intermediating trades or acting as a market maker

In general, we consider intermediating a trade between a seller and a buyer of securities to be trading for a business purpose. This typically takes the form of the business commonly referred to as a broker. Making a market in securities is also generally considered to be trading for a business purpose.

(c) *Directly or indirectly carrying on the activity with repetition, regularity or continuity*

Frequent or regular transactions are a common indicator that an individual or firm may be engaged in trading or advising for a business purpose. The activity does not have to be their sole or even primary endeavour for them to be in the business.

We consider regularly trading or advising in any way that produces, or is intended to produce, profits to be for a business purpose. We also consider any other sources of income and how much time an individual or firm spends on all activities associated with the trading or advising.

(d) *Being, or expecting to be, remunerated or compensated*

Receiving, or expecting to receive, any form of compensation for carrying on the activity, including whether the compensation is transaction or value based, indicates a business purpose. It does not matter if the individual or firm actually receives compensation or in what form. Having the capacity or the ability to carry on the activity to produce profit is also a relevant factor.

(e) *Directly or indirectly soliciting*

Contacting anyone to solicit securities transactions or to offer advice may reflect a business purpose. Solicitation includes contacting someone by any means, including advertising that proposes buying or selling securities or participating in a securities transaction, or that offers services or advice for these purposes.

Business trigger examples

This section explains how the business trigger might apply to some common situations.

(a) *Securities issuers*

A securities issuer is an entity that issues or trades in its own securities. In general, securities issuers with an active non-securities business do not have to register as a dealer if they:

- do not hold themselves out as being in the business of trading in securities
- trade in securities infrequently
- are not, or do not expect to be, compensated for trading in securities
- do not act as intermediaries, and
- do not produce, or intend to produce, a profit from trading in securities

However, securities issuers may have to register as a dealer if they:

- frequently trade in securities
- employ or otherwise contract individuals to perform activities on their behalf that are similar to those performed by a registrant (other than underwriting in the normal course of a distribution or trading for their own account)
- solicit investors actively, or
- act as an intermediary by investing client money in securities

For example, an investment fund manager that carries out the activities described above may have to register as a dealer.

Securities issuers that are in the business of trading should consider whether they qualify for the exemption from the registration requirement for trades through a registered dealer in section 8.5 of Regulation 31-103.

In most cases, securities issuers are subject to the prospectus requirements in securities legislation. Regulators have the discretionary authority to require an underwriter for a prospectus distribution.

(b) *Venture capital and private equity*

This guidance does not apply to labour sponsored or venture capital funds as defined in *Regulation 81-106 respecting Investment Fund Continuous Disclosure* (Regulation 81-106).

Venture capital and private equity investing are distinguished from other forms of investing by the role played by venture capital and private equity management companies (collectively, VCs). This type of investing includes a range of activities that may require registration.

Vcs typically raise money under one of the prospectus exemptions in Regulation 45-106, including for trades to “accredited investors”. The investors typically agree that their money will remain invested for a period of time. The VC uses this money to invest in securities of companies that are not publicly traded. The VC usually becomes actively involved in the management of the company, often over several years.

Examples of active management in a company include the VC having:

- representation on the board of directors
- direct involvement in the appointment of managers
- a say in material management decisions

The VC looks to realize on the investment either through a public offering of the company’s securities, or a sale of the business. At this point, the investors’ money can be returned to them, along with any profit.

Investors rely on the VC’s expertise in selecting and managing the companies it invests in. In return, the VC receives a management fee or “carried interest” in the profits generated from these investments. They do not receive compensation for raising capital or trading in securities.

Applying the business trigger factors to the VC activities as described above, there would be no requirement for the VC to register as:

- a portfolio manager, if the advice provided in connection with the purchase and sale of companies is incidental to the VC’s active management of these companies, or
- a dealer, if both the raising of money from investors and the investing of that money in companies are occasional and uncompensated activities

If the VC is actively involved in the management of the companies it invests in, the investment portfolio would generally not be considered an investment fund. As result, the VC would not need to register as an investment fund manager.

The business trigger factors and investment fund manager analysis may apply differently if the VC engages in activities other than those described above.

(c) *One-time activities*

In general, we do not require registration for one-time trading or advising activities. This includes trading or advising that:

- is carried out by an individual or firm acting as a trustee, executor, administrator, personal or other legal representative, or

- relates to the sale of a business

(d) *Incidental activities*

If trading or advising activity is incidental to a firm's primary business, we may not consider it to be for a business purpose.

For example, merger and acquisition specialists that advise the parties to a transaction between companies are not normally required to register as dealers or advisers in connection with that activity, even though the transaction may result in trades in securities and they will be compensated for the advice. The primary business purpose in this example is to carry out the transaction. Any advice on trades in the securities is incidental to that purpose and is limited to the parties to the transaction.

Another example is professionals, such as lawyers, accountants, engineers, geologists and teachers, who may provide advice on securities in the normal course of their professional activities. We do not consider them to be advising on securities for a business purpose. For the most part, any advice on securities will be incidental to their professional activities. This is because they:

- do not regularly advise on securities
- are not compensated separately for advising on securities
- do not solicit clients on the basis of their securities advice, and
- do not hold themselves out as being in the business of advising on securities

Registration trigger for investment fund managers

Investment fund managers are subject to a registration trigger. This means that if a firm carries on the activities of an investment fund manager, it must register. However, investment fund managers are not subject to the business trigger.

Fitness for registration

The regulator will only register an applicant if they appear to be fit for registration. Following registration, individuals and firms must maintain their fitness in order to remain registered. If the regulator determines that a registrant has become unfit for registration, the regulator may suspend or revoke the registration. See Part 6 of this Policy Statement for guidance on suspension and revocation of individual registration. See Part 10 of this Policy Statement for guidance on suspension and revocation of firm registration.

Terms and conditions

The regulator may impose terms and conditions on a registration at the time of registration or at any time after registration. Terms and conditions imposed at the time of registration are generally permanent, for example, in the case of a restricted dealer who is limited to specific activities. Terms and conditions imposed after registration are generally temporary. For example, if a registrant does not maintain the required capital, it may have to file monthly financial statements and capital calculations until the regulator's concerns are addressed.

Opportunity to be heard

Applicants and registrants have an opportunity to be heard by the regulator before their application for registration is denied. They also have an opportunity to be heard before the regulator imposes terms and conditions

on their registration if they disagree with the terms and conditions.

Assessing fitness for registration – firms

We assess whether a firm is or remains fit for registration through the information it is required to provide on registration application forms and as a registrant, and through compliance reviews. Based on this information, we consider whether the firm is able to carry out its obligations under securities legislation. For example, registered firms must be financially viable. A firm that is insolvent or has a history of bankruptcy may not be fit for registration.

In addition, when determining whether a firm whose head office is outside Canada is, and remains, fit for registration, we will consider whether the firm maintains registration or regulatory organization membership in the foreign jurisdiction that is appropriate for the securities business it carries out there.

Assessing fitness for registration – individuals

We use three fundamental criteria to assess whether an individual is or remains fit for registration:

- proficiency
- integrity, and
- solvency

(a) Proficiency

Individual applicants must meet the applicable education, training and experience requirements prescribed by securities legislation and demonstrate knowledge of securities legislation and the products they recommend.

Registered individuals should continually update their knowledge and training to keep pace with new products, services and developments in the industry that are relevant to their business. See section 3.4 of this Policy Statement for more specific guidance on proficiency.

(b) Integrity

Registered individuals must conduct themselves with integrity and have an honest character. The regulator will assess the integrity of individuals through the information they are required to provide on registration application forms and as registrants, and through compliance reviews. For example, applicants are required to disclose information about conflicts of interest, such as other employment or partnerships, service as a member of a board of directors, or relationships with affiliates, and about any regulatory or legal actions against them.

(c) Solvency

The regulator will assess the overall financial condition of an individual applicant or registrant. An individual that is insolvent or has a history of bankruptcy may not be fit for registration. Depending on the circumstances, the regulator may consider the individual's contingent liabilities. The regulator may take into account an individual's bankruptcy or insolvency when assessing their continuing fitness for registration.

PART 2 CATEGORIES OF REGISTRATION FOR INDIVIDUALS

2.1. Individual categories

Multiple individual categories

Individuals who carry on more than one activity requiring registration on behalf of a registered firm must:

- register in all applicable categories, and
- meet the proficiency requirements of each category

For example, an advising representative of a portfolio manager who is also the firm's CCO must register in the categories of advising representative and CCO. They must meet the proficiency requirements of both of these categories.

Multiple firms

We will not usually register an individual as a dealing, advising or associate advising representative for more than one registered firm even if the firms are affiliated. We will consider applications for individuals to act as a representative of more than one firm on a case-by-case basis. Before we approve an application, we must be satisfied that:

- there are valid business reasons for the individual to be registered with both firms
- the applicant's sponsoring firms have demonstrated that they have policies and procedures addressing any conflicts of interest that may arise as a result of the dual registration, and
- the sponsoring firms will be able to deal with these conflicts

We may consider other relevant factors.

Individual registered in a firm category

An individual can be registered in both a firm and individual category. For example, a sole proprietor who is registered in the firm category of portfolio manager must also be registered in the individual category of advising representative.

2.2. Client mobility exemption – individuals

The mobility exemption in section 2.2 of Regulation 31-103 allows registered individuals to continue dealing with and advising clients who move to another jurisdiction, without registering in that other jurisdiction. Section 8.30 *Client mobility exemption – firms* contains a similar exemption for registered firms.

The exemption becomes available when the client (not the registrant) moves to another jurisdiction. An individual may deal with up to five "eligible" clients in each other jurisdiction. Each of the client, their spouse and any children are an eligible client.

An individual may only rely on the exemption if:

- they and their sponsoring firm are registered in their principal jurisdiction
- they and their sponsoring firm only act as a dealer, underwriter or adviser in the other jurisdiction as permitted under their registration in their principal jurisdiction
- they comply with Part 13 *Dealing with clients – individuals and firms*
- they act fairly, honestly and in good faith in their dealings with the eligible client, and
- their sponsoring firm has disclosed to the eligible client that the individual and if applicable, their sponsoring firm, are exempt from registration in the other jurisdiction and are not subject to the requirements of securities legislation in that jurisdiction

As soon as possible after an individual first relies on this exemption, their sponsoring firm must complete and file Form 31-103F3 *Use of mobility exemption* (Form 31-103F3) with the other jurisdiction.

PART 3 REGISTRATION REQUIREMENTS – INDIVIDUALS

Division 1 General proficiency requirements

Individuals must pass exams – not courses – to meet the education requirements in Part 3. For example, an individual must pass the Canadian Securities Course Exam, but does not have to complete the Canadian Securities Course. Individuals are responsible for completing the necessary preparation to pass an exam and for proficiency in all areas covered by the exam.

3.3. Time limits on examination requirements

Under section 3.3 of Regulation 31-103, there is a time limit on the validity of exams prescribed in Part 3. Individuals must pass an exam within 36 months before they apply for registration. However, the time limit does not apply if the individual:

- was registered in the same category in Canada for a total of 12 months during the 36-month period, or
- gained relevant securities industry experience for a total of 12 months during the 36-month period

The 12 months of registration and relevant securities industry experience referred to in subsection 3.3(2) do not have to be consecutive, or with the same firm or organization. The individual must have been registered for a total of 12 months or obtained a total of 12 months of experience within the 36-month period before the date they apply for registration.

These time limits do not apply when individuals transfer to a new firm. This is because they do not have to apply for registration when they transfer. See Part 6 of this Policy Statement for guidance on individuals who transfer to a new firm.

Relevant securities industry experience

The securities industry experience under subsection 3.3(2)(b) should be relevant to the category applied for. It may include experience acquired:

- during employment at a registered dealer, a registered adviser or an investment fund manager
- in related investment fields, such as investment banking, securities trading on behalf of a financial institution, securities research, portfolio management, investment advisory services or supervision of those activities
- in legal, accounting or consulting practices related to the securities industry
- in other professional service fields that relate to the securities industry, or
- in a securities-related business in a foreign jurisdiction

Division 2 Education and experience requirements

See Appendix C for a chart that sets out the proficiency requirements for each individual category of registration.

Granting exemptions

The regulator may grant an exemption from any of the education and experience requirements in Division 2 if it is satisfied that an individual has qualifications or relevant experience that is equivalent to, or more appropriate in the circumstances than, the prescribed requirements.

Proficiency for representatives of investment dealers

IIROC sets the proficiency requirements for dealing representatives of its members.

Proficiency for representatives of restricted dealers and restricted portfolio managers

The regulator will decide on a case-by-case basis what education and experience are required for registration as:

- a dealing representative or CCO of a restricted dealer
- an advising representative or CCO of a restricted portfolio manager

The regulator will determine these requirements when it assesses the individual's fitness for registration.

3.4. Proficiency – initial and ongoing

Under section 3.4 of Regulation 31-103, registered individuals, including CCOs, must not perform an activity that requires registration unless they have the education, training and experience that a reasonable person would consider necessary to perform the activity competently. Registered firms should ensure that registered individuals acting on their behalf meet this requirement at all times.

For example, firms should perform their own analysis of all products they recommend to clients and provide product training to ensure their registered representatives have a sufficient understanding of the products and their risks to meet their suitability obligations under section 13.3. Similarly, registered individuals should have a thorough understanding of a product before they recommend it to a client.

3.11. Portfolio manager – advising representative

3.12. Portfolio manager – associate advising representative

The 12 months of relevant investment management experience referred to in section 3.11 of Regulation 31-103 and 24 months of relevant investment management experience referred to in section 3.12 do not have to be consecutive, or with the same firm or organization. The individual must obtain a total of this experience within the 36-month period before the date they apply for registration.

For individuals with a CFA charter, the regulator will decide on a case-by-case basis whether the experience they gained to earn the charter qualifies as relevant investment management experience.

Relevant investment management experience

Relevant investment management experience under sections 3.11 and 3.12 may vary according to the level of specialization of the individual. It may include:

- securities research and analysis experience, demonstrating an ability in, and understanding of, portfolio analysis or portfolio security selection, or
- management of investment portfolios on a discretionary basis, including investment decision making,

rebalancing and evaluating performance

Advising representatives

Advising representatives may acquire relevant investment management experience during employment in a portfolio management capacity with a registered investment dealer or adviser firm.

Associate advising representatives

Relevant investment management experience for associate advising representatives may include working at:

- an unregistered portfolio manager of a Canadian financial institution
- an adviser that is registered in another jurisdiction of Canada, or
- an adviser in a foreign jurisdiction

Division 3 Membership in a self-regulatory organization

3.16. Exemptions from certain requirements for SRO-approved persons

Section 3.16 exempts registered individuals who are dealing representatives of IIROC or MFDA members from the requirements in Regulation 31-103 for suitability and disclosure when recommending the use of borrowed money. This is because IIROC and the MFDA have their own rules for these matters. In Québec, these requirements do not apply to dealing representatives of a mutual fund dealer who comply with the applicable Québec regulations.

This section also exempts registered individuals who are dealing representatives of IIROC from the know your client obligations in section 13.2.

PART 4 RESTRICTIONS ON REGISTERED INDIVIDUALS

4.2. Associate advising representatives – pre-approval of advice

The associate advising representative category is primarily meant to be an apprentice category for individuals who intend to become an advising representative but who do not meet the education or experience requirements for that category when they apply for registration. It allows an individual to work at a registered adviser while completing the proficiency requirements for an advising representative. For example, a previously registered advising representative could work in an advising capacity while acquiring the relevant work experience required for an advising representative under section 3.11 of Regulation 31-103.

However, associate advising representatives are not required to subsequently register as a full advising representative. They can remain as an associate advising representative indefinitely. This category also accommodates, for example, individuals who provide specific advice to clients, but do not manage client portfolios without supervision.

As required by section 4.2, registered firms must designate an advising representative to approve the advice provided by an associate advising representative. The designated advising representative must approve the advice before the associate advising representative gives it to the client. The appropriate processes for approving the advice will depend on the circumstances, including the associate advising representative's level of experience.

Registered firms that have associate advising representatives must:

- document their policies and procedures for meeting the supervision and approval obligations as required under section 11.1
- implement controls as required under section 11.1
- maintain records as required under section 11.5, and
- notify the regulator of the names of the advising representative and the associate advising representative whose advice they are approving no later than the seventh day after the advising representative is designated

PART 5 ULTIMATE DESIGNATED PERSON AND CHIEF COMPLIANCE OFFICER

Sections 11.2 and 11.3 of Regulation 31-103 require registered firms to designate a UDP and a CCO. The UDP and CCO must be registered and perform the compliance functions set out in sections 5.1 and 5.2. While the UDP and CCO have specific compliance functions, they are not solely responsible for compliance – it is the responsibility of the firm as a whole.

The same person as UDP and CCO

The UDP and the CCO can be the same person if they meet the requirements for both registration categories. We prefer firms to separate these functions, but we recognize that it might not be practical for some registered firms.

UDP or CCO as advising or dealing representative

The UDP or CCO may also be registered in trading or advising categories. For example, a small registered firm might conclude that one individual can adequately function as UDP and CCO, while also carrying on advising and trading activities. We may have concerns about the ability of a UDP or CCO of a large firm to conduct these additional activities and carry out their UDP, CCO and advising responsibilities at the same time.

5.1. Responsibilities of the ultimate designated person

The UDP is responsible for promoting a culture of compliance and overseeing the effectiveness of the firm's compliance system. They do not have to be involved in the day-to-day management of the compliance group.

There are no specific education or experience requirements for the UDP. However, they are subject to the proficiency principle in section 3.4.

5.2. Responsibilities of the chief compliance officer

The CCO is an operating officer who is responsible for the monitoring and oversight of the firm's compliance system. This includes:

- establishing or updating policies and procedures for the firm's compliance system, and
- managing the firm's compliance monitoring and reporting according to the policies and procedures

At the firm's discretion, the CCO may also have authority to take supervisory or other action to resolve compliance issues.

The CCO must meet the proficiency requirements set out in Part 3. No other compliance staff have to be registered unless they are also advising or trading. The CCO may set the knowledge and skills necessary or desirable for individuals who report to them.

If a firm is registered in multiple categories, the CCO must meet the most stringent of the proficiency requirements of the firm's categories of registration.

Firms must designate one CCO. However, in large firms, the scale and kind of activities carried out by different operating divisions may warrant the designation of more than one CCO. We will consider applications, on a case-by-case basis, for different individuals to act as the CCO of a firm's operating divisions.

We will not usually register the same person as CCO of more than one firm unless the firms are affiliated, and the scale and kind of activities carried out make it reasonable for the same person to act as CCO of more than one firm. We will consider applications, on a case-by-case basis, for the CCO of one registered firm to act as the CCO of another registered firm.

Subsection 5.2(c) of Regulation 31-103 requires the CCO to report to the UDP any instances of non-compliance with securities legislation that:

- create a reasonable risk of harm to a client or to the market, or
- are part of a pattern of non-compliance

The CCO should report non-compliance to the UDP even if it has been corrected.

Subsection 5.2(d) requires the CCO to submit an annual report to the board of directors.

PART 6 SUSPENSION AND REVOCATION OF REGISTRATION – INDIVIDUALS

The requirements for surrendering registration and additional requirements for suspending and revoking registration are found in the securities legislation of each jurisdiction. The guidance for Part 6 relates to requirements under both securities legislation and Regulation 31-103.

There is no renewal requirement for registration. A registered individual may carry on the activities for which they are registered until their registration is:

- suspended automatically under Regulation 31-103
- suspended by the regulator under certain circumstances, or
- surrendered by the individual

6.1. If individual ceases to have authority to act for firm

Under section 6.1 of Regulation 31-103, if a registered individual ceases to have authority to act on behalf of their sponsoring firm because their working relationship with the firm ends or changes, the individual's registration with the registered firm is suspended until reinstated or revoked under securities legislation. This applies whether the individual or the firm ends the relationship.

If a registered firm terminates its working relationship with a registered individual for any reason, the firm must complete and file a notice of termination on Form 33-109F1 *Notice of Termination of Registered Individuals and Permitted Individuals* (Form 33-109F1) no later than five days after the effective date of the individual's termination. This includes when an individual resigns, is dismissed or retires.

The firm must file additional information about the individual's termination prescribed in Part 5 of Form 33-109F1 if:

- the individual resigned (either voluntarily or at the firm's request)

- the individual was dismissed (whether or not for cause), or
- the firm indicates “other” as the reason for termination on Form 33-109F1

The firm must file this information no later than 30 days after the date of termination. The regulator uses this information to determine if there are any concerns about the individual’s conduct that may be relevant to their ongoing fitness for registration. Under Regulation 33-109, the firm must provide this information to the individual on request.

Suspension

An individual whose registration is suspended must not carry on the activity they are registered for. The individual otherwise remains a registrant and is subject to the jurisdiction of the regulator. A suspension remains in effect until the regulator reinstates or revokes the individual’s registration.

If an individual who is registered in more than one category is suspended in one of the categories, the regulator will consider whether to suspend the individual’s registration in other categories or to impose terms and conditions, subject to an opportunity to be heard.

Automatic suspension

An individual’s registration will automatically be suspended if:

- they cease to have working relationship with their sponsoring firm
- the registration of their sponsoring firm is suspended or revoked, or
- they cease to be an approved person of an SRO

An individual must have a sponsoring firm to be registered. If an individual leaves their sponsoring firm for any reason, their registration is automatically suspended. Automatic suspension is effective on the day that an individual no longer has authority to act on behalf of their sponsoring firm.

Individuals do not have an opportunity to be heard by the regulator in the case of any automatic suspension.

Suspension in the public interest

An individual’s registration may be suspended if the regulator exercises its power under securities legislation and determines that it is no longer in the public interest for the individual to be registered. The regulator may do this if it has serious concerns about the ongoing fitness of the individual. For example, this may be the case if an individual is charged with a crime, in particular fraud or theft.

Reinstatement

“Reinstatement” means that a suspension on a registration has been lifted. Once reinstated, an individual may resume carrying on the activity they are registered for. If a suspended individual joins a new sponsoring firm, they will have to apply for reinstatement under the process set out in Regulation 33-109. In certain cases, the reinstatement or transfer to the new firm will be automatic.

Automatic transfers

Subject to certain conditions set out in Regulation 33-109, an individual’s registration may be automatically reinstated if they:

- transfer directly from one sponsoring firm to another registered firm in the same jurisdiction

- join the new sponsoring firm within 90 days of leaving their former sponsoring firm
- seek registration in the same category as the one previously held, and
- complete and file Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* (Form 33-109F7)

This allows individuals to engage in activities requiring registration from their first day with the new sponsoring firm.

Individuals are not eligible for an automatic reinstatement if they:

- have new information to disclose regarding regulatory, criminal, civil or financial matters as described in Item 9 of Form 33-109F7, or
- as a result of allegations of criminal activity, breach of securities legislation or breach of SRO rules:
- were dismissed by their former sponsoring firm, or
- were asked by their former sponsoring firm to resign

In these cases, the individual must apply to have their registration reinstated under Regulation 33-109 using Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*.

6.2. If IIROC approval is revoked or suspended

6.3. If MFDA approval is revoked or suspended

Registered individuals acting on behalf of member firms of an SRO are required to be an approved person of the SRO.

If an SRO suspends or revokes its approval of an individual, the individual's registration in the category requiring SRO approval will be automatically suspended. This automatic suspension of individuals does not apply to mutual fund dealers registered only in Québec.

If an SRO suspends an individual for reasons that do not involve significant regulatory concerns and subsequently reinstates the individual's approval, the individual's registration will usually be reinstated by the regulator as soon as possible.

Revocation

6.6. Revocation of a suspended registration – individual

If an individual's registration has been suspended under Part 6 of Regulation 31-103 but not reinstated, it will be automatically revoked on the second anniversary of the suspension.

"Revocation" means that the regulator has terminated the individual's registration. An individual whose registration has been revoked must submit a new application if they want to be registered again.

Surrender

"Surrender" means an individual wants to terminate their registration in some, but not all, of the jurisdictions in which they are registered. An individual may apply to surrender their registration at any time by completing Form 33-109F2 *Change or Surrender of Individual Categories* (Form 33-109F2) and having their sponsoring firm file it.

An individual who is registered in one or more jurisdictions and wants to terminate their registration in all jurisdictions does not have to file Form 33-109F2. This is because their sponsoring firm is required to file Form 33-109F1.

PART 7 CATEGORIES OF REGISTRATION FOR FIRMS

The categories of registration for firms have two main purposes:

- to specify the type of business that the firm may conduct, and
- to provide a framework for the requirements the registrant must meet

Firms registered in more than one category

A firm may be required to register in more than one category. For example, a portfolio manager that manages an investment fund must register both as a portfolio manager and as an investment fund manager.

Individual registered in a firm category

An individual can be registered in both a firm and individual category. For example, a sole proprietor who is registered in the firm category of portfolio manager must also be registered in the individual category of advising representative.

7.1. Dealer categories

Underwriting is a subset of dealing activity for specified categories. Investment dealers may underwrite any securities. Exempt market dealers may underwrite securities in limited circumstances.

Exempt market dealer

Under subsection 7.1(2)(d) of Regulation 31-103, exempt market dealers may only act as a dealer in the “exempt market”. The permitted activities of an exempt market dealer are determined with reference to the prospectus exemptions in Regulation 45-106 and include trades to “accredited investors” and purchasers of at least \$150,000 of a security and trades to anyone under the offering memorandum exemption.

Exempt market dealers can sell investment funds (whether or not they are prospectus-qualified) under these exemptions without registering as a mutual fund dealer or being a member of the MFDA.

Restricted dealer

The restricted dealer category in subsection 7.1(2)(e) permits specialized dealers that may not qualify under another dealer category to carry on a limited trading business. It is intended to be used only if there is a compelling case for the proposed trading to take place outside the other registration categories.

The regulator will impose terms and conditions that restrict the dealer’s activities. The CSA will co-ordinate terms and conditions for restricted dealers.

7.2. Adviser categories

The registration requirement in section 7.2 of Regulation 31-103 applies to advisers who give “specific advice”. Advice is specific when it is tailored to the needs and circumstances of a client or potential client. For example, an adviser who recommends a security to a client is giving specific advice.

Restricted portfolio manager

The restricted portfolio manager category in subsection 7.2(2)(b) permits individuals or firms to advise in specific securities, classes of securities or securities of a class of issuers.

The regulator will impose terms and conditions on a restricted portfolio manager's registration that limit the manager's activities to a specific area, for example, securities of oil and gas issuers.

7.3. Investment fund manager category

Investment fund managers direct the business, operations or affairs of an investment fund. They organize the fund and are responsible for its management and administration.

If an entity is uncertain about whether it must register as an investment fund manager, it should consider whether the fund is an "investment fund" for the purposes of securities legislation. See section 1.2 of the Policy Statement to Regulation 81-106 for guidance on the general nature of investment funds.

An investment fund manager may:

- advertise to the general public a fund it manages without being registered as an adviser, and
- promote the fund to registered dealers without being registered as a dealer

If an investment fund manager acts as portfolio manager for a fund it manages, it should consider whether it may have to be registered as an adviser. If it distributes units of the fund directly to investors, it should consider whether it may have to be registered as a dealer.

An investment fund manager may delegate or outsource certain functions to other service providers. However, the investment fund manager is responsible for these functions and must supervise the service provider. See Part 11 of this Policy Statement for more guidance on outsourcing.

Limited partnerships

Investment funds organized as limited partnerships of investment vehicles should consider which entity or entities may need to be registered as an investment fund manager. Multiple registrations may not be necessary if each general partner in the affiliated group enters into a contract with a single registered investment fund manager within the group. In this case, the investment fund manager may not be one of the general partners.

PART 8 EXEMPTIONS FROM THE REQUIREMENT TO REGISTER

Regulation 31-103 provides several exemptions from the registration requirement. There may be additional exemptions in securities legislation. If a firm is exempt from registration, the individuals acting on its behalf are also exempt from registration.

Division 1 Exemptions from dealer and underwriter registration

We provide no specific guidance for the following exemptions because there is guidance on them in the Policy Statement to Regulation 45-106:

- 8.12 *Mortgages*
- 8.17 *Reinvestment plan*

- 8.20 Exchange contract – Alberta, British Columbia, New Brunswick and Saskatchewan

8.5. Trades through or to a registered dealer

This exemption is available when no intermediary is involved in a trade, for example, when an individual or firm trades their own securities directly with a registered dealer. An individual or firm will have to register, however, if they trade another party's securities with a registered dealer.

8.6. Adviser – non-prospectus qualified investment fund

Under the exemption in section 8.6 of Regulation 31-103, registered advisers do not have to register as a dealer for a trade in a security of a non-prospectus qualified investment fund if they:

- act as the fund's adviser and investment fund manager, and
- distribute units of the fund only into their clients' managed accounts

The exemption is also available to those who qualify for the international adviser exemption under section 8.26.

Registered advisers often create non-prospectus qualified investment funds as a way to efficiently invest their clients' money. In issuing units of those funds to clients, they are in the business of trading in securities.

Subsection 8.6(2) limits the availability of this exemption to legitimate fully managed accounts. We do not intend for the exemption to be used to distribute the adviser's own non-prospectus qualified investment funds on a retail basis.

Advisers relying on the exemption in section 8.6 should consider whether they may have to register as an investment fund manager.

8.19. Self-directed registered education savings plan

We consider the creation of a self-directed registered education savings plan, as defined in section 8.19 of Regulation 31-103, to be a trade in a security, whether or not the assets held in the plan are securities. This is because the definition of "security" in securities legislation of most jurisdictions includes "any document constituting evidence of an interest in a scholarship or educational plan or trust".

Section 8.19 provides an exemption from the dealer registration requirement for the trade when the plan is created but only under the conditions described in subsection 8.19(2).

Division 2 Exemptions from adviser registration

8.25. Advising generally

Section 8.25 of Regulation 31-103 contains an exemption from the requirement to register as an adviser if the advice is not tailored to the needs of the recipient.

In general, we would not consider advice about specific securities to be tailored to the needs of the recipient if it:

- is a general discussion of the merits and risks of the security

- is delivered through investment newsletters, articles in general circulation newspapers or magazines, websites, e-mail, Internet chat rooms, bulletin boards, television or radio, and
- does not claim to be tailored to the needs and circumstances of any recipient

This type of general advice can also be given at conferences. However, if a purpose of the conference is to solicit the audience and generate specific trades in specific securities, we may consider the advice to be tailored or we may consider the individual or firm giving the advice to be engaged in trading activity.

Under subsection 8.25(3), if an individual or firm relying on the exemption has a financial or other interest in the securities they recommend, they must disclose the interest to the recipient when they make the recommendation.

Division 3 Exemptions from investment fund manager registration

8.28. Capital accumulation plan exemption

Section 8.28 of Regulation 31-103 provides an exemption from the investment fund manager registration requirement to an individual or firm that administers a capital accumulation plan. If an investment fund manager is also required to register as a dealer or adviser, this exemption only applies to their activities as an investment fund manager.

Division 4 Mobility exemption – firms

8.30. Client mobility exemption – firms

The mobility exemption in section 8.30 of Regulation 31-103 allows registered firms to continue dealing with and advising clients who move to another jurisdiction, without registering in that other jurisdiction. Section 2.2 *Client mobility exemption – individuals* contains a similar exemption for registered individuals.

The exemption becomes available when the client (not the registrant) moves to another jurisdiction. A registered firm may deal with up to 10 “eligible” clients in each other jurisdiction. Each of the client, their spouse and any children are an eligible client.

A firm may only rely on the exemption if:

- it is registered in its principal jurisdiction
- it only acts as a dealer, underwriter or adviser in the other jurisdiction as permitted under its registration in its principal jurisdiction
- the individual acting on its behalf is eligible for the exemption in section 2.2
- it complies with Parts 13 *Dealing with clients-individuals and firms* and 14 *Handling client accounts-firms*, and
- it acts fairly, honestly and in good faith in its dealings with the eligible client

Firm’s responsibilities for individuals relying on the exemption

In order for a registered individual to rely on the exemption in section 2.2, their sponsoring firm must disclose to the eligible client that the individual and if applicable, the firm, are exempt from registration in the other jurisdiction and are not subject to the requirements of securities legislation in that jurisdiction.

