



## MSC Notice 2008-30

### Request for Comments on Local Rule 33-501 *Regulation of Deposit Agents*

#### Purpose of notice

The Manitoba Securities Commission (the "Commission") is publishing for comment

1. Proposed MSC Rule No. 2008-\_\_ Local Rule 33-501- *Regulation of Deposit Agents*. ("33-501")
2. Proposed forms: Form 33-501F1 - Application For Registration As A Deposit Agent, Form 33-501F2 - Salespersons And Officials Application For Registration, Form 33-501 F3 – Deposit Agent Annual Report, Form 33-501F4 – Auditor's Report with Manitoba Local Rule 33-501 – Regulation of Deposit Agents, Form 33-501F5 – Financial Institution Annual Report (the "33-501 Forms")
3. Proposed Companion Policy to Local Rule 33-501- *Regulation of Deposit Agents* ("33-501CP")

(together, the "Proposed Instrument")

Deposit brokers, or deposit agents (hereafter "agents" is used to denote both), represents the only area of the financial services industry where third parties act as intermediaries for which there is no regulation. This proposed rule intends to enhance investor protection for members of the public dealing with deposit agents by requiring persons or companies who are not otherwise registered with the Commission, or for the sale of insurance products, to be registered. By requiring registration and imposing certain minimum procedures upon deposit agents under this rule as to conduct and the handling of money, the Commission intends to significantly enhance investor protection in this particular part of the financial markets.

33-501 currently contemplates registration of deposit agents as a category of broker-dealer (restricted) based upon the current registration requirements. At such time as proposed National Instrument 33-109 *Registration Requirements* comes into force, consequential amendments may be made to the Proposed Instrument.

The Commission requests comment on the Proposed Instrument.

#### Substance, Purpose and Scope of the Proposed Instrument

The Proposed Instrument will apply to deposit agents within Manitoba, and outside Manitoba when conducting business within Manitoba, for financial institutions including all banks, trust and loan companies, credit unions, *caisses populaires*, and insurance companies.

***Persons currently registered as investment dealers, mutual fund dealers, registered with insurance regulators, and exclusive agents of financial institutions (as defined in the rule) will be exempt from registration.***

### **Requirements**

The Proposed Rule generally requires that:

- deposit agents obtain registration before operating any brokerage services, upon meeting certain criteria;
- there be a *written* agency agreement between a deposit agent and a financial institution outlining the agent's obligations and the products for which the agent is authorized to receive deposits;
- specific procedures and forms be used for deposit acceptance, transmission, and final deposit;
- specific procedures and forms be used by financial institutions when using the services of deposit agents and accepting deposits from such brokers;
- specific business practices be prohibited;
- annual reports be provided by deposit agents and financial institutions; and
- information be filed with the Commission under certain instances

### **Impact on existing deposit agents and brokers**

The proposed rule would have no impact on registered dealers in acting on behalf of their clients in trading securities. Similarly, regulation would not affect licensed insurance agents in selling insurance products.

### **Summary and outline of Rule**

#### ***Application and Registration***

Anyone wishing to be a deposit agent, other than an exclusive agent, will be required to obtain registration before carrying on business as a deposit agent. An exclusive agent is one who accepts deposits solely for one financial institution. The Commission proposes to allow existing deposit agents to continue to act as deposit agents, provided they apply for a license within 30 days of the Rule coming into force.

### **Obligations of deposit agents**

#### ***Service Contract***

Before a deposit agent can accept money, the agent will have to have a Service Contract in place with the investor. A Service Contract will govern the relationship between the agent and the person from whom the agent will be taking money. The details, terms, and requirements of a Service Contract are described in the Rule.

#### ***Deposit Application***

In addition to the Service Contract a separate Deposit Application form must be completed prior to or at the time of the acceptance of money. This standard form will serve as a receipt of funds received by the agent. The form will also contain an assertion that any funds received will be held in trust by the agent for the investor. It should also be noted that the Deposit Application will have to meet the deposit requirements of the financial institution. Thus, the forms would have to allow the agent to make a deposit at the financial institution on behalf of the investor. The investor and agent will both sign the forms acknowledging receipt of funds by the agent. The details, terms, and requirements of a Deposit Application are described in the Rule.

A copy of the Deposit Application must be forwarded to the investor upon the funds being deposited with the financial institution.

***Receiving investor funds***

The Rule sets out the requirements for handling investor funds.

If the investor's deposit is cash, the agent shall provide a receipt for the funds immediately upon receipt of the cash.

Where the deposit is cash or funds payable to an agent, the agent will have to:

- keep the funds separate and apart from other money belonging to the deposit agent;
- deposit the funds in a trust account;
- deposit the funds with the financial institution according to the investor's instructions no later than the next banking day;
- forward the funds to the financial institution in full with no amount being deducted for commissions, fees, or other consideration; and
- provide a receipt to the investor for funds received, immediately upon receipt.

If the investor makes a deposit by cheque, draft, or money order, for the purchase of a single financial product at one financial institution, the agent must make payment in the name of the financial institution receiving the deposit.

If the investor requires the agent to split the deposit between two or more financial institutions, or between two or more financial products, or any combination thereof, then payment may be made to the deposit agent in trust. If this is the case, then the investor *must* provide detailed written instructions on the Deposit Application outlining at which financial institution the funds are to be deposited, the product they are to be used for, and the amount of funds to be used.

In limited circumstances described in the Rule a deposit agent may sign a Deposit Application for an investor:

***Trust accounts***

Each deposit agent will be required to maintain and operate a trust account. This will allow the agent to hold funds in trust for investors, before depositing the funds in a financial institution. Except in cases where the deposit is in a form made payable to the financial institution, all funds are to be deposited into the agent's trust account until the final deposit is made. Funds deposited into a trust account operated and maintained by the agent may only be remitted to the financial institution.

The Policy describes in detail the expectations of the Commission for establishing such accounts.

***Annual reporting***

Deposit agents would be required to file an annual return with the Commission. This will include information such as the volume of deposits received and the financial institutions the deposit agent deals with. Deposit agents will also be required to retain records regarding surety bond and professional liability insurance, their agency requirements with financial institutions, and records of deposits handled.

These records will be retained for eight years and will be open to examination by the Commission.

### **Obligations of financial institutions**

#### ***Written agency agreement***

Before taking deposits for a financial institution, a deposit agent will be required to have a written agency agreement with the financial institution. The proposed Rule will impose minimum conditions on agency agreements. The Commission does not expect this to be an onerous requirement, will reflect standard business practices, and will remain consistent with the common law rules of contract law.

No financial institution shall be permitted to accept deposits from deposit agents without an agency agreement. Further, no financial institution shall be permitted to accept deposits directly from authorized officials.

#### ***Confirmation notice***

The financial institution will send a written notice to the investor, confirming that the funds were deposited with the financial institution. The confirmation notice, as it is called, will also indicate the amount of funds deposited, the interest rate on the funds deposited, and investment term and maturity dates, and any other provisions of the investment or GIC. The financial institution will send this notice to the investor within two weeks of receiving the investor's funds.

In some cases, an investment certificate may replace a confirmation notice, though the certificate would still have to be sent to the investor within two weeks.

#### ***Financial institution obligations***

Financial institutions using deposit agents will be required to report to the Commission certain information, including the following:

- the names and addresses of deposit agents with whom they deal;
- dismissal/termination of agents;
- refusal to accept deposits from agents;
- reporting any known breaches of the Rule; and
- the name and address of a contact person for the financial institution;

### **Comments**

We welcome your comments on the proposed rule. Please submit your comments in writing **on or before October 31, 2008**. If you are not sending your comments by email, please include a diskette containing the submissions (in Windows format, Word). Comments can be forwarded to:

Chris Besko  
Deputy Director, Legal  
The Manitoba Securities Commission  
500-400 St. Mary Avenue  
Winnipeg, Manitoba  
R3C 4K5  
(204) 945-2561  
[chris.besko@gov.mb.ca](mailto:chris.besko@gov.mb.ca)

Any comments received will not be held as confidential, and may be published by the Commission.

July 18, 2008

**THE MANITOBA SECURITIES COMMISSION**  
**MSC Rule No. 2008-\*\***

(Section 149.1, *The Securities Act*)

**LOCAL RULE 33-501**  
**DEPOSIT AGENTS**

**PART 1 INTERPRETATION**

**Interpretation**

**1.1** In this rule:

**“authorized official”** means an individual who is a partner, director or officer of a registered deposit agent and who trades in GICs on behalf of the deposit agent;

**“deposit agent”** means a person who or company that trades in guaranteed investment certificates, including accepting, receiving or soliciting money from investors for transmission to a financial institution for investment in a guaranteed investment certificate;

**“financial institution”** means:

- (i) a bank to which the *Bank Act* (Canada) applies;
- (ii) a credit union to which *The Credit Unions and Caisses Populaires Act* applies;
- (iii) an insurance company licensed pursuant to *The Insurance Act*; and
- (iv) a trust corporation or a loan corporation registered under Part XVI of *The Corporations Act*;

**“guaranteed investment certificate”** or **“GIC”** means:

- (i) evidence of indebtedness of or guaranteed by a financial institution; or
- (ii) a certificate or receipt issued by a financial institution for money received for guaranteed investment;

**“registered deposit agent”** means a deposit agent who or that is registered and whose registration is not suspended or cancelled;

**“salesperson”** means an individual, other than an authorized official, that is employed or engaged by a registered deposit agent to trade in GICs on behalf of the deposit agent.

## PART 2 REGISTRATION

### Exemption removed

**2.1** The exemptions in subsections 19(1) and 19(2) of the Act from the registration requirement in section 6 of the Act are not available to a deposit agent, an authorized official or a salesperson.

### Registration required

**2.2(1)** Subject to section 2.3, no person or company shall act as a deposit agent unless that person or company is registered as a broker-dealer in the category of deposit agent.

**2.2(2)** No individual shall act as a deposit agent.

**2.2(3)** Subject to section 2.3, no person or company shall act as an authorized official unless that person or company is registered as an authorized official of a registered deposit agent.

**2.2(4)** Subject to section 2.3, no person or company shall act as a salesperson unless that person or company is registered as a salesperson of a registered deposit agent.

**2.2(5)** Subsections 2.2(3) and 2.2(4) do not apply to:

(a) office staff; or

(b) persons engaged in clerical or accounting duties in the employ of the registered deposit agent, and not otherwise engaged in trading in GICs.

### Exemptions from registration

**2.3** Section 2.2 does not does not apply to:

(a) a trade in a GIC of a financial institution when the trade is made by an employee working in a branch of the financial institution;

(b) a trade in a GIC of a financial institution by an employee of another financial institution if a principal and agent relationship exists between the financial institution and the other financial institution;

(c) a trade in a GIC by an authorized official or salesperson for the account and through the facilities of a registered investment dealer;

(d) a trade in a GIC by an authorized official or salesperson for the account and through the facilities of a registered broker-dealer that is a member of the Mutual Fund Dealers Association of Canada;

(e) a trade in a GIC by a person who or company that is recognized at law as a fiduciary on behalf of others for whom they act if the fiduciary does not receive a commission; and

(f) a trade in a GIC by a person who or company that receives funds from another person or company for transmittal to a financial institution if:

(i) the person or company does not ask for or receive a commission or remuneration;

(ii) the transaction is not made in the course of continued and successive transmissions of the same character; and

(iii) the trade is not made by a person or company whose usual business is trading in GICs.

### **Authorized Officials to act for deposit agent only**

**2.4** No authorized official of a registered deposit agent shall carry on business or act as a deposit agent:

(a) on his or her own account; or

(b) on behalf of any deposit agent other than the registered deposit agent with whom he or she is registered.

### **Salespersons to act for employer only**

**2.5** No salesperson shall carry on business or act as a deposit agent:

(a) on his or her own behalf; or

(b) on behalf of any deposit agent other than the registered deposit agent with whom he or she is registered.

### **Engaging unregistered authorized officials and salespersons prohibited**

**2.6** Unless a person or company is registered as an authorized official or salesperson on behalf of the deposit agent, no registered deposit agent shall:

(a) employ or engage that person or company as an authorized official or salesperson; or

(b) directly or indirectly, pay to any person or company a commission, salary or other remuneration in connection with that person's activities as an authorized official or salesperson.



### **Non-liability agreement prohibited**

**2.7** No deposit agent shall enter into an agreement with an authorized official or salesperson in which the parties agree to limit the liability of the deposit agent for the actions of the salesperson or authorized official.

### **Initial application for registration**

**2.8** A person who or company that wishes to be a registered agent shall apply for initial registration as:

(a) a deposit agent by completing and filing Form 33-501F1; and

(b) as an authorized official or salesperson by completing and filing Form 33-501F2.

## **PART 3 ONGOING REGISTRATION REQUIREMENTS**

### **Compliance systems**

**3.1** A deposit agent shall maintain effective systems to ensure that its authorized officials and salespersons are:

(a) in compliance with the requirements of this Rule; and

(b) dealing fairly and honestly with the deposit agent's clients.

### **Annual reporting requirement**

**3.2** A deposit agent shall file a report with the Director annually within three months after its financial year end in accordance with Form 33-501F3.

### **Holding out**

**3.3** Every authorized official and salesperson carrying on the business of a registered deposit agent shall hold themselves out as an authorized official or salesperson only under the name of the deposit agent with whom the authorized official or salesperson is registered.

### **Trust compliance report**

**3.4** A deposit agent that operates a trust account must file annually within three months after the deposit agent's financial year end the report of an auditor acceptable to the Commission in accordance with Form 33-501F4.

### **Business records**

**3.5** Every deposit agent must maintain books and records necessary to properly record the deposit agent's business transactions including the following:

- (a) a file for each client that must contain the following:
- (i) a copy of the application for each GIC in which the client invests;
  - (ii) a copy of the client's or financial institution cheque for each transaction;
  - (iii) a copy of the receipt for cash received from the client;
  - (iv) a copy of the financial institution deposit slip for each investment;
  - (v) a copy of the investment confirmation received from the financial institution;
  - (vi) written documentation of oral instructions from the clients if permitted under section 4.2, including the name of the client, details of oral instructions and the date and time they were received;
- (b) a copy of commission statements from financial institutions.

### **Business office**

**3.6** Every deposit agent that does not have a place of business in Manitoba shall comply with all of the following conditions:

- (a) the deposit agent must have a place of business in Canada;
- (b) the deposit agent must have at least one authorized official resident in Canada and registered in Manitoba as a partner or officer of the dealer;
- (c) the deposit agent must not have any authorized officials or salespersons who reside in Manitoba;
- (d) the deposit agent must file an executed submission to jurisdiction and appointment of agent for service of process substantially in the form set out in Appendix A to this rule;
- (e) the deposit agent must file with the Director a written undertaking substantially in the form set out in Appendix B to this rule;
- (f) the deposit agent must maintain in its home jurisdiction in Canada those books and records necessary to properly record its business transactions in Manitoba; and
- (g) the deposit agent must provide a disclosure statement to each new client substantially in the form set out in Appendix C to this rule.

## PART 4 WRITTEN AGREEMENTS

### Application forms

**4.1(1)** If an authorized official or salesperson receives money from an investor for investment in a GIC, the deposit agent must complete an application form containing the following information:

- (a) the name of the investor and a third party, if any, designated by the investor as the beneficial owner of the GIC;
- (b) the name of the financial institution with whom the investor wishes to invest;
- (c) the amount of the money invested;
- (d) the interest rate of the investment and how interest is to be calculated and paid;
- (e) the term of the investment;
- (f) whether or not the investment can be redeemed or transferred prior to maturity and any costs or charges applicable;
- (g) the date of the application;
- (h) the address or account where the investor wishes to receive interest and maturity cheques;
- (i) the address where the investor wishes to receive communications from the financial institution;
- (j) a statement in bold print and in a minimum 10 point size substantially in the following words:

*“The financial institution will send a confirmation of this investment directly to you within 15 days after receiving your money. If you do not receive this confirmation, you should contact the financial institution.”;*
- (k) a declaration by the deposit agent that all money or certificates are held by the deposit agent in trust for the investor.

**4.1(2)** The application form mentioned in subsection 4.1(1) must be approved by the financial institution with which the money is to be invested before the application form is used.

**4.1(3)** No authorized official or salesperson shall designate a third party beneficiary in the application form who or that is directly or indirectly associated with the deposit agent, its authorized officials or salespersons.

**4.1(4)** No authorized official or salesperson shall designate the authorized official's or salesperson's own address as the address for the purposes of clause 4.1(1)(i).

**4.1(5)** The authorized official or salesperson and the investor must sign the application form immediately after it is completed.

**4.1(6)** Immediately after the application form is signed, the authorized official or salesperson shall give to the investor:

- (a) a copy of the completed application; and
- (b) a clear explanation of the investment process in writing.

### **Deposit agent signing application**

**4.2(1)** An authorized official or salesperson may sign an application on behalf of an investor only if:

- (a) the purpose is to enable the reinvestment on behalf of the investor of a maturing GIC with a financial institution;
- (b) there is no change of beneficial ownership;
- (c) the investor gives oral or written instructions to the deposit agent; and
- (d) either:
  - (i) the investor is away from the investor's principal residence for an extended period of time; or
  - (ii) it is significantly inconvenient for the investor to attend at the deposit agent's office.

**4.2(2)** The oral or written instructions mentioned in clause 4.2(1)(c) must include:

- (a) the source of the money for reinvestment;
- (b) the terms on which the money is to be reinvested;
- (c) the address where interest and maturity cheques should be sent or deposited;
- (d) the address where the financial institution should send the confirmation notice for the reinvestment required in section 6.4; and
- (e) the time period in which the deposit agent is authorized to sign the application on behalf of the investor after the money has been received.

**4.2(3)** If an authorized official or salesperson signs an application form for an investor in accordance with subsection 4.2(1), the deposit agent must send a copy of the completed application form within 24 hours to:

- (a) the investor's then current address if it is different from the investor's principal residence as provided by the investor to the registrant; and

(b) the investor's principal residence.

## **PART 5 HANDLING OF MONEY**

### **Manner of payment**

**5.1(1)** No authorized official or salesperson shall accept money from investors for investment in GICs unless the investment is by:

(a) a cheque payable to the financial institution with whom the investor wishes to invest;

(b) cheques or other negotiable instruments endorsed to the credit of the payee for deposit to the financial institution with whom the investor wishes to invest;

(c) cash; or

(d) a third party cheque payable to the investor if the investor wants to invest the money in GICs of several financial institutions.

**5.1(2)** If an authorized official or salesperson receives from an investor either cash or a third party cheque payable to the investor, the authorized official or salesperson shall immediately:

(a) provide a written receipt for the money to the investor; and

(b) deposit the cash or cheque into a trust account.

### **Requirement to turn over money to deposit agent**

**5.2** Every salesperson and authorized official of a registered deposit agent shall, on receipt, pay over to the registered deposit agent all money received in connection with the business of the registered deposit agent.

### **Pooled money prohibited**

**5.3** No deposit agent shall pool money received from more than one investor, and invest that pooled money in a GIC on behalf of those investors.

### **Deposit agent holds deposits as trustee**

**5.4** All funds received by a registered deposit agent, authorized official and salesperson in connection with the purchase of a GIC are deemed to be trust funds.

## **Trust accounts**

**5.5(1)** Any trust account that a deposit agent operates must be established under a written trust agreement between the deposit agent and the financial institution.

**5.5(2)** The trust agreement established pursuant to subsection 5.5(1) must contain the following terms:

- (a) an acknowledgment by the deposit agent that the deposit agent holds the money in trust;
- (b) an acknowledgment by the deposit agent that the deposit agent will not overdraw the trust account;
- (c) a direction by the deposit agent to the financial institution to make records relating to the trust account available to the Commission on the Commission's request;
- (d) an acknowledgment by the financial institution that it will pay the money in the trust account to another financial institution or an investor, but not to the deposit agent;
- (e) an acknowledgment by the financial institution that it will credit any interest, or other consideration or set off as a result of the operation of the trust account to the investor.

**5.5(3)** A deposit agent may deposit only the following into the trust account:

- (a) cash; or
- (b) a third party cheque payable to the investor if the investor wants to invest the money in GICs of several financial institutions.

**5.5(4)** A deposit agent shall operate a trust account established under subsection 5.5(1) in accordance with the following provisions:

- (a) the deposit agent must not deposit into the trust account the deposit agent's own money or money from any other business the deposit agent may operate;
- (b) the deposit agent must credit to the investor any interest, other consideration, or set off as a result of the operation of the trust account;
- (c) the deposit agent must not make any payments from the trust account to anyone other than a financial institution or an investor;
- (d) the deposit agent must not overdraw the trust account;
- (e) the deposit agent must clear the trust account to a zero balance at the end of each day by forwarding money to the financial institutions.

### **Remitting money to financial institution**

**5.6(1)** A deposit agent shall send money received from an investor together with the completed application form in accordance with subsection 4.1(1) to the financial institution either:

- (a) on the day that the deposit agent receives the money; or
- (b) on the next business day if the deposit agent receives the money after the financial institution has closed for the day.

**5.6(2)** A deposit agent shall send all of the money received from an investor to a financial institution, and the deposit agent shall not make any deductions for commission or for any other reason.

**5.6(3)** Subject to subsection 5.6(4), a deposit agent shall send the money to the financial institution in any of the following ways:

- (a) by depositing the money into a direct deposit account in the name of the financial institution;
- (b) by courier; or
- (c) by mail.

**5.6(4)** A deposit agent shall send the money to the financial institution pursuant to subsection 5.6(3) in the most expeditious way.

## **PART 6 FINANCIAL INSTITUTIONS**

### **Dealing with registered entities**

**6.1** No financial institution shall accept, receive or solicit money for the purchase of a GIC:

- (a) from a deposit agent unless the deposit agent is a registered deposit agent;  
or
- (b) from an authorized official or a salesperson.

### **Contract with deposit agent required**

**6.2(1)** No financial institution shall accept, receive or solicit money from a deposit agent unless the financial institution has a written agreement with that deposit agent.

**6.2(2)** The written agreement between a financial institution and a deposit agent mentioned in subsection 6.2(1) must include the following:

- (a) an acknowledgment that the deposit agent may accept, receive or solicit money from investors for investment in a GIC with the financial institution;

(b) a provision that the deposit agent must remit money to the financial institution only in accordance with this rule;

(c) a provision that the deposit agent must accept, receive or solicit money from investors only in accordance with this rule;

(d) a provision that the deposit agent must use an application form approved by the financial institution and prepared in accordance with this rule;

(e) a provision that the deposit agent shall send the completed application form to the financial institution, in the most expeditious and reasonable way considering the amount invested, no later than the next business day after the money has been received and are deposited;

(f) an acknowledgment that all money accepted, received or solicited by the deposit agent shall be held in trust for the investor;

(g) an acknowledgment that the deposit agent shall operate trust accounts, if any, in accordance with this rule.

### **Payments to investors**

**6.3** A financial institution shall:

(a) make all payments due under a GIC payable to the beneficiary designated in the application form relating to that GIC; and

(b) send all payments due under a GIC to the address or account designated by the investor:

(i) on the application form; or

(ii) in any other written direction signed by the investor that the financial institution has subsequently received.

### **Confirmation notice**

**6.4(1)** A financial institution shall promptly, but in any event no later than 15 days after receiving or reinvesting an investor's money for a GIC, send a written notice to the investor stating:

(a) that the financial institution has received the money;

(b) the amount of money received;

(c) the interest rate at which the money has been invested, and how interest will be calculated and paid;

(d) the term of the investment including the start and maturity date;



(e) whether or not the investment can be redeemed prior to maturity and any costs or charges applicable; and

(f) the name of the investor or person designated as owner of the GIC.

**6.4(2)** The financial institution shall send the notice mentioned in subsection 6.4(1) to the address specified by the investor on the application.

**6.4(3)** The financial institution shall send a copy of the confirmation notice to the deposit agent who transmitted the money.

### **Reporting to the Commission**

**6.5** A financial institution shall, within five days of the event, advise the Commission of:

(a) the name and address of any new deposit agent;

(b) when it terminates a contract with a deposit agent, and the reasons for the termination; and

(c) when it ceases to accept, receive or solicit money for the purchase of GIC from deposit agents.

### **Annual reporting**

**6.6** A financial institution shall file a report with the Commission within three months after its financial year end in accordance with Form 33-501F5.

## **PART 7 EXEMPTION APPLICATIONS**

### **Exemption**

**7.1** The Commission or the Director may grant an exemption to this rule, in whole or in part, subject to any conditions or restrictions that may be imposed.

## **PART 8 TRANSITION, COMING INTO FORCE and CITATION**

### **Transition**

**8.1** Any persons or company that was acting as a deposit agent prior to this rule coming into force and is required to register as a deposit agent under this rule may continue to act as a deposit agent if they apply for registration as a deposit agent within 30 days of the date this rule comes into force and become registered under this rule within six months of the date this rule comes into force.

**Coming into force**

**8.2** This rule comes into force on \*\*\*\*, 2008

**Citation**

**8.3** This rule may be cited as

## APPENDIX A

### DEPOSIT AGENT'S SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

1. Name of applicant or deposit agent (the "Deposit Agent"):
2. Jurisdiction of incorporation of Deposit Agent:
3. Name of agent for service of process (the "Agent"):
4. Address for service of process of Agent in Manitoba:
5. The Deposit Agent designates and appoints the Agent at the address of the Agent stated above as its agent on whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (the "Proceeding") arising out of or relating to or concerning its registration under the Act or its activities in Manitoba as a Deposit Agent, and irrevocably waives any right to raise as a defence in any Proceeding any alleged lack of jurisdiction to bring that Proceeding.
6. The Deposit Agent irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of Manitoba and any administrative proceeding in Manitoba, in any Proceeding arising out of or related to or concerning its registration under the Act or its activities in Manitoba as a Deposit Agent.
7. Until eight years after the termination of its registration pursuant to the Act, the Deposit Agent shall file:
  - a. a new Submission to Jurisdiction and Appointment of Agent for Service of Process in this form at least 30 days prior to termination of this Submission to Jurisdiction and Appointment of Agent for Service of Process for any reason whatsoever; and
  - b. an amended Submission to Jurisdiction and Appointment of Agent for Service of Process at least 30 days prior to any change in the name or above address of the Agent.
8. This Submission to Jurisdiction and Appointment of Agent for Service of Process shall be governed by and construed in accordance with the laws of Manitoba.

Dated:

*(Signature of Deposit Agent's authorized signatory)*

*(Name and title of authorized signatory)*

**Acceptance**

The undersigned accepts the appointment as agent for service of process of *(Name of Deposit Agent)* pursuant to the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service of Process.

Dated:

*(Signature of Agent or authorized signatory)*

*(Name and title of authorized signatory)*

## APPENDIX B

### UNDERTAKING TO PROVIDE INFORMATION

1. Name of applicant or deposit agent (the "Deposit Agent"):

2. Jurisdiction of incorporation of Deposit Agent:

3. The Deposit Agent hereby undertakes:

(a) to inform the Director as soon as it becomes aware that:

(i) its registration or the registration of any of its salespersons or authorized officials in any other jurisdiction in Canada is revoked by the securities regulatory authority in that jurisdiction or is suspended for cause other than lapse, transfer or resignation; or

(ii) an investigation order or notice hearing has been issued by any Canadian securities regulatory authority with respect to it or any of its salespersons or authorized officials;

(b) that it will, on the request of the Commission, a person appointed by the Commission to make an investigation under the Act relating to the Deposit Agent's activities in Manitoba, or the Director:

(i) immediately produce to the person making the request at the Deposit Agent's expense all books, papers, documents, records and correspondence, relating to the Deposit Agent's activities in Manitoba that are in the possession control or power of the Deposit Agent, subject to the laws of the jurisdiction that are otherwise applicable to the production of those books, papers, documents, records and correspondence, and if the laws of the other jurisdiction prohibit production of the books, papers, documents, records or correspondence without the relevant client's consent, the Deposit Agent shall use its best efforts to obtain the client's consent; and

(ii) immediately produce in Manitoba at the Deposit Agent's expense appropriate persons in its employ as witnesses to give evidence on oath or otherwise. If the appropriate persons are not in its employ, it will use its best efforts to immediately produce in Manitoba at the Deposit Agent's expense those persons to give evidence on oath or otherwise, subject to the laws of the jurisdiction that are otherwise applicable to the giving of such evidence. If the laws of the other jurisdiction prohibit the giving of the evidence without the relevant client's consent, the Deposit Agent shall use its best efforts to obtain the client's consent;

(c) to permit the Commission, the staff of the Commission or an agent of the Commission to inspect and examine, from time to time, the Deposit Agent's books and records in its home jurisdiction;

(d) to reimburse the Commission for all costs and expenses incurred in conducting the inspection and examination mentioned in clause (c) above which the Commission would not have incurred had the books and records been maintained in Winnipeg, Manitoba; and

(e) not to object to any hearing before the Commission on the basis that it was not present or represented if it has received a notice to appear from the Commission.

Dated:

*(Signature of Deposit Agent or authorized signatory)*

*(Name and title of authorized signatory)*

## APPENDIX C

### DISCLOSURE STATEMENT TO NEW CLIENTS

*[on the letterhead of the Deposit Agent]*

To all new clients:

You have recently opened an account with our firm. We agree that the laws of the province of Manitoba apply to any matter that may arise between us. We also agree to submit to the jurisdiction of the courts of the Province of Manitoba with respect to that matter.

Our address for service of legal proceedings is:

*(Name and address of agent for service of process)*

You should be aware that, because we do not have a place of business in Manitoba, you may have difficulty in enforcing any legal rights you have against us.

*(Signature of Deposit Agent's authorized signatory)*

*(Name and title of authorized signatory)*

## **Companion Policy to**

### **Local Rule 33-501 - *Regulation of Deposit Agents***

#### **Definitions**

Terms defined in Local Rule 33-501 have the same meaning in this policy.

#### **Scope of Rule**

Local Rule 33 – 501 *Regulation of Deposit Agents* (the “Rule”) and this policy describes the regulation of deposit agents in Manitoba. The Rule applies to deposit agents within Manitoba, and outside Manitoba when conducting business within Manitoba, for financial institutions including all banks, trust and loan companies, credit unions, *caisses populaires*, and insurance companies.

#### **Where Rule will not apply**

The Rule will not apply to agents acting exclusively for, or branch employees of, financial institutions and securities affiliates thereof. Financial institutions include federally chartered banks, trust companies, credit unions, and *caisses populaire*.

Where an agent or employee is not exempted because of the above criteria, the agent may still apply for an exemption from registration under the Rule, on the basis that they are acting exclusively for a firm engaging in the financial services industry. Each application for exemption, to be made to the Commission, will be considered independently.

The Rule will not apply to investment dealers, mutual fund dealers, and persons recognized by law as fiduciaries (such as executors of estates, and lawyers acting in a solicitor-client relationship where no commission is received for being a fiduciary). Additionally, the Rule will not apply to income or annuity contract, insurance contract, and variable contract sales.

#### **Requirements**

The Rule requires that:

- agents obtain registration before operating any brokerage services, upon meeting certain criteria;
- there be a *written* agency agreement between a deposit agent and a financial institution outlining the agent’s obligations and the products for which the agent is authorized to receive deposits;
- specific procedures and forms be used for deposit acceptance, transmission, and final deposit;
- specific procedures and forms be used by financial institutions when using the services of deposit agents and accepting deposits from such brokers;
- specific business practices be prohibited;
- annual reports be provided by deposit agents and financial institutions; and
- information be filed with the Commission under certain instances.

#### **Impact on existing deposit agents and brokers**

The proposed rule would have no impact on registered dealers in acting on behalf of their clients in trading securities. Similarly, regulation would not affect licensed insurance agents in selling insurance products.



### ***Application and licensing***

Anyone wishing to be a deposit agent, other than an exclusive agent, will be required to obtain registration before carrying on business as a deposit agent. An exclusive agent is one who accepts deposits solely for one financial institution.

The Commission proposes to allow existing deposit agents to continue to act as deposit agents, provided they apply for a license within 30 days of Rule coming into force.

A partnership or body corporate seeking registration as a deposit agent will have to specify the names of its partners, officers, directors and signatories, as the case may be.

All deposit agents will disclose the names of their “authorized officials”. Those persons will have to meet the requirements for registration. An authorized official will be responsible for each office of the deposit agent and only an authorized official will be permitted to accept a deposit from a depositor. A deposit agent that is a sole proprietor will be permitted to apply to have employees listed as authorized officials. For the purpose of this policy an authorized official receiving deposits on behalf of an agent is referred to as the agent.

To be eligible to be registered as a deposit agent, a person must be considered fit for registration by the Director. When determining fitness, the Director will consider criteria deemed appropriate, including whether the applicant:

- is over the age of 18;
- is of sound mind;
- has the status of a bankrupt;
- has been convicted of an indictable offence, at any time, of a kind related to the qualifications, duties, or functions of a deposit agent;
- carries a surety bond;
- carries errors and omissions (professional liability) insurance.

The required amounts of the surety bond and insurance will be determined by the Director and will be in an amount necessary to cover possible losses by a depositor due to the actions of a deposit agent and any authorized officials/employees of the agent. Each of these will have to be of indefinite duration. If either of these is cancelled, the deposit agent’s registration shall be suspended and will remain suspended until the director receives evidence that the deposit agent has obtained a new bond or new insurance policy.

The director may order a deposit agent to increase the amount of the bond and/or the insurance coverage where it is considered to be in the public interest.

These requirements will not impose any educational requirements on those seeking registration.

The director will maintain a register of deposit agents, and the register will be open to the public. The register will record:

- all registrations issued and renewed;
- all changes to, suspensions, revocations, and reinstatements of registration;
- the name of each deposit agent;

- the names of authorized officials of each deposit agent;
- an address for service for each deposit agent; and
- the names and addresses of each financial institution for which the agent receives deposits
- all conditions imposed on any registration.

### ***Revocation and suspension***

The director may refuse to issue registration to an applicant where the applicant does not meet the requirements of the Rule, or where the director is of the opinion that the person is not suitable to be registered.

The director may revoke or suspend registration of a deposit agent where, after an investigation and hearing, the director finds that the deposit agent:

- has been guilty of misrepresentation, fraud, deceit, or dishonesty;
- has violated any provision of The Securities Act (Act) or any rule or regulation under the Act;
- has shown incompetence or untrustworthiness in transacting the business of a deposit agent;
- has failed or refused to comply with any condition placed on the registration;
- has failed or refused to comply with any undertaking given to the director or order of the director;
- is no longer acting as a deposit agent for at least one financial institution; or
- has acted contrary to the public interest.

Where registration is revoked or suspended, the director will notify the deposit agent and any financial institutions receiving deposits from that deposit agent. The decision of the director is appealable pursuant to the applicable provisions under the Act.

The director may also investigate the activities of an authorized official, and remove the name of an authorized official from the agent's registration for the same reasons that agent's registration can be revoked or suspended. Prior to the director refusing to grant or renew registration, the director shall first give the applicant or deposit agent an opportunity to be heard.

### ***Bonding and insurance coverage***

Applicants must provide proof that they carry liability (errors and omissions) insurance. They must provide this proof when applying for registration as a deposit agent. Deposit agents must remain insured while carrying on business. Also, agents must be bonded, and provide proof of bonding when registering. Finally, deposit agents must maintain bonding while carrying on deposit brokerage business. The insurance and bonding will occur with the activities of a deposit agent and its authorized officials receiving deposits on its behalf.

### **Obligations of deposit agents**

#### ***Service Contract***

Before an agent can accept money, the agent will have to have a Service Contract in place between the agent and the investor. A Service Contract will govern the relationship between the agent and the person from whom the agent will be taking money. The details, terms, and requirements of a Service Contract are set out in the Rule.

### ***Deposit Application***

In addition to the Service Contract a separate Deposit Application form must be completed prior to or at the time of the acceptance of money. This standard form will serve as a receipt of funds received by the agent. The form will also contain an assertion that any funds received will be held in trust by the agent for the investor. It should also be noted that the Deposit Application will have to meet the deposit requirements of the financial institution. Thus, the forms would have to allow the agent to make a deposit at the financial institution on behalf of the investor. The investor and agent will both sign the forms acknowledging receipt of funds by the agent.

A copy of the Deposit Application must be forwarded to the investor upon the funds being deposited with the financial institution.

### ***Receiving investor funds***

The Rule sets out the requirements for handling investor funds.

If the investor's deposit is cash, the agent shall provide a receipt for the funds immediately upon receipt of the cash.

Where the deposit is cash or funds payable to an agent, the agent will have to:

- keep the funds separate and apart from other money belonging to the deposit agent;
- deposit the funds in a trust account;
- deposit the funds with the financial institution according to the investor's instructions no later than the next banking day;
- forward the funds to the financial institution in full with no amount being deducted for commissions, fees, or other consideration; and
- provide a receipt to the investor for funds received, immediately upon receipt.

If the investor makes a deposit by cheque, draft, or money order, for the purchase of a single financial product at one financial institution, the agent must make payment in the name of the financial institution receiving the deposit.

If the investor requires the agent to split the deposit between two or more financial institutions, or between two or more financial products, or any combination thereof, then payment may be made to the deposit agent in trust. If this is the case, then the investor *must* provide detailed written instructions on the Deposit Application outlining at which financial institution the funds are to be deposited, the product they are to be used for, and the amount of funds to be used.

In limited circumstances described in the Rule a deposit agent may sign a Deposit Application for an investor:

### ***Authorized Officials***

To increase business efficiency and customer service, deposit agents will likely employ authorized officials (subagents). Simply put, authorized officials are employees authorized by the agent to receive deposit funds from investors. Authorized officials will only be able to act for one deposit agent, and a deposit agent must file a report with the respective financial institutions which sets out the names of their authorized officials. Authorized officials shall not operate trust accounts and will deposit cash or funds

payable to the agent only into the agent's trust account. Authorized officials will not have to register separately but will be included under the agent's registration.

### ***Trust accounts***

Each deposit agent will be required to maintain and operate a trust account. This will allow the agent to hold funds in trust for investors, before depositing the funds in a financial institution. Except in cases where the deposit is in a form made payable to the financial institution, all funds are to be deposited into the agent's trust account until the final deposit is made. Funds deposited into a trust account operated and maintained by the agent may only be remitted to the financial institution.

Upon opening an account for the purpose of holding funds in trust, the agent must gain assurance from the financial institution where the trust account is located, that:

- the account is opened for the purpose of holding funds in trust
- the account is labeled "trust account"
- no person other than the agent shall have access to the account
- the cash in the trust account will not be used to cover shortfalls in any other accounts of the agent
- any charges against the trust account are not paid or reimbursed out of the trust account

### ***Annual reporting***

Deposit agents would be required to file an annual return with the Commission. This will include information such as the volume of deposits received and the financial institutions the deposit agent deals with. Deposit agents will also be required to retain records regarding surety bond and professional liability insurance, their agency requirements with financial institutions, and records of deposits handled.

These records will be retained for eight years and will be open to examination by the Commission.

### **Obligations of financial institutions**

#### ***Written agency agreement***

Before taking deposits for a financial institution, a deposit agent will be required to have a written agency agreement with the financial institution. The proposed Rule will impose minimum conditions on agency agreements. The Commission does not expect this to be an onerous requirement, will reflect standard business practices, and will remain consistent with the common law rules of contract law.

No financial institution shall be permitted to accept deposits from deposit agents without an agency agreement. Further, no financial institution shall be permitted to accept deposits directly from authorized officials.

#### ***Confirmation notice***

The financial institution will send a written notice to the investor, confirming that the funds were deposited with the financial institution. The confirmation notice, as it is called, will also indicate the amount of funds deposited, the interest rate on the funds deposited, and investment term and maturity dates, and any other provisions of the investment or GIC. The financial institution will send this notice to the investor within two weeks of receiving the investor's funds. In some cases, an investment certificate may replace a

confirmation notice, though the certificate would still have to be sent to the investor within two weeks.

***Financial institution obligations***

Financial institutions using deposit agents will be required to report to the Commission certain information set out in the Rule, including

- the names and addresses of deposit agents with whom they deal;
- dismissal/termination of agents;
- refusal to accept deposits from agents;
- reporting any known breaches of the Rule; and
- the name and address of a contact person for the financial institution;





- |   |                          |                          |
|---|--------------------------|--------------------------|
| (d) denied the benefit of any exemption from registration provided by The Securities Act, 1988 or any previous Securities Act?, or any similar exemption provided by securities legislation or regulations of any other province, state or country? | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| 9. Has any securities regulatory authority or similar authority in any province, state or country:  |                          |                          |
| (a) found the applicant or an affiliate to have made a false statement or omission?   | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (b) found the applicant or an affiliate to have been involved in a violation of its regulations or statutes?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (c) found the applicant or an affiliate to have been the cause of an investment-related business having its authorization to do business denied, suspended, revoked or restricted?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (d) entered an order denying, suspending or revoking the applicant's or an affiliate's registration or otherwise disciplined it by restricting its activities?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (e) found the applicant or an affiliate to have been dishonest, unfair or unethical?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (f) ever found the applicant or an affiliate to have been involved in a violation of investment regulations or statutes?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (g) in the past 10 years entered an order against the applicant or an affiliate in connection with investment related activity?   | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| 10. Is the applicant, or is any affiliate of the applicant, now, or has it been:  |                          |                          |
| (a) a member of any stock exchange, association of investment dealers, investment bankers, brokers, broker-dealers, or similar organization, in any province, state or country?   | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (b) refused membership in any stock exchange, association of investment dealers, investment bankers, brokers, broker-dealers, or similar organization, in any province, state or country?   | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (c) suspended as a member of any stock exchange, association of investment dealers, investment bankers, brokers, broker-dealers, or similar organization, in any province, state or country?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| 11. Has any self-regulatory organization or commodities exchange ever:  |                          |                          |
| (a) found the applicant or an affiliate to have made a false statement or omission?   | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (b) found the applicant or an affiliate to have been involved in a violation of its rules?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (c) found the applicant or an affiliate to have been the cause of an investment related business having its authorization to do business denied, suspended, revoked or restricted?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| (d) disciplined the applicant or an affiliate by expelling or suspending it from membership, by barring or suspending its association with other members, or by otherwise restricting its activities?   | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| 12. Is the applicant or an affiliate now the subject of any proceeding that could result in a "yes" answer to questions 9 to 11?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| 13. Has the applicant, or to the best of the applicant's information and belief has any affiliate of the applicant, operated under, or carried on business under, any name other than the name shown in this application?                           | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |
| 14. Has the applicant, or to the best of the applicant's information and belief, has any affiliate of the applicant:  |                          |                          |
| (a) ever been convicted under the law of any province, state or country, excepting minor traffic violations?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <i>yes</i>               | <i>no</i>                |



Is there currently an outstanding charge or indictment against the applicant or affiliate?    
yes no

*Instruction: Question (a) refers to all laws, e.g. criminal, immigration, customs, liquor, etc., of any province, state or country in any part of the world.*

(b) ever been the defendant or respondent in any proceedings in any civil court in any jurisdiction in any part of the world wherein fraud was alleged?    
yes no

(c) at any time declared bankruptcy, or made a voluntary assignment in bankruptcy?    
yes no

15. Has an insurance or bonding company denied, paid out on or revoked a financial institution bond or fidelity or surety bond for the applicant?    
yes no

16. Does the applicant have any unsatisfied judgments or liens against it?    
yes no

17. Does the applicant control, or is the applicant controlled by, any partnership, corporation or other organization engaged in securities or investment advisory business?    
yes no

18. Set out on Schedule C the name of and position held by each official of the applicant seeking or holding registration.

19. Does the applicant engage in any other non-securities business? *If answer is "yes", give particulars on Schedule A.*    
yes no

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Name of applicant)

By: \_\_\_\_\_  
(Signature of official on behalf of applicant)

\_\_\_\_\_  
(Official capacity)

**Schedule A to Form 33-501F1**  
**Application for Registration as a Deposit Agent**

Applicant's Name: \_\_\_\_\_

Date: \_\_\_\_\_

Instructions:

*Use this Schedule to report details of affirmative answers to questions on Form 33-501F1:*

*(a) mark it as an exhibit;*

*(b) cross-reference each statement on this Schedule to the item on this form to which it pertains;  
and*

*(c) have both the applicant and the Commissioner taking the affidavit initial it.*

<u>Item of Form</u>	<u>Answer</u>
---------------------	---------------



**Schedule C to Form 33-501F1  
Application for Registration as a Deposit Agent**

Applicant's Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Information in response to Item 18 of Form 33-501F1**

Set out in the space provided the name, address and position held by each officer or partner of the applicant seeking registration.

Full name of person who will act	Office held	Business address
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____



**FORM 33-501F2**

[Section 2.8]

**SALESPERSONS AND OFFICIALS  
APPLICATION FOR REGISTRATION**

*Instructions:*

- 1. Use this form to apply for registration as an official or salesperson of a deposit agent.*
- 2. Answer all of the questions. If you do not, there will be delays in processing your application.*
- 3. Give details of your answers on Schedule A to this Form.*

**1. Applicant**

Last Name: \_\_\_\_\_ First, Second and Third Names: \_\_\_\_\_

Residential address including postal code: \_\_\_\_\_ Telephone: ( ) - \_\_\_\_\_

Address for service in Manitoba: \_\_\_\_\_ Social insurance number: \_\_\_\_\_

Present position with the Deposit Agent: \_\_\_\_\_ Commenced employment on: dd/mm/yy

**2. Deposit Agent**

Name \_\_\_\_\_ Telephone: ( ) - \_\_\_\_\_

E-mail address: \_\_\_\_\_

Address where applicant will be working (street, city, province, postal code)

**3A. Personal Information about Applicant**

Date of birth: dd/mm/yy \_\_\_\_\_ Gender: \_\_\_\_\_

Place of birth:  
City \_\_\_\_\_ Province \_\_\_\_\_ Country \_\_\_\_\_

Citizenship: \_\_\_\_\_ If **not** a Canadian citizen, answer question 3B below.

**3B. Residency**

Are you a permanent resident?                      Number of years of continuous residence in Canada?

**PASSPORT**

Country                      Place of issue                      Date of issue                      Number

**4. Education**

*Instruction: State the last school attended at each level*

	Degree or Diploma	Date Obtained
High School or Secondary Level		
Post-secondary, College or University		
Professional Education		
Other		

What other courses relating to financial services have you completed?

State the date on which the course was completed.

---

**5. Employment History**

Disclose your business activities for the 10 years just before the date of this application. Include periods of self-employment and unemployment. Exclude summer employment while a full-time student. Include all financial services employment during and prior to the ten-year period.

Name and address of employer	Name and title of immediate supervisor	Name of employment and duties of applicant	Reasons for leaving	From mo. yr.	To mo. yr.
------------------------------	--	--	---------------------	-----------------	---------------

Present:

Past:

Have you **ever** been discharged by an employer for cause?    
If yes, give particulars on Schedule A.   
*yes* *no*

**Instruction:**

Answer "Yes" or "No" to questions 6 to 14 inclusive. If you answer "Yes" to any of the questions, give complete details on Schedule A.

**6. Change of Name**

Have you **ever** been known under any name other than the name mentioned in Question 1 of this form?    
*yes* *no*

Have you ever used or operated under any name?    
*yes* *no*

*If yes, list name changes. Include those resulting from marriage, divorce, court order or other processes, and include dates.*

**7. Prior Registration or Licensing**

A. Are you now or have you ever been registered or applied for registration in any capacity under any legislation regulating trading in securities of any province, territory, state or country?    
*yes* *no*

*If yes, list all authorities with whom you were registered and the dates of registration. State whether the registration is currently in effect.*

*yes* *no*  
B. Are you now or have you **ever** been a partner, shareholder, director or officer of a company or partnership which has been registered, or is now registered under any legislation regulating trading in securities?

*yes* *no*  
C. Are you now or have you **ever** been registered or licensed, or applied for registration, under any legislation that requires registration to deal with the public in any capacity in any province, territory, state or country?

**8. Refusal, Suspension, Cancellation or Disciplinary Measure**

A. Have you **ever** been refused registration, or has your registration been suspended or canceled under any legislation which regulates trading in securities of any province, territory, state or country?    
*yes* *no*

*yes* *no*  
B. Are you now or have you **ever** been a partner, shareholder, director, or officer of a company or of a partnership which has, during the time of your association with it, been refused registration or whose registration has been suspended or canceled under any legislation which regulates trading in securities of any province, territory, state or country?

*yes* *no*  
C. Have you every been refused registration, or has your registration been suspended or canceled, under any legislation which requires registration or licensing to deal with the public in any capacity **other than trading in securities** in any province, territory, state or country?

*yes* *no*  
D. Have you been denied the benefit of any exemption from registration provided by any legislation regulating trading in securities of any province, territory, state or country?



E. Has any prior or current registration to trade in securities held by you or any partnership or company of which you were at the time of such event a partner, officer or director or holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities **ever** been the subject of disciplinary action undertaken by any securities regulatory authority?    
yes no

### 9. Offences Under the Law

***Instruction:** Offences under federal statutes like the Income Tax Act (Canada) and the Immigration Act (Canada) constitute criminal offences, and must be disclosed when answering this question. Pleas or findings of guilt for impaired driving are Criminal Code matters and must be disclosed. Where you have pleaded guilty or been found guilty of an offence, you must report that offence even though you were granted an absolute or conditional discharge.*

A. Past Offences Involving Securities    
Have you **ever** pleaded guilty or been found guilty under any law of any province, territory, state or country of any offence relating to trading in securities, or with any related offence, or been a party to any proceedings taken on account of fraud or theft arising out of any trade in or advice in respect thereof?   
yes no

B. Past Offences Involving Other Criminal Offences or Contraventions    
Have you **ever** pleaded guilty or been found guilty under law of any province, territory, state or country for contraventions or other criminal offences not noted in A. above?   
yes no

C. Current Charges or Indictments    
Are you **currently the subject of a charge or indictment**, under any law of any province, territory, state or country for contraventions, criminal offences or other conduct of the type described in this part?   
yes no

D. Partnership or Company Offences or Current Charges or Indictments Has    
any partnership or company of which you are or were at the time of such event a partner, officer, director or a holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities, **ever** pleaded guilty or been found guilty, or is any such partnership or company currently the subject of a **charge of indictment**, under any law of any province, territory, state or country for contraventions, criminal offences or other conduct of the type described in this part?   
yes no

### 10. Civil Proceedings

Has any claim been made successfully or is any claim pending in any civil proceedings before a court or other tribunal in any province, territory, state or country which is or was based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct:

A. against you?

yes no

B. against any partnership or company of which you are or were at the time of such event, or at the time such proceedings were commenced, a partner, director officer or holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities?

yes no

### 11. Bankruptcy

A. Under the law of any province, territory, state or country have you **ever**:

(a) been declared bankrupt or made a voluntary assignment in bankruptcy?

yes no

(b) made a proposal under any legislation relating to bankruptcy or insolvency?

yes no

(c) been subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver and/or manager appointed to hold your assets?

yes no

(d) been subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver and/or manager appointed to hold its assets?

yes no

*If yes, and if applicable, attach copy of any discharge, release or document with similar effect.*

### 12. Judgment or Garnishment

Has any judgment or garnishment **ever** been rendered against you or is any judgment or garnishment outstanding against you, in any civil court in any province, territory, state or country for damages or other relief in respect of a fraud or for any reason whatsoever?

yes no

### 13. Surety bond or Fidelity Bond

A. Have you **ever** applied for a surety bond or fidelity bond and been refused?

yes no

*If yes, attach name and address of bonding company, and when and why the bond was refused.*

B. Are you presently bonded?

yes no

**14. Business Activities**

A. Will you be actively engaged in the business of the firm with which you are now applying and devote the major portion of your time thereto?  *yes*  *no*

B. Are you engaged in any other business or do you have any other employment for gain except your occupation with the firm with which you are now applying?  *yes*  *no*

C. Are you a partner, director, officer, shareholder or other contributor of capital of a partnership or of a company having as its principal business that of a dealer or adviser in securities other than the firm with which you are now applying? If yes, **attach full details.**  *yes*  *no*

**Certificate**

I hereby certify that the foregoing statements are true and correct to the best of my knowledge, information and belief.

By submitting this application I consent to the collection by the Manitoba Securities Commission (“MSC”) of the personal information contained in the application, police records, records from other government or non-governmental regulatory authorities or self-regulatory organizations, credit records and employment records about me as may be necessary for the MSC to complete its review of my application or continued fitness for registration in accordance with the legal authority of the MSC for the duration of the period for which I remain registered. The sources the MSC may contact include government and private bodies or agencies, individuals, corporations and other organizations.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

\_\_\_\_\_  
*(Signature of the applicant)*



**Schedule A to Form 33-501F2**  
**Application for Registration as an Official or Salesperson**

Applicant's Name: \_\_\_\_\_

Date: \_\_\_\_\_

*Instructions:*

*Use this Schedule to report details of answers to questions on Form 33-501F2:*

*(a) mark it as an exhibit;*

*(b) cross-reference each statement on this Schedule to the item on this form to which it pertains; and*

*(c) have both the applicant and the Commissioner taking the affidavit initial it.*

Item of Form	Answer
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**FORM 33-501F3**  
**DEPOSIT AGENT ANNUAL REPORT**  
[Section 3.2]

**Deposit Agent**

1. (a) Legal Name of Deposit Agent  
(b) Name under which business is conducted, if different

\_\_\_\_\_

\_\_\_\_\_

(c) Head office business address

\_\_\_\_\_

Postal Code \_\_\_\_\_ Telephone \_\_\_\_\_

(d) Address for service in Manitoba

\_\_\_\_\_

Postal Code \_\_\_\_\_ Telephone \_\_\_\_\_

(e) E-mail address \_\_\_\_\_

**Bank Accounts**

2. We have bank accounts at the following financial institutions and branches:

\_\_\_\_\_

\_\_\_\_\_

**Trust Accounts**

2A. Do you have a trust account?

If yes, state the name and branch of the financial institution.

*yes*

*no*

\_\_\_\_\_

\_\_\_\_\_

Also attach a completed Form 33-501F4 – *Trust Account Annual Report*.

**Branch Offices**

3. Do you have any branch offices?

*yes*

*no*

If yes, attach a list of branch offices with the following information for each office:

- business address
- mailing address
- postal code
- telephone number
- fax number
- name of manager

**Financial Institutions**

4. Attach a list with the following information about each financial institution that you place your GIC business through:

- name of financial institution
- name of contact person at the financial institution
- business address of the branch you deal with
- mailing address with postal code
- telephone number
- fax number

**Officials**

5. Attach a list with the following information about each official with your firm who is registered: *“Official” means a partner, director or officer of your firm.*

- name
- position with your firm
- business address
- telephone number
- fax number

**Salespersons**

6. Attach a list with the following information about each salesperson that your firm employs or engages:

- name
- business address
- telephone number
- fax number

**Financial institution bond**

7. Attach a copy of a current financial institution bond that your firm is required to maintain pursuant to section 7(4) of *The Securities Act*.

**Changes to initial application for registration**

8. Attach as an exhibit full particulars of all changes in the information given in your firm’s application for registration. (Form 33-501F2 – *Application for Registration as a Deposit Agent*) The person signing this form and the Commissioner taking his or her affidavit should both initial all exhibits and attachments to this form. If there are many changes, complete and file a new Form 33-501F2.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

\_\_\_\_\_  
*(Name of Deposit Agent)*  
 By: \_\_\_\_\_  
*(Signature of applicant, partner or officer)*  
 \_\_\_\_\_  
*(Type or print name)*  
 \_\_\_\_\_  
*(Official capacity)*





**FORM 33-501F4**

**AUDITOR'S REPORT ON COMPLIANCE WITH MANITOBA**

**LOCAL RULE 33-501 – DEPOSIT AGENTS**  
[Section 3.4]

*You are qualified to complete an Auditor's Report if you are:*

1. *a chartered accountant registered as a member in good standing of the Institute of Chartered Accountants of Manitoba and in public practice;*
2. *a Certified General Accountant registered as a member in good standing of the Association of Certified General Accountants of Manitoba and in public practice; or*
3. *a Certified Management Accountant registered as a member in good standing of the Association of Certified Management Accountants of Manitoba and in public practice.*

**To The Manitoba Securities Commission:**

I have audited \_\_\_\_\_ for compliance in the year  
*(name of deposit agent)*  
ending \_\_\_\_\_ with the criteria established in Manitoba  
*(date of financial year end)*

Local Instrument 33-501 – *Deposit Agents* for the operation of trust accounts (the “trust account criteria”). Compliance with the trust account criteria is the responsibility of the management of. \_\_\_\_\_  
*(name of deposit agent)*

My responsibility is to express an opinion on this compliance based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether

\_\_\_\_\_  
*(name of deposit agent)*

complied with the trust account criteria. Such an audit includes examining, on a test basis, evidence supporting compliance, and evaluating the overall compliance with the trust account criteria.

In my opinion, \_\_\_\_\_ has operated its trust account in  
*(name of deposit agent)*  
compliance with the trust account criteria, in all material respects, in the year ending  
\_\_\_\_\_  
*(date of financial year end)*

\_\_\_\_\_  
*(Name of Auditor)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Professional Designation)*

\_\_\_\_\_  
*(Address)*

\_\_\_\_\_  
*(Date)*

**FORM 33-501F5**  
**FINANCIAL INSTITUTION ANNUAL REPORT**  
[Section 6.6]

We confirm that we accept funds from Deposit Agents in Manitoba.

Our name: \_\_\_\_\_  
Head office address: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
Postal code: \_\_\_\_\_ Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_  
Name of contact person: \_\_\_\_\_  
E-mail address of contact person: \_\_\_\_\_

**Branch offices**

Do you have branch offices in Manitoba that accept funds from Deposit Agents?  yes  no

If yes, complete the following for each branch office in Manitoba:

Business address: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
Postal code: \_\_\_\_\_ Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_  
Name of contact person: \_\_\_\_\_  
Business address: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
Postal code: \_\_\_\_\_ Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_  
Name of contact person: \_\_\_\_\_  
Business address: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
Postal code: \_\_\_\_\_ Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_  
Name of contact person: \_\_\_\_\_

*(If you have more than 3 branch offices, list them on another sheet.)*

**Deposit Agents**

Attach a list with the following information about each Deposit Agent you currently deal with:

name of Deposit Agent  
name of contact person  
business address  
mailing address with postal code  
telephone number  
fax number

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*Name of Financial Institution*  
By: \_\_\_\_\_  
*Signature of authorized officer*  
\_\_\_\_\_  
*Type or print name*  
\_\_\_\_\_  
*Official capacity*

