

Note: [29 Jul 2016] - The following is a consolidation of NP 11-202. It incorporates the changes to this document that came into effect on September 28, 2009 and local amendments in Ontario as described in CSA Staff Notice 11-334. This consolidation is provided for your convenience and should not be relied on as authoritative.

National Policy 11-202
Process for Prospectus Reviews in Multiple Jurisdictions

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National Policy 11-202
Process for Prospectus Reviews in Multiple Jurisdictions

PART 1 – APPLICATION

Scope and application

1.1 This policy describes procedures for the filing and review of a preliminary prospectus, prospectus and related materials in more than one Canadian jurisdiction.

PART 2 – DEFINITIONS

Definitions

2.1 In this policy,

"**CP 11-102**" means Companion Policy 11-102CP *Passport System* to MI 11-102;

"**dual prospectus**" means a prospectus described in section 3.3 of this policy;

"**dual review**" means the review under this policy of a dual prospectus;

"**filer**" means

(a) a person or company filing a prospectus, or

(b) an agent of a person or company referred to in paragraph (a);

"**long form prospectus**" includes a simplified prospectus and annual information form for a mutual fund;

"**materials**" mean the documents required under a national prospectus instrument; "MI 11-102" means Multilateral Instrument 11-102 *Passport System*;

"**NI 13-101**" means National Instrument 13-101 *System for Electronic Document Analysis and Retrieval* (SEDAR);

"**NP 11-203**" means National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions*;

"**OSC**" means the regulator in Ontario;

"**passport jurisdiction**" means the jurisdiction of a passport regulator;

"**passport prospectus**" means a prospectus described in section 3.2 of this policy;

"**passport regulator**" means a regulator that has adopted MI 11-102;

"**pre-filing**" means a consultation with the principal regulator for a prospectus filing, initiated before the filing of materials, regarding the interpretation of securities legislation or securities directions or their application to a particular offering or proposed offering;

"**regulator**" means a securities regulatory authority or regulator;

"**shelf prospectus**" means a prospectus filed under National Instrument 44-102 *Shelf Distributions*;

"**short form prospectus**" means a prospectus filed under National Instrument 44-101 *Short Form Prospectus Distributions*; and

"**waiver application**" means a request for an exemption from securities legislation, if the exemption would be evidenced by the issuance of a receipt under this policy.

Further definitions

2.2 Terms used in this policy and that are defined in MI 11-102, NI 13-101, or National Instrument 14-101 *Definitions* have the same meanings as in those instruments.

PART 3 – OVERVIEW AND PRINCIPAL REGULATOR

Overview

3.1 This policy deals with prospectuses filed in multiple jurisdictions in the following circumstances:

(a) The principal regulator is passport regulator and the prospectus is not filed in Ontario. This is a "passport prospectus."

(b) The principal regulator is the OSC and the prospectus is also filed in a passport jurisdiction. This is also a "passport prospectus."

(c) The principal regulator is a passport regulator and the prospectus is also filed in Ontario. This is a "dual prospectus."

Passport prospectus

3.2(1) If the principal regulator is a passport regulator and the prospectus is not filed in Ontario, only the principal regulator will review the prospectus. Under MI 11-102, the issuance of a receipt by the principal regulator will trigger a deemed receipt in each other passport jurisdiction where the prospectus is filed.

3.2(2) If the principal regulator is the OSC and the prospectus is also filed in a passport jurisdiction, only the OSC will review the prospectus. Under MI 11-102, the issuance of the OSC receipt will trigger a deemed receipt in each passport jurisdiction where the prospectus is filed.

Dual prospectus

3.3 If the principal regulator is a passport regulator and the prospectus is also filed in Ontario, the principal regulator will review the prospectus, and the OSC, as a non-principal regulator, will coordinate its review with the principal regulator. The receipt of the principal regulator will trigger a deemed receipt in each other passport jurisdiction where the prospectus is filed and will evidence the receipt of the OSC, if the OSC has made the same decision as the principal regulator.

Principal regulator

3.4(1) For purposes of a prospectus filing under this policy, the principal regulator is identified in the same manner as in section 3.1 of MI 11-102. This section summarizes section 3.1 of MI 11-102 and provides guidance for identifying the principal regulator for a prospectus filing. The same guidance also applies to a related pre-filing.

3.4(2) For purposes of a waiver application related to a prospectus filing under this policy, the principal regulator is identified in the same manner as in sections 4.1 to 4.5 of MI 11-102. A filer should refer to section 3.6 of NP 11-203 for guidance on how to identify the principal regulator for a waiver application related to a prospectus filing under this policy.

3.4(3) In most circumstances, the principal regulator for a waiver application and the principal regulator for the related prospectus filing will be the same. If the principal regulator is not the same, the regulators may initiate a discretionary change of principal regulator under section 3.5 of this policy. Alternatively, the filer may apply for a discretionary change of principal regulator under that section.

3.4(4) The principal regulator for a prospectus filing under this policy is the regulator of the jurisdiction in which

- (a) the issuer's head office is located, if the issuer is not an investment fund, or
- (b) the investment fund manager's head office is located, if the issuer is an investment fund.

3.4(5) If the regulator identified under subsection (4) is not in a specified jurisdiction, the principal regulator is the regulator in the specified jurisdiction with which the issuer, or in the case of an investment fund, the investment fund manager, has the most significant connection.

3.4(6) For purposes of this section, a specified jurisdiction is one of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick or Nova Scotia.

3.4(7) The factors an issuer, or in the case of an investment fund, the investment fund manager, should consider in identifying the principal regulator based on its most significant connection are, in order of influential weight:

- (a) location of management;
- (b) location of assets and operations;
- (c) location of trading market or quotation system in Canada;
- (d) location of securities holders, if the securities are not traded or quoted on a trading market or quotation system in Canada;
- (e) location of underwriter;
- (f) location of legal counsel; and
- (g) location of transfer agent.

The connecting factors in (e) to (g) are not relevant for a Canadian issuer, or Canadian investment fund manager, because it will have a significant connection to a specified jurisdiction based on the connecting factors in (a) to (d). Regulators will generally object to a Canadian issuer, or Canadian investment fund manager, identifying a principal regulator based on the factors in (e) to (g).

3.4(8) A filer should refer to section 3.6 of NP 11-203 for additional guidance if the filer

- (a) is seeking a waiver application exemption but does not seek it from the regulator that would normally be the principal regulator for the waiver application, or

(b) is seeking more than one exemption and does not seek all of the exemptions from the regulator that would normally be the principal regulator for the waiver application.

Discretionary change in principal regulator

3.5(1) If the principal regulator identified under section 3.4 of this policy thinks that it is not the appropriate principal regulator, it will first consult with the filer and the appropriate regulator and then give the filer a written notice of the new principal regulator and the reasons for the change. The regulator specified in the notice will be the principal regulator as of the later of the date the filer receives the notice and the effective date specified in the notice, if any.

3.5(2) A filer may request a discretionary change of principal regulator for a prospectus filing if the filer believes that the principal regulator identified under section 3.4 of this policy is not the appropriate principal regulator.

3.5(3) When a filer requests a discretionary change in principal regulator under subsection (2), the principal regulator will consult with the appropriate regulator.

3.5(4) Regulators do not anticipate changing a principal regulator except in exceptional circumstances and will give a written notice when approving a request.

3.5(5) A filer that requests a discretionary change of principal regulator under subsection (2) should do so at least 30 days before filing the related materials. If the filer submits the request at least 30 days before filing the related materials, the regulators will use their best efforts to resolve the request within 30 days of receiving it. If the request is not resolved when the filer files the related materials, the principal regulator determined under section 3.4 of this policy will be the principal regulator for the prospectus filing. If the regulators subsequently agree to the change, they will give the filer notice and the change of principal regulator will apply to the filer's future prospectus filings.

3.5(6) A filer should submit a written request for a change in principal regulator to its current principal regulator and include the reasons for requesting the change.

3.5(7) The guidance in this section also applies to a pre-filing.

3.5(8) A filer should refer to section 3.7 of NP 11-203 for guidance on a discretionary change of principal regulator for a waiver application related to a prospectus filing under this policy.

PART 4 – FILING MATERIALS

Election to file under this policy and MI 11-102, identification of principal regulator and payment of fees

4.1 The filer should indicate in its electronic filing on SEDAR the principal regulator for the prospectus offering and that it is filing materials under this policy and MI 11-102. If the principal regulator is not in the jurisdiction of the issuer's head office (or, in the case of an investment fund, the jurisdiction of the investment fund manager's head office), the filer should also indicate the connecting factor used to identify the principal regulator. If the filer files a prospectus in paper format under NI 13-101, the filer should include this information in the cover letter for the prospectus. In all cases, the filer should pay the required fees in each jurisdiction in which it files the prospectus.

Filing for distribution to purchasers only in jurisdictions outside principal jurisdiction

4.2 If a filer proposes to distribute its securities by prospectus only to purchasers in jurisdictions other than the jurisdiction of its principal regulator, the filer should file the materials with, and pay the required fees to, the principal regulator. The principal regulator will review the materials of the filer.

Blacklined document

4.3 A filer should file on SEDAR, as much in advance of filing final materials as possible, a draft final prospectus (the French language version in Québec), blacklined against the preliminary prospectus to show all proposed changes. A filer should also file with the final materials a copy of the final prospectus blacklined against the preliminary prospectus to show all changes made.

Seasoned prospectuses

4.4 If a pro forma or preliminary prospectus is filed within two years of the date that a final receipt was issued for a prospectus of the same issuer, a filer (other than a filer that files under National Instrument 81-101 *Mutual Fund Prospectus Disclosure*) may identify the pro forma or preliminary prospectus as a seasoned prospectus. When filing a seasoned prospectus, the filer should also file

(a) a copy of the seasoned prospectus blacklined against the preceding prospectus of the filer to show all changes made, and

(b) a certificate certifying that the blacklined prospectus indicates all differences between the content of the seasoned prospectus and that of the filer's previous prospectus.

PART 5 – REVIEW OF MATERIALS

General

5.1 The principal regulator will review the materials in accordance with its securities legislation and securities directions and based on its review procedures, analysis and precedents.

Passport prospectus

5.2 The filer will deal only with the principal regulator, who will provide comments to, and receive responses from, the filer on the materials.

Dual prospectus

5.3(1) The OSC will also review the materials and will advise the principal regulator of any concerns relating to the materials that, if left unresolved, would cause the OSC to opt out of the dual review.

5.3(2) The filer will deal only with the principal regulator, who will provide comments to, and receive responses from, the filer and will issue the prospectus receipt if the relevant conditions are satisfied. However, in exceptional circumstances, the principal regulator may refer the filer to the OSC.

Review period for preliminary long form prospectuses and pro forma prospectuses

5.4(1) The principal regulator will use its best efforts to review the materials relating to a preliminary long form prospectus or pro forma prospectus and provide a first comment letter within 10 working days of the date of the preliminary receipt or of receiving the pro forma prospectus and related materials in acceptable form. The principal regulator may provide further comments as a result of the filer's responses or the continuing review of the materials.

5.4(2) In the case of a dual prospectus, the OSC will, within five working days of the date of the preliminary receipt or of receiving the pro forma prospectus and related materials in acceptable form, use its best efforts to:

(a) advise the principal regulator of any concerns with the materials that, if left unresolved, would cause the OSC to opt out of the dual review; or

(b) indicate on SEDAR that it is clear to receive final materials.

Review period for preliminary short form prospectuses and preliminary shelf prospectuses

5.5(1) The principal regulator will use its best efforts to review the materials relating to a preliminary short form prospectus or preliminary shelf prospectus and provide a first comment letter within three working days of the date of the preliminary receipt. The principal regulator may provide further comments as a result of the filer's responses or the continuing review of the materials.

5.5(2) In the case of a dual prospectus, the OSC will, within two working days of the date of the preliminary receipt, use its best efforts to:

(a) advise the principal regulator of any concerns with the materials that, if left unresolved, would cause the OSC to opt out of the dual review; or

(b) indicate on SEDAR that it is clear to receive final materials.

5.5(3) If the principal regulator does not think it can review a preliminary short form prospectus or preliminary shelf prospectus adequately within the time-period contemplated in subsection (1) because it is too complex, the principal regulator may decide to apply the time-period for long form prospectuses. In that case, the principal regulator will notify the filer and, in the case of a dual prospectus, the OSC, within one working day of issuing the receipt for the preliminary short form prospectus or the preliminary shelf prospectus. Filers should submit a pre-filing to resolve any issues that may cause a delay in the review of a preliminary short form prospectus or preliminary shelf prospectus.

Novel and substantive issue

5.6 If a prospectus is filed for an offering that involves a novel and substantive issue or raises a novel policy concern and the issues were not resolved in a pre-filing, the complexity of the issue or concern may delay the review of the prospectus.

Form of response

5.7 The filer should provide written responses to the principal regulator's comment letter.

PART 6 – OPTING OUT OF A DUAL REVIEW

Opting out

6.1(1) The OSC can opt out of a dual review at any time before the principal regulator issues a final receipt for the materials. The OSC will provide notice of its decision to opt out to the filer and the principal regulator by indicating that it has opted out on SEDAR.

6.1(2) The OSC will provide to the principal regulator written reasons for its decision to opt out of the dual review. The principal regulator will forward the reasons to the filer and will use its best efforts to resolve opt-out issues with the filer and the OSC.

6.1(3) If the principal regulator is able to resolve the OSC's opt-out issues with the filer and the OSC, the OSC may opt back in. If the principal regulator is unable to resolve the OSC's opt-out issues, the principal regulator's final receipt will not evidence that the OSC has issued a receipt and the filer should deal with the OSC outside the dual review to resolve any outstanding issues.

PART 7 – RECEIPTS

Effect of prospectus receipt

7.1(1) Under MI 11-102, a filer that receives a receipt for a preliminary prospectus or prospectus from the principal regulator will be deemed to have a receipt for the preliminary prospectus or prospectus in a passport jurisdiction if certain conditions are met, including that

- (a) the filer filed the preliminary prospectus or prospectus in the passport jurisdiction, and
- (b) the regulator of the passport jurisdiction is not the principal regulator for the prospectus filing.

To assist filers, the principal regulator will list in its receipt the passport jurisdictions where the prospectus has been filed under MI 11-102 and indicate that a receipt is deemed to be issued in each of those jurisdictions, if the conditions of MI 11-102 have been satisfied.

7.1(2) In the case of a dual prospectus, the principal regulator's receipt for a preliminary prospectus will also evidence that the OSC has issued a receipt. The principal regulator's receipt for a final prospectus will also evidence that the OSC has issued a receipt, if the OSC has indicated on SEDAR that it is "clear for final".

7.1(3) If a pro forma prospectus or an amended and restated preliminary prospectus is filed in the principal jurisdiction and a preliminary prospectus is filed in a non-principal jurisdiction, the principal regulator will issue a document that evidences that the regulator in the non-principal jurisdiction issued a receipt for the preliminary prospectus.

Conditions to issuance of preliminary receipt

7.2 The principal regulator will issue a preliminary receipt if:

- 7.2(1)** the principal regulator determines that the filer has filed acceptable materials; and
- 7.2(2)** the filer provides a letter to the principal regulator with the materials confirming the following, to the best of its knowledge and belief:
 - (a) The filer filed the materials (including all required translations) with, and paid the required fees to, the principal regulator and all non-principal regulators.
 - (b) The filer delivered all documents required to be delivered under the securities legislation of each jurisdiction in which the filer filed the materials.
 - (c) The filer is not subject to a cease trade order issued by the regulator of any jurisdiction in which the filer filed the materials.
 - (d) Where an underwriter is required to sign a certificate, at least one underwriter that signed the certificate is registered, or has filed an application for registration or for exemption from registration, in each jurisdiction in which the filer will offer securities to purchasers.
 - (e) Where an underwriter is required to sign a certificate in a jurisdiction in which the filer is making the distribution and none of the underwriters that signed the certificate is registered in that jurisdiction, but one of them has filed an application for registration or for exemption from registration, that underwriter filed an undertaking with the principal regulator not to solicit in that jurisdiction until it is registered or exempt from registration.

(f) If the filer plans to distribute the securities itself, the filer is registered in each jurisdiction in which the filer will offer securities to purchasers, has filed an application for registration or for exemption from registration, or is not required to be registered.

(g) If the filer has filed an application for registration or exemption from registration in a jurisdiction, the filer filed an undertaking with the principal regulator not to solicit in that jurisdiction until the filer is registered or exempted from registration.

Conditions to issuance of final receipt for a prospectus

7.3 The principal regulator will issue a final receipt for a prospectus if:

7.3(1) the principal regulator is satisfied that all of its comments have been resolved;

7.3(2) in the case of a dual prospectus, the OSC indicates on SEDAR that it is clear to receive final materials or opts out of the dual review;

7.3(3) the principal regulator determines that the filer filed acceptable materials; and

7.3(4) the filer provides a letter to the principal regulator with the materials confirming the following, to the best of its knowledge and belief:

(a) The filer filed the materials (including all required translations and any undertaking the principal regulator requested) with, and paid the required fees to, the principal regulator and all non-principal regulators, except the OSC if the prospectus is a dual prospectus and the OSC has opted out of the dual review.

(b) The filer delivered all documents required to be delivered under the securities legislation of each jurisdiction in which the filer filed the materials.

(c) The filer is not subject to a cease trade order issued by the regulator of any jurisdiction in which the filer filed the materials.

(d) Where an underwriter is required to sign a certificate, at least one underwriter that signed the certificate is registered or is exempt from registration in each jurisdiction in which the filer will offer securities to purchasers.

(e) If the filer plans to distribute the securities itself, the filer is registered in each jurisdiction in which the filer will offer securities to purchasers, has an exemption from registration, or is not required to be registered.

(f) The filer has applied for and received all necessary exemptions from applicable securities legislation from the principal regulator and also from the OSC, in the case of a dual prospectus for which the OSC has not opted out of the dual review.

Translations

7.4 The filer is responsible for ensuring the accuracy of any required translations.

PART 8 – PRE-FILINGS AND WAIVER APPLICATIONS

General

8.1(1) A filer seeking a pre-filing interpretation or a waiver application exemption before the issuance of a receipt should submit the pre-filing or waiver application sufficiently in advance of the filing of the related materials to avoid delays in the issuance of the receipt.

8.1(1.1) Despite subsection (1), in Ontario prefilings and waiver applications are submitted in accordance with Ontario Securities Commission Rule 11-501 *Electronic Delivery of Documents to the Ontario Securities Commission*.

8.1(2) The time required to review a pre-filing or waiver application will depend on whether it is routine or involves a novel and substantive issue or raises a novel policy concern.

8.1(3) Annex A to the policy lists examples of pre-filings and waiver applications.

Procedure

8.2(1) A filer should submit a pre-filing or waiver application by letter to the principal regulator. The pre-filing or waiver application should:

- (a) identify the principal regulator for the pre-filing or waiver application and the basis for that determination;
- (b) identify the non-principal regulators from which the filer requires the pre-filing interpretation or exemption,
- (c) describe the subject matter of the pre-filing or waiver application, set out the interpretation or exemption sought, and provide supporting documentation; and
- (d) in the case of a pre-filing or waiver application relating to a dual prospectus, provide the information set out in paragraph (c) that is relevant for Ontario.

8.2(2) Filing the waiver application under subsection (1) with the principal regulator will satisfy the requirement to give notice in section 4.7(1)(c) of MI 11-102 to each passport regulator from which the filer seeks the exemption.

8.2(3) For a routine pre-filing or waiver application,

- (a) the principal regulator alone will review the pre-filing or waiver application and supporting documentation in accordance with its securities legislation and securities directions and based on its review procedures, analysis and precedents, and
- (b) the principal regulator will use its best efforts to advise the filer of the disposition of the pre-filing or waiver application within four working days from receiving it.

8.2(4) If the principal regulator determines that a pre-filing or waiver application for a passport prospectus involves a novel and substantive issue or raises a novel policy concern, the principal regulator may provide copies or a description of the pre-filing or waiver application to other regulators for discussion purposes.

8.2(5) If the principal regulator determines that a pre-filing or waiver application for a dual prospectus involves a novel and substantive issue or raises a novel policy concern,

- (a) The principal regulator will direct the filer to submit the pre-filing or waiver application in writing to the OSC if the filer has not already submitted it under paragraph (6).
- (b) The principal regulator will use its best efforts to review the pre-filing or waiver application and supporting documentation and send its proposed disposition to the OSC within four working days from the date the principal regulator receives the pre-filing or waiver application.
- (c) The OSC will use its best efforts to advise the principal regulator whether it agrees or disagrees with the principal regulator's proposed disposition within two working days from the date the OSC receives the principal regulator's proposed disposition.
- (d) The principal regulator will advise the filer of the disposition of the pre-filing or waiver application if the OSC agrees with the proposed disposition.
- (e) The principal regulator will use its best efforts to resolve the outstanding issues with the filer and the OSC if the OSC disagrees with the proposed disposition.
- (f) If the principal regulator is unable to resolve the OSC's outstanding issues, the principal regulator will advise the filer of how it disposed of the pre-filing or waiver application and to deal separately with the OSC to resolve the outstanding issues.

8.2(6) If it is apparent to the filer that a pre-filing or waiver application for a dual prospectus involves a novel and substantive issue or raises a novel policy concern, the filer may accelerate the process by initially submitting the pre-filing or waiver application to both the principal regulator and the OSC.

Information to be provided with related materials

8.3(1) When filing a preliminary or pro forma prospectus after submitting a pre-filing or waiver application, a filer should always indicate on SEDAR that it submitted a pre-filing or waiver application in the principal jurisdiction and, if applicable, in Ontario.

8.3(2) If the principal regulator for the filer's pre-filing or waiver application is different from the principal regulator for the filer's related prospectus filing, the filer should also indicate the name of the principal regulator for the pre-filing or waiver application in the cover letter for the prospectus.

8.3(3) In addition, when filing a preliminary prospectus or pro forma prospectus after receiving the disposition for a pre-filing or waiver application, the filer should include in the cover letter for the prospectus:

- (a) the name of the principal regulator for the pre-filing or waiver application, if it is different from the principal regulator for the prospectus filing;
- (b) a description of the subject matter of the pre-filing or waiver application;
- (c) the relevant provisions of the securities legislation in the principal jurisdiction;
- (d) how the principal regulator for the pre-filing or waiver application disposed of the pre-filing or waiver application; and
- (e) in the case of a pre-filing or waiver application relating to a dual prospectus,
 - (i) the information set out in paragraph (c) that is relevant for Ontario;
 - (ii) if the OSC disagrees with the principal regulator's proposed disposition, how the OSC disposed of the matter; and

(iii) if the filer did not seek an interpretation or an exemption in any passport jurisdiction, the subject matter of the pre-filing or waiver application and the disposition by the OSC.

Effect of prospectus receipt when waiver application submitted

8.4(1) If a filer submitted a waiver application for a prospectus filing and the disclosure in the prospectus reflects that the principal regulator granted an exemption, the principal regulator's final receipt

(a) evidences that the principal regulator has granted the exemption, and

(b) results in an equivalent exemption in each passport jurisdiction that the filer identified in its waiver application under section 8.2(1)(b) of this policy and in which the filer filed the prospectus.

8.4(2) If the principal regulator for the waiver application is different from the principal regulator for the related prospectus, the principal regulator for the waiver application will advise the principal regulator for the related prospectus of the disposition of the waiver application. If the principal regulator for the waiver application grants the exemption, the final receipt of the principal regulator for the related prospectus will

(a) evidence that the principal regulator for the waiver application has granted the exemption, and

(b) result in an equivalent exemption in each passport jurisdiction that the filer identified in its waiver application under section 8.2(1)(b) of this policy and in which the filer filed the prospectus.

8.4(3) In the case of a waiver application relating to a dual prospectus, the principal regulator's final receipt will also evidence that the OSC has granted the exemption if the OSC has indicated on SEDAR that it is "clear for final".

Resolution of pre-filing

8.5(1) The fact that the principal regulator issued the final receipt for a prospectus filing for which a filer submitted a pre-filing confirms that the pre-filing was satisfactorily resolved.

8.5(2) If the principal regulator for a pre-filing is different from the principal regulator for the related prospectus, the principal regulator for the pre-filing will advise the principal regulator for the related prospectus of its interpretation.

PART 9 – APPLICATIONS

Applications in multiple jurisdictions

9.1 In many instances, filers require exemptions not contemplated under Part 8 to file materials or to facilitate a distribution of securities. NP 11-203 is available for these types of exemption applications.

Timing of application

9.2 A filer requiring an exemption before the issuance of a receipt should file its application sufficiently in advance of the filing of the related materials to avoid delays in the issuance of the receipt.

Additional information to be provided

9.3 When filing an application, the filer should indicate in a cover letter for the application that it has filed or will file related materials. When filing the related materials for a dual prospectus, the filer should indicate on SEDAR it has made or is making the application in Ontario.

PART 10 – AMENDMENTS

Conditions to issuance of receipt for preliminary prospectus amendments

10.1 The principal regulator will issue a preliminary prospectus amendment receipt if:

10.1(1) the principal regulator determines that the filer has filed acceptable materials; and

10.1(2) the filer provides a letter to the principal regulator with the materials confirming the following, to the best of its knowledge and belief:

(a) The filer filed the materials (including all required translations) with, and paid the required fees to, the principal regulator and all non-principal regulators.

(b) The filer delivered all documents required to be delivered under the securities legislation of each jurisdiction in which the filer filed the materials.

(c) The filer is not subject to a cease trade order issued by the regulator of any jurisdiction in which the filer filed the materials.

(d) Where an underwriter is required to sign a certificate, at least one underwriter that signed the certificate is registered, or has filed an application for registration or for exemption from registration, in each jurisdiction in which the filer will offer securities to purchasers.

(e) Where an underwriter is required to sign a certificate in a jurisdiction in which the filer is making the distribution and none of the underwriters that signed the certificate is registered in that jurisdiction, but one of them has filed an application for registration or for exemption from registration, that underwriter filed an undertaking with the principal regulator not to solicit in that jurisdiction until it is registered or exempt from registration.

(f) If the filer plans to distribute the securities itself, the filer is registered in each jurisdiction in which the filer will offer securities to purchasers, has filed an application for registration or for exemption from registration, or is not required to be registered.

(g) If the filer has filed an application for registration or exemption from registration in a jurisdiction, the filer filed an undertaking with the principal regulator not to solicit in that jurisdiction until the filer is registered or exempted from registration.

Receipt for preliminary prospectus amendments

10.2(1) Under MI 11-102, a filer that receives a receipt for a preliminary prospectus amendment from the principal regulator will be deemed to have a receipt for the preliminary prospectus amendment in a passport jurisdiction if certain conditions are met, including that

(a) the filer filed the preliminary prospectus amendment in the passport jurisdiction, and

(b) the regulator in the passport jurisdiction is not the principal regulator for the prospectus filing.

To assist filers, the principal regulator will list in its receipt the passport jurisdictions in which it understands the filer has a deemed receipt.

10.2(2) In the case of a dual prospectus, the principal regulator's receipt for a preliminary prospectus amendment will also evidence that the OSC has issued a receipt.

Review period for preliminary prospectus amendments

10.3(1) If a filer files a preliminary prospectus amendment before the principal regulator issues its comment letter relating to the preliminary prospectus materials, the principal regulator may be unable to complete its review of the preliminary prospectus materials and issue its comment letter within the time-period indicated in section 5.4(1) or 5.5(1) of this policy, as applicable. The principal regulator will use its best efforts to issue its comment letter on the later of the date that is

(a) in the case of a long form prospectus, five working days after the date of the receipt for the preliminary prospectus amendment and the original due date for the comment letter; and

(b) in the case of a short form prospectus or a shelf prospectus, three working days after the date of the receipt for the preliminary prospectus amendment and the original due date for the comment letter.

Similarly, in the case of a dual prospectus, if a filer files a preliminary prospectus amendment before the OSC completes its review under section 5.4(2) or 5.5(2) of this policy, the OSC may be unable to complete its review within the relevant time-periods. The OSC will use its best efforts to advise the principal regulator by the later of

(a) the date that is three working days after the date of the receipt for the preliminary prospectus amendment, and

(b) the original due date for advising the principal regulator

of any concerns with the materials that, if left unresolved, would cause it to opt out of the dual review.

10.3(2) If a filer files a preliminary long form prospectus amendment after the principal regulator has issued its comment letter,

(a) the principal regulator will use its best efforts to review the materials and issue a comment letter within three working days of the date of the receipt for the preliminary long form prospectus amendment; and

(b) in the case of a dual prospectus, the OSC will use its best efforts to advise the principal regulator, within three working days of the date of the receipt for the preliminary long form prospectus amendment, of any concerns with the materials that, if left unresolved, would cause it to opt out of the dual review.

10.3(3) If a filer files a preliminary short form prospectus amendment or preliminary shelf prospectus amendment after the principal regulator has issued its comment letter,

(a) the principal regulator will use its best efforts to review the materials and issue a comment letter within two working days of the date of the receipt for the preliminary short form prospectus amendment or preliminary shelf prospectus amendment; and

(b) in the case of a dual prospectus, the OSC will use its best efforts to advise the principal regulator, within two working days of the date of the receipt for the preliminary short form prospectus amendment or preliminary shelf prospectus amendment, of any concerns with the materials that, if left unresolved, would cause it to opt out of the dual review.

10.3(4) The time periods in subsections (2) and (3) may not apply in circumstances where it would be more appropriate for the principal regulator and, in the case of a dual prospectus, the OSC, to review the amendment materials at a different stage of the review process. For example, the principal regulator and the OSC may wish to defer reviewing the amendment materials until after receiving and reviewing the filer's responses to comments already issued on the preliminary prospectus materials.

Review period for prospectus amendments

10.4(1) If a filer files a long form prospectus amendment,

(a) the principal regulator will use its best efforts to review the materials and issue a comment letter within three working days of the date of receiving the materials in acceptable form; and

(b) in the case of a dual prospectus, the OSC will use its best efforts to advise the principal regulator within three working days of the date of receiving the materials in acceptable form of any concerns with the materials that, if left unresolved, would cause it to opt out of the dual review.

10.4(2) If a filer files a short form prospectus amendment or shelf prospectus amendment,

(a) the principal regulator will use its best efforts to review the materials and issue a comment letter within two working days of the date of receiving the materials in acceptable form; and

(b) in the case of a dual prospectus, the OSC will use its best efforts to advise the principal regulator within two working days of the date of receiving the materials in acceptable form of any concerns with the materials that, if left unresolved, would cause it to opt out of the dual review.

Conditions to issuance of prospectus amendment receipt

10.5 The principal regulator will issue a prospectus amendment receipt if:

10.5(1) the principal regulator is satisfied that all of its comments have been resolved;

10.5(2) in the case of a dual prospectus, the OSC indicates on SEDAR that it is clear to receive amendments to final materials or opts out of the dual review;

10.5(3) the principal regulator determines that the filer filed acceptable materials; and

10.5(4) the filer provides a letter to the principal regulator with the materials confirming the following, to the best of its knowledge and belief:

(a) The filer filed the materials (including all required translations and any undertaking the principal regulator requested) with, and paid the required fees to, the principal regulator and all non-principal regulators, except the OSC if the amendment relates to a dual prospectus and the OSC has opted out of the dual review.

(b) The filer delivered all documents required to be delivered under the securities legislation of each jurisdiction in which the filer filed the materials.

(c) The filer is not subject to a cease trade order issued by the regulator of any jurisdiction in which the filer filed the materials;

(d) Where an underwriter is required to sign a certificate and the amendment relates to the removal of an underwriter, at least one underwriter that signed the certificate is registered or is exempt from registration in each jurisdiction in which the filer will offer securities to purchasers.

(e) The filer has applied for and received all necessary exemptions from applicable securities legislation from the principal regulator, and from the OSC in the case of a dual prospectus for which the OSC has not opted out of the dual review.

Prospectus amendment receipt

10.6(1) Under MI 11-102, a filer that receives a receipt for a prospectus amendment from the principal regulator will be deemed to have a receipt for the prospectus amendment in a passport jurisdiction if certain conditions are met, including that

- (a) the filer filed the prospectus amendment in the passport jurisdiction, and
- (b) the regulator in the passport jurisdiction is not the principal regulator for the prospectus filing.

To assist filers, the principal regulator will list in its receipt the passport jurisdictions in which it understands the filer has a deemed receipt.

10.6(2) In the case of a dual prospectus, the principal regulator's receipt for a prospectus amendment will also evidence that the OSC has issued a receipt, if the OSC has indicated on SEDAR that it is "clear" for the amendment to final.

PART 11 – HOLIDAYS

Holidays

11.1 A receipt issued under this Policy is deemed to be issued in a non- principal passport jurisdiction on the date of the receipt issued by the principal regulator even if the non-principal passport regulator is closed on that date. For a dual prospectus, the receipt from the principal regulator will also evidence that the OSC has issued a receipt if the OSC is open on the date of the principal regulator's receipt and has not opted-out. If the OSC is not open on the date of the principal regulator's receipt, the principal regulator will issue a second receipt that evidences that the OSC has issued a receipt on the next day that the OSC is open.

PART 12 – EFFECTIVE DATE AND TRANSITION

Effective date

12.1 This policy comes into effect on March 17, 2008.

Prospectus filed before March 17, 2008

12.2 The process set out in National Policy 43-201 Mutual Reliance Review System for Prospectuses will continue to apply to

- (a) a preliminary prospectus, pro forma prospectus, preliminary prospectus amendment or prospectus amendment filed before March 17, 2008,
- (b) a prospectus, other than a prospectus amendment, whose related preliminary prospectus or pro forma prospectus was filed before March 17, 2008, and
- (c) a pre-filing or waiver application filed before March 17, 2008 if it relates to a prospectus whose related preliminary prospectus or pro forma prospectus was filed before March 17, 2008.

Annex A

Examples of Pre-Filings and Waiver Applications Dealt With under Part 8 of National Policy 11-202

Matters relating to:

1. Financial statement and other prospectus requirements
2. Escrow requirements for a prospectus
3. Confidentiality of material contracts
4. NI 81-101 *Mutual Fund Prospectus Disclosure*
5. Confidential pre-filing of a prospectus for review purposes