



CURRENT DEVELOPMENTS

Canadian Securities Matters

Q2 2023

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Canadian securities: New guidance

CSA and CCIR Notice of publication - CCIR Individual Variable Insurance Contract Ongoing Disclosure Guidance and Amendments to National Instrument 31-103 and to Companion Policy 31-103CP

On April 20, 2023, Canadian Securities Administrators (the CSA) and the Canadian Council of Insurance Regulators (the CCIR) adopted enhanced cost disclosure reporting requirements for investment funds and new cost and performance reporting guidance for individual variable insurance contracts or IVICs (referred to here as Segregated Fund Contracts) (collectively, the Total Cost Reporting Enhancements or TCR Enhancements).

At present, there are no requirements for securities industry registrants or insurers to provide ongoing reporting to investors and policy holders on the amount of such costs after the initial sale of the investment product, in a form which is specific to the individual's holdings and easily understandable.

The TCR Enhancements for the securities sector add the following new elements to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations:

- In the annual report on charges and other compensation (the ARCC) under section 14.17 for the account as a whole, for all investment fund securities owned by a client during the year, excluding labour-sponsored investment funds (LSIFs) and prospectus-exempt funds, information relating to:
 - (a) the aggregate amount of fund expenses, in dollars, for all investment funds;
 - (b) the aggregate amount of any direct investment fund charges (e.g., short-term trading fees or redemption fees), in dollars, for all investment funds, and;
 - (c) the fund expense ratio (the FER), as a percentage, for each investment fund class or series.
- Additions to the existing requirement for investment fund managers to provide necessary information to the dealers and advisers who distribute their products.
- Provisions relating to the calculation and reporting of this information.

The Insurance Guidance indicates insurers should provide the following information in statements to investors with respect to the cost of holding segregated fund contracts, in addition to the information already described in the December 2017 CCIR

Segregated Funds Working Group Position Paper and the June 2018 appendix amendments (the Segregated Fund Position Paper):

- the fund expense ratio, stated as a percentage, for each segregated fund held by the client within their Segregated Fund Contract during the statement period; and
- for the Segregated Fund Contract as a whole:
 - (a) the aggregate amount of fund expenses, in dollars, for all segregated funds held in the contract during the statement period;
 - (b) the aggregate cost of insurance guarantees under the Segregated Fund Contract, in dollars, for the statement period; and
 - (c) the aggregate amount of all other expenses under the Segregated Fund Contract, in dollars, for the statement period.

On June 20, 2023, the Minister of Finance approved amendments (the Rule Amendments) made by the Ontario Securities Commission to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations relating to reporting embedded fees incurred by clients in respect of prospectus-qualified investment funds (Total Cost Reporting). The Rule Amendments and corresponding changes to Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registration Obligations will become effective on January 1, 2026.

Multilateral CSA Staff Notice 96-304 Derivatives Data Reporting Guidance for USD LIBOR Transition

On May 4, 2023, Staff of the Alberta Securities Commission and Ontario Securities Commission published this notice to provide guidance to market participants with respect to over-the-counter (OTC) derivatives data reporting requirements in connection with life-cycle events that occur for OTC derivatives that reference certain interest rate benchmarks.

Certain OTC derivatives incorporate or reference certain tenors of U.S. dollar London interbank offered rate (USD LIBOR). As USD LIBOR will cease to be published on June 30, 2023, these OTC derivatives are required to transition under fallback provisions to appropriate alternative reference rates by July 3, 2023 (the USD LIBOR transition).

However, due to the large number of OTC derivatives that are expected to transition under fallback provisions on or before July 3, 2023, Staff recognize that this deadline may result in operational burden to reporting counterparties in this situation. Staff are of the view that there is no public interest in recommending or pursuing an enforcement action against reporting counterparties in respect of late reporting of life-cycle event data under section 32 of the Trade Reporting Rules where both:

- the USD LIBOR transition life-cycle event occurs on or before July 3, 2023, and
- life-cycle event data relating to the USD LIBOR transition life-cycle event is reported on or before the end of the fifth business day after the day on which the USD LIBOR transition life-cycle event occurs.

Notice of Commission Approval of OSC Rule 44-502 Extension to Ontario Instrument 44-501 Certain Prospectus Requirements for Well-Known Seasoned Issuer

On March 28, 2023, the Ontario Securities Commission (the OSC) made as a rule under the Securities Act (Ontario) local OSC Rule 44-502 Extension to Ontario Instrument 44-501 Certain Prospectus Requirements for Well-known Seasoned Issuers in Ontario (the Rule). The Rule extends the blanket relief issued on December 6, 2021, by Ontario Instrument 44-501 Certain Prospectus Requirements for Well-known Seasoned Issuers (Interim Class Order) (the OSC Blanket Order) by 18 months. The OSC Blanket Order took effect on January 4, 2022. The OSC Blanket Order allows an issuer that meets the WKSII qualifications and certain conditions to file a final base shelf prospectus with the OSC and obtain a receipt for that prospectus on an accelerated basis without first filing a preliminary base shelf prospectus. The OSC Blanket Order will cease to be effective on July 4, 2023. Subject to Ministerial approval of the Rule on or before June 20, 2023, the Rule will cause the relief provided in the OSC Blanket Order to be in force for an additional 18-month period.

Amendments to CSE Form 2A listing statement

On March 2, 2023, CNSX Markets Inc. ("CSE") published Notice 2023-004 - Proposed Amendments to CSE Form 2A Listing Statement - Notice and Request for Comments. CSE proposed changes ("Amendments") to CSE Form 2A Listing Statement ("Form 2A", "Listing Statement" or "Form") to clarify certain disclosure requirements of Form 2A. Form 2A is a comprehensive disclosure document that must be filed with all new listing applications to provide at the time of listing full, true, and plain disclosure in a narrative format based on the requirements set out in Form 41-101F1 Information Required in a Prospectus (Form 41-

101F1). The effect of the Amendments is the replacement of the prescriptive Form with instructions and reference to disclosure requirements set out in securities law, confirming that a Listing Statement must include the disclosure required in Form 41-101F1, and that disclosure requirement may be met in certain circumstances by reference to existing disclosure documents. The amendments are in effect from May 18, 2023.

CSA Staff Notice 45-330: Frequently Asked Questions about the Listed Issuer Financing Exemption

On June 1, 2023 CSA staff published this notice to answer some of the frequently asked questions (FAQs) on the listed issuer financing exemption adopted by all securities regulatory authorities in Canada in November 2022. Subject to certain conditions, the exemption allows reporting issuers listed on a Canadian exchange to raise the greater of \$5,000,000 or 10% of the issuer's market capitalization to a maximum of total dollar amount of \$10,000,000 in a 12-month period by distributing securities to investors. The list of FAQs includes key issues and questions market participants have posed to us and our preliminary observations on offerings using the exemption to date. Staff of the participating jurisdictions may update these FAQs from time to time as necessary.

Notice regarding the SEDAR+ launch date and Coordinated Blanket Order 13-931 Exemptions from certain filing requirements in connection with the deferred launch of the System for Electronic Data Analysis and Retrieval+

On June 8, 2023 CSA staff published this notice to provide an update on the System for Electronic Data Analysis and Retrieval + (SEDAR+), the new system that will be used by market participants to file, disclose and search for issuer information in Canada's capital markets, which had a planned launch date of June 13, 2023. As announced on June 1, 2023, the CSA now intends to launch SEDAR+ on July 25, 2023 (the new launch date), with a contingency date in September. Due to the implementation deferral, until the beginning of the new cutover period (i.e., 11 p.m. Eastern time on July 20, 2023), capital market participants are required to continue using SEDAR and the other systems in current use. The blanket order provides market participants with the necessary exemptions to address the legal implications of the deferral.

Market participants should also read companion policies, national policies, local policies and staff notices that were consequentially changed in connection with NI 13-103 as they existed on June 8, 2023.

Canadian securities: Proposed guidance

Proposed amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines

On April 13, 2023, Canadian Securities Administrators ("CSA") proposed

- amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices pertaining to board nominations, board renewal and diversity, as well as ancillary amendments to section 1.1 Definitions of NI 58-101 (the Proposed Amendments);
- proposed changes to National Policy 58-201 Corporate Governance Guidelines pertaining to board nominations, board renewal and diversity (the Proposed Changes)

In particular, the Proposed Amendments would require disclosure on aspects of diversity beyond the representation of women, while retaining the current disclosure requirements with respect to women included in the 2014 Requirements. The CSA recognizes the importance of providing investors with transparency on issuers' practices with respect to board and executive-level diversity. The Proposed Amendments are intended to elicit meaningful disclosure about how non-venture issuers identify and evaluate new candidates for nomination to the board, how they address board renewal, and how diversity is incorporated into those considerations. This is intended to reflect that the board's consideration of diversity is an integral component of the board's nomination and renewal processes.

The Proposed Changes would provide enhanced guidelines related to board nominations and would introduce guidelines on board renewal and board diversity in NP 58-201. This ensures that the guidelines in NP 58-201 adequately complement the disclosure requirements in Form 58-101F1, as amended by the Proposed Amendments.

The public comment period ends on July 12, 2023.

New Self-Regulatory Organization of Canada (New SRO)-- Proposed Amendments to Facilitate the Investment Industry's Move to T+1 Settlement

New SRO is publishing for public comment proposed amendments to New SRO's Universal Market Integrity Rules (UMIR Rules) and Investment Dealer and Partially Consolidated Rules (IDPC Rules) (collectively, the Proposed Amendments) regarding the investment industry's move from a trade date plus two business days (T+2) settlement cycle to a trade date plus one business day (T+1) settlement cycle.

The primary objective of the Proposed Amendments is to ensure that New SRO's requirements support the investment industry's move to T+1 settlement at the same time as the U.S., which is scheduled for May 28, 2024. The move to a T+1 settlement cycle will align Canada with the U.S. capital markets.

The comment period ended on June 19, 2023.

Contact us

Laura Moschitto
Partner
416-777- 8068
lmoschitto@kpmg.ca

[kpmg.ca](https://www.kpmg.ca)



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