

APPENDIX B

Comment Table National Policy 31-201 *National Registration System*

Commentors

Canadian Bankers Association
Mutual Fund Dealers Association of Canada
Royal Bank of Canada
Edward Jones
National Bank of Canada
Investment Funds Institute of Canada
Wayne A. Robinson
Fidelity Investments Canada Limited
Investment Dealers Association of Canada

	Category	Comment	Response
1.	31-201 General Comment	In general, NRS is strongly endorsed by commentors as there is a consensus that there are numerous shortcomings with the current regulatory regime. The CSA is encouraged to do whatever it can in order to make the system as streamlined and efficient as possible.	N/A
2.	31-201 General Comment	It was submitted that to the extent that the proposal retains unnecessary elements of local regulation or provincial discretion, that such items be limited or removed so that NRS may be a true “one stop shop” for firms carrying on business across Canada.	<p>The CSA’s goal with regard to NRS is not to harmonize legislation, but rather to quickly implement a centralized registration process (i.e. an industry participant dealing with only one regulator). Harmonization will be achieved through other efforts.</p> <p>The CSA is of the view that it is important to implement NRS even if harmonization is not yet reached, as NRS has benefits of its own.</p>
3.	31-201 General Comment – Advisor Registration	The effectiveness of NRS for adviser registration was questioned as there are significant differences in the proficiency requirements for such category of registration maintained by different jurisdictions.	The effectiveness of NRS should not be questioned for adviser registration as members of the CSA are aware of these differences in fit and proper requirements and do not expect to opt out of NRS on the basis of such differences.

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4.	31-201 General Comment – Fees	The industry has seen no cost savings with NRD. In fact, some costs have actually increased. It is hoped that registration fees will be reduced by non-principal regulators.	The CSA is of the view that most of the cost savings from NRD and the proposed NRS come from a reduction of time and effort spent on registration. The fee covers a registrant's access to the market and is not simply based on the cost of processing registrations. At this time, the CSA is unable to confirm whether a reduction of registration fees is foreseeable.
5.	31-201 General Comment	It has been submitted that the benefits are restricted to firm registration and not individuals seeking registration in additional jurisdictions. In addition, firms already registered in Canada would gain no advantage by using the NRS, with the exception of filing amendments.	The purpose of NRS is to allow individual and firm registrants to deal only with one regulator and to only satisfy one set of fit and proper requirements. This should greatly facilitate an individual filer's registration. Further, the CSA is of the view that registered firms will also benefit from NRS when seeking registration in additional jurisdictions or in connection with the firm's role in the registration of its individuals.
6.	31-201 General Comment – Registration Transfers	In order to reduce hardship resulting from delays in processing transfers, regulators should permit individual registrants to commence working, perhaps on a conditional approval basis, as soon as they are notified of the termination by the originating firm and transfer to the receiving firm.	Changes in the registration transfer process are not part of the NRS project. As regulators are of the view that it is important to know why an individual is transferring firms, they are not ready to grant immediate conditional approvals to a transfer upon notice of the termination.
7.	31-201 General Comment – Opt out	The opting out process could entail that a jurisdiction may never be the non-principal regulator. It would also mean that within the same firm, individuals may not be subject to the same requirements for any particular application, and thus would not know what the requirements are in advance. Accordingly, they would adhere to the most stringent registration criteria, and the most demanding jurisdiction would be the principal regulator in all cases.	In the absence of a full delegation system, the ability to opt out is necessary, as regulators must meet the requirements of their securities legislation to make a decision in connection with an application. None of the regulators intends to opt out on a regular basis. Opting out is expected to happen on an exceptional basis, as is the case with the MRRS under NP 12-201 and NP 43-201. It is true that within the same firm, individuals who work in different jurisdictions will have different fit and proper requirements applicable to them. However, the CSA does not believe that individuals will adhere to the most stringent criteria. National firms should adapt their registration procedure to advise their individuals as to which set of requirements is applicable to them.
8.	31-201 General Comment	Clarification is requested with respect to individuals who reside in Ottawa but work in Hull. Since the principal regulator would be Québec, would such individuals be required to be registered in Ontario as well?	If the individuals are doing business with clients in Ontario, then the answer is yes. Otherwise, no. Residency alone does not create a requirement to register. NRS does not change any obligation to register.

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9.	31-201 Applicable requirements	Having firms and each of their individual registrants tied to their respective “home jurisdiction” is problematic. This is of particular concern for members who operate a centralized registration function. Having to deal with local variations will cause inefficiencies. It is submitted that it would be preferable for individuals to adhere to the firm’s principal jurisdiction.	The CSA chose a client-centered perspective for NRS instead of a firm-oriented approach. An individual is likely to do more business with clients residing in the same jurisdiction as the individual’s working office than clients of other jurisdictions. Therefore, pending harmonization of legislation, it is important that such individuals satisfy the requirements of their jurisdiction. Moreover, if individuals were to adhere to the requirements of the firm’s principal jurisdiction, changing firms could result in a change in the individual’s fit and proper requirements.
10.	31-201 Change of Factors used to Determine Significant Connection with a Jurisdiction	The usefulness of Form 31-201F2 (now Form 31-101F2) is questioned since this information would be submitted through the NRD. In addition, clarification is requested as to whether the requirement to file a Form 31-201F2 (now Form 31-101F2) presupposes the filing of a Form 31-201F1 (now Form 31-101F1) for each individual. If not, it is difficult to understand why such form must be filed upon change in registration when one is not required upon registration. On the other hand, if a Form 31-201F1 (now Form 31-101F1) is required, this would represent an important additional burden.	Both Forms 31-101F1 and 31-101F2 must only be filed by firm filers. A firm will be required to file a Form 31-101F1 upon its first use of NRS and upon seeking registration in any additional jurisdictions (the latter being a new requirement). A Form 31-101F2 <i>Notice of Change</i> is only required to be filed by firm filers when the factors used in the determination of the jurisdiction with which a firm has the most significant connection change. This is required, as regulators need to be notified when such factors change as it could result in a change of principal regulator. This should occur only on limited occasions.
11.	31-201 Materials to be Filed	In some instances, such as section 4.2(3), NRS appears to duplicate work rather than streamline the process.	The CSA agrees that the requirement to file the letter contemplated by section 4.2(3) creates an additional requirement. As this letter is not necessary, a revision to section 4.2(3) is made to remove the requirement.

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12.	31-201 Review and Determination	<p>Part 5 and Part 6 set out the process, and time frames for the review of the file. It was noted that there are two separate 5-day waiting periods built into the review process, and that they should be shortened:</p> <p>1) Under sections 5.2 and 6.1, the principal regulator must wait 5 business days, after the receipt of the submission under NRS, in order for the non-principal regulators to advise they have completed their own review and/or to provide any material information they may have with respect to the filer, that was not disclosed in the materials. Under 6.1, the principal regulator cannot arrive at a decision until after this 5-business day period ends.</p> <p>2) The second waiting period, as listed in 6.3(1), occurs after the principal regulator has forwarded its proposed decision to the non-principal regulators. The principal regulator must wait a maximum of 5 business days for each non-principal regulator to advise as to whether it has opted in or opted out.</p>	<p>A revision will be made in section 5.2 and section 6.1 to remove the first five-day waiting period. A principal regulator will not have to wait until the end of a five-day period before making its determination on the registration being sought. The second five-day waiting period is a maximum period and in general non-principal regulators will not use the full five days. As a result, the CSA does not anticipate that processing registrations under NRS will be lengthier than under the current system.</p>
13.	31-201 Review Process	<p>It is suggested that when a regulator has a concern with an application, it should notify the registrant and / or firm within 24 hours of receipt of the application, if it believes that the registration application review process will require more time.</p>	<p>Normal service standards will apply under NRS. Members of the CSA will advise filers diligently of any concerns they may have in connection with an application. However, members of the CSA cannot commit to any time constraints, as concerns in connection with an application can arise at any time.</p>
14.	31-201 Review and Determination	<p>Although NRS does contain short deadlines, the CSA is encouraged to consider amending the policy to create strong incentives for individual jurisdictions to meet those requirements. It is suggested that the failure to meet deadlines imposed by the policy should disentitle that regulator from the opportunity to provide comments or “opt out”. Silence would be interpreted as consent and a regulator who has not responded by the deadline would be deemed to “opt in”.</p>	<p>Most regulators are required by law to make a decision in connection with a registration. As a consequence, such regulators’ silence cannot be deemed to mean that the regulator is opting into NRS. However, changes are made to the policy whereby “silence will equal opt-in” for the regulators in the Yukon Territory, the Northwest Territories and Nunavut.</p>
15.	31-201 Review and Determination	<p>Greater clarity is requested concerning the length of time it may take between the date at which the filing of materials is undertaken and the date at which an NRS document is issued.</p>	<p>Normal service standards will apply under NRS. No indication of length of time may be given as this varies greatly depending upon the type of application and how well it has been prepared. The CSA does not anticipate any increase in length of time as a result of using NRS.</p>

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16.	31-201 Review and Determination	There is a concern that applications submitted to principal regulators through NRS would be processed before non-NRS applications due to the five business day opt-in / opt-out response deadline.	NRS should not, as a whole, create more work for regulators. The CSA does not anticipate that non-NRS applications would be processed after NRS applications.
17.	31-201 Local Terms and Conditions	One commentor does not support that the proposed rules would permit the non-principal regulator to opt-in to the principal regulator's decision, but to impose local terms and conditions upon a registration. Where a non-principal regulator wishes to deviate from the terms and conditions imposed by the principal regulator, the non-principal regulator should be required to opt-out.	As conduct rules apply locally, it is important to allow local regulators to impose local terms and conditions with regard to such conduct rules, where necessary. Not allowing the non-principal regulators to do so would create more opt-outs and reduce the efficiency of the system.
18.	31-201 Opportunity to be Heard	It is suggested that hearings be conducted with the concerned regulators all together so as to avoid duplication of procedures and additional delays in registration.	It is the intent of members of the CSA to hold joint hearings, whenever feasible. However, this cannot be imposed through the Policy.
19.	31-201 Opt out	The availability of an opt-out provision is a serious detriment to the ability of NI 31-101 and NP 31-201 to achieve their stated goals.	As stated above, it is unavoidable to have an opt-out provision in the context of a registration system based on mutual reliance instead of delegation. As mentioned, opting out will be the exception, not the rule.
20.	31-201 Renewal of Registration	When read together subsections 9.1(1) and 9.1(2) are confusing particularly if the renewal requirements of the principal regulator are to be followed, and this regulator has no renewal requirements. It would be unclear what requirements are to be followed. It is also unclear as to whether additional documents typically required by certain non-principal regulators further to renewals should be submitted.	After review of this issue, the CSA has decided that renewals will not be processed through NRS, as there is practically no benefit in doing so. Part 9 of the Policy (which is renumbered as section 6.6) provides further guidance. In short, a filer will have to renew its registration in accordance with the requirements, if any, of the legislation of all jurisdictions in which it is registered. The exemption from local filing requirements will not apply in connection with renewals and renewal fees will still have to be submitted through NRD. The exemption from fit and proper requirements will continue in effect at the time of renewals.
21.	31-201 NRD – Québec	It was submitted that it might be desirable to wait until Québec can technically participate in the project before implementing it.	The <i>Autorité des marchés financiers</i> is currently working on its integration into the National Registration Database (NRD). Contrary to what has been previously published, the <i>Autorité des marchés financiers</i> now expects to be part of NRD by the time that NRS is implemented. Part 9 (previously Part 10) of the Policy is amended to reflect this. Should the <i>Autorité des marchés financiers</i> not have integrated NRD by the time the NRS is effective, guidance will be provided with regards to applications involving Québec.

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22.	31-201 Québec - IDA	The role of the IDA in applications involving Québec should be clarified.	The IDA has been recognized as an SRO by the <i>Autorité des marchés financiers</i> in July 2004 and was further delegated the power to register representatives the same month. In addition to the IDA, the Montreal Exchange is also a recognized SRO in the province of Québec authorized, through delegation of powers, to register representatives. Consequently, unless further changes occur prior to the coming in force of the Instrument, both the Montreal Exchange and the IDA will be processing registration of representatives.