

*The  
Securities  
Commission  
(National Instrument  
33-106 Emergency  
Adoption)  
Regulations*

*being*

Chapter S-42.2 Reg 4  
(effective October 7, 1998 to October 7, 1999).

**NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER S-42.2 REG 4

### *The Securities Act, 1988*

#### **Title**

**1** These regulations may be cited as *The Securities Commission (National Instrument 33-106 Emergency Adoption) Regulations*.

#### **National Instrument 33-106 adopted**

**2** The Commission adopts National Instrument 33-106, as set out in the Appendix.

16 Oct 98 cS-42.2 Reg 4 s2.

#### **Compliance required**

**3** No person or company shall fail to comply with National Instrument 33-106 adopted pursuant to section 2.

16 Oct 98 cS-42.2 Reg 4 s3.

## **Appendix**

### **NATIONAL INSTRUMENT 33-106 (Year 2000 Preparation Reporting)**

[Section 2]

#### **PART 1 DEFINITIONS AND INTERPRETATION**

##### **1.1 Definitions** – In this Instrument

**“primary audit SRO”** means the specified SRO selected by a registered firm as primarily responsible for oversight of the firm;

**“registered firm”** means a registrant that is registered as a dealer, adviser or underwriter but does not include an individual;

**“specified SRO”** means:

- (a) the Investment Dealers Association of Canada;
- (b) the Vancouver Stock Exchange;
- (c) the Alberta Stock Exchange;
- (d) The Toronto Stock Exchange; or
- (e) The Montreal Exchange;

**“Year 2000 Management Certificate”** means the certificate of management in the form attached as Appendix B to this Instrument;

**“Year 2000 Survey”** means the survey of preparations for the Year 2000 Problem of a registered firm attached as Appendix A to this Instrument.

**1.2 Interpretation** – For purposes of this Instrument, the Year 2000 Management Certificate and the Year 2000 Survey, the term “**Year 2000 Problem**” includes problems arising from any of the following:

- (a) computer software incorrectly reading the date “01/01/00” as being the year 1900 or another incorrect year;
- (b) computer software incorrectly identifying a date in the year 1999 or any year thereafter;
- (c) computer software failing to detect that the year 2000 is a leap year;
- (d) any other computer software error that is directly or indirectly caused by the problems set out in clauses (a), (b) or (c) of this section.

## **PART 2 YEAR 2000 SURVEY**

**2.1 Filing** – A registered firm shall file with the regulator a completed Year 2000 Survey with information current to September 30, 1998 by the later of:

- (a) October 31, 1998; and
- (b) the date that is ten days after the date that this Instrument is effective.

**2.2 SRO Members** – A registered firm that is a member of a specified SRO is exempt from filing the Year 2000 Survey with the regulator if:

- (a) the firm files the Year 2000 Survey with its primary audit SRO in the time and with information current to the time set out in section 2.1; and
- (b) the primary audit SRO for the firm notifies the firm in writing that it will file the Year 2000 Survey with the regulator.

## **PART 3 YEAR 2000 MANAGEMENT CERTIFICATE**

**3.1 Filing** – A registered firm shall file with the regulator a completed Year 2000 Management Certificate as follows:

- (a) containing information current to September 30, 1998 by the later of:
  - (i) October 31, 1998; and
  - (ii) the date that is ten days after the date that this Instrument is effective;
- (b) by January 31, 1999, containing information current to December 31, 1998;
- (c) by April 30, 1999, containing information current to March 31, 1999; and
- (d) by June 30, 1999, containing information current to June 15, 1999.

**3.2 SRO Members** – A registered firm that is a member of a specified SRO is exempt from filing the Year 2000 Management Certificate for a date specified in section 3.1 with the regulator if:

- (a) the firm files the Year 2000 Management Certificate for the date with its primary audit SRO in the time and with information current to the time set out in section 3.1; and
- (b) the primary audit SRO for the firm notifies the firm in writing that it will file the Year 2000 Management Certificate with the regulator.

#### **PART 4 FORMAT AND SIGNATURES**

**4.1 Format** – All materials required to be filed with the regulator under this Instrument shall be filed electronically in portable document format or in a format convertible into portable document format.

**4.2 Signatures** – All materials required to be filed with the regulator under this Instrument shall be signed by means of an electronic entry of the name of the person or company required to sign the filing that is executed by the person or company as a signature.

#### **PART5 EXEMPTIONS**

##### **5.1 Exemptions**

- (1) The regulator or securities regulatory authority may grant an exemption to this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

**APPENDIX A****TO NATIONAL INSTRUMENT 33-106  
YEAR 2000 PREPARATION REPORTING  
YEAR 2000 SURVEY**\_\_\_\_\_  
(Firm Name)\_\_\_\_\_  
(Head office address)\_\_\_\_\_  
(Filing Date)**Instructions: CIRCLE the answers to the following questions and/or  
respond with the specific information requested:**

1. (a) What is your registration category or categories in each jurisdiction?
- | <b>Jurisdiction</b>   | <b>Category</b> |
|-----------------------|-----------------|
| British Columbia      |                 |
| Alberta               |                 |
| Saskatchewan          |                 |
| Manitoba              |                 |
| Ontario               |                 |
| Quebec                |                 |
| Nova Scotia           |                 |
| New Brunswick         |                 |
| Prince Edward Island  |                 |
| Newfoundland          |                 |
| Northwest Territories |                 |
| Yukon                 |                 |
- (b) Identify if your firm is an introducing or carrying broker and, if an introducing broker, the category of introducing broker:
- (c) If an introducing broker, note the name of your carrying broker:
2. Name the service providers which your firm uses and, if you are an adviser, name any fund to which you provide advice:
3. How does your firm rank the importance of preparing for the Year 2000 Problem?
- Very Critical    5    4    3    2    1    Low Impact (circle one)
4. Is your firm's Board of Directors or Governing Body aware of the Year 2000 Problem and resulting risks?
- Yes      No      If no, describe why:

5. Has your firm prepared a plan to address the Year 2000 Problem to ensure that the firm's computer systems continue to operate successfully after December 31, 1999?

Yes      No      If no, advise when plan will be available:

6. Does the scope of your firm's preparations for the Year 2000 Problem include assessing interfaces with external data providers?

Yes      No      If no, describe why:

7. Does the scope of your firm's preparations for the Year 2000 Problem include all parts of the organization, including foreign branches or companies?

Yes      No      If no, describe why:

8. Provide the name and contact information of the Partner/Director/Officer responsible for your firm's preparations for the Year 2000 Problem:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

e-mail address: \_\_\_\_\_

9. (a) Is this a full-time project for the individual?

Yes      No

- (b) If part-time, what percentage of this individual's time is dedicated to your firm's preparations for the Year 2000 Problem?

\_\_\_\_\_ %

10. Does your firm plan to use an outside consultant to advise it on the Year 2000 Problem and related issues?

Yes      No

If Yes, provide contact information:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

e-mail address: \_\_\_\_\_

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11. At what level of corporate management is your firm's preparations for the Year 2000 Problem being sponsored?

Chairman    President    CFO    CIO    Director    Other

Provide specific response for "Other":

12. Are progress reports provided to the project sponsor and management?

Yes      No      If no, describe why:

If so, how frequently?

Weekly    Biweekly    Monthly    Quarterly    Other

Provide specific response for "Other":

13. Do your firm's preparations for the Year 2000 Problem include an assessment phase to measure the scope and risk of the Year 2000 Problem at your firm?

Yes      No      If no, describe why:

14. Does the assessment phase include:

- |   |     |    |
|---|-----|----|
| (a) An analysis of all third-party vendor software and hardware products?                     | Yes | No |
| (b) An analysis of all internal systems?  | Yes | No |
| (c) An analysis of facilities and communication systems (e.g., elevators, telephones, power)? | Yes | No |
| (d) An inventory of all technology systems?   | Yes | No |

If no, describe why:

How many technology systems have been identified?

15. Has your firm determined the corrective actions necessary to ensure the technology systems will be prepared for the Year 2000 Problem?

Yes      No      If no, state when this information will be available.

16. If so, how many systems will be:

- (a) Modified:
- (b) Retired:
- (c) Replaced:
- (d) Other (provide specific response):

17. What is the current completion status of your firm's preparations for the Year 2000 Problem?

\_\_\_\_\_ %

18. When is your firm scheduled to complete the following major milestones of its preparations for the Year 2000 Problem?

<b>Milestone</b>	<b>Month/Year</b>
------------------	-------------------

- (a) Modification of firm systems:
- (b) Verification that other systems used by the firm are prepared for the Year 2000 Problem:
- (c) Testing of firm and other systems with other party systems:
- (d) Planned completion date of preparations:

19. Has your firm dedicated a separate budget for its preparations for the Year 2000 Problem?

Yes      No

20. What is the anticipated total cost of your firm's preparations for the Year 2000 Problem?

\_\_\_\_\_ %

Firm's Chief Executive Officer to sign in the space below.

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

Signature: \_\_\_\_\_

Chief Executive Officer

**APPENDIX B**

**TO NATIONAL INSTRUMENT 33-106  
YEAR 2000 PREPARATION REPORTING  
YEAR 2000 MANAGEMENT CERTIFICATE**

\_\_\_\_\_  
(Firm Name)

\_\_\_\_\_  
(Head office address)

\_\_\_\_\_  
(Filing Date)

(Answer Yes or No unless otherwise indicated)

**Organization wide impact**

- 1. Has an assessment been made of the impact of the Year 2000 Problem across the entire organization? \_\_\_\_\_
- 2. Was the assessment designed to identify all computer hardware and software and devices with embedded chips that contain date-dependent code? \_\_\_\_\_
- 3. Did the assessment address the importance of the systems that employ those resources in terms of the impact on the organization if they were to fail? \_\_\_\_\_
- 4. Did the assessment address other sources of risk such as dependence on suppliers and interconnectivity? \_\_\_\_\_

**Project Plan**

- 5. Has a project team been established and assigned to address your firm's Year 2000 Problem? \_\_\_\_\_
- 6. Has a project plan been established to ensure that mission critical systems throughout the whole organization will be remediated in time to avoid the negative consequences resulting from the Year 2000 Problem? \_\_\_\_\_
- 7. Is the project plan in writing? \_\_\_\_\_
- 8. Has an assessment phase been performed to measure the scope and risk of the Year 2000 Problem at your firm? \_\_\_\_\_
- 9. Has the board of directors (or similar body) of your firm approved the project plan? \_\_\_\_\_

10. Are the following items contained in the written project plan:
- (a) Assessment of the problem \_\_\_\_\_
  - (b) Correction of systems \_\_\_\_\_
  - (c) Replacement of systems \_\_\_\_\_
  - (d) Internal testing \_\_\_\_\_
  - (e) Point to point testing (interface testing with other registrants, custodians, transfer agents, clearing organizations, financial institutions, customers, other service providers, etc.) \_\_\_\_\_
  - (f) Training \_\_\_\_\_
  - (g) Industry wide testing \_\_\_\_\_
  - (h) Implementation of contingency plans \_\_\_\_\_
  - (i) Other (specify) \_\_\_\_\_
11. Has a budget allocation for the project plan been made and approved for:
- 1998 \_\_\_\_\_
  - 1999 \_\_\_\_\_
  - 2000 \_\_\_\_\_
12. Have sufficient financial resources been provided to carry out the project plan? \_\_\_\_\_
13. Does your firm have access to resources to carry out the project plan, including technical personnel and appropriate facilities (e.g. computer hardware, etc.)? \_\_\_\_\_
14. Has your firm contracted the expertise of consultants to review preparations for the Year 2000 Problem? \_\_\_\_\_
- Progress against plan**
15. Is there time to properly test new or amended systems? \_\_\_\_\_
16. When did/will your firm begin internal testing? (**insert date**) \_\_\_\_\_

- 17. When will internal testing be completed? **(insert date)** \_\_\_\_\_
- 18. Did testing of internal systems result in material exceptions that remain unresolved as of this filing? \_\_\_\_\_
- 19. Does your firm plan to participate in point to point or external interface testing? \_\_\_\_\_
- 20. When did/will your firm begin point to point testing (including testing with other registrants, custodians, transfer agents, clearing organizations, financial institutions, customers, other service providers, etc.)? **(insert date)** \_\_\_\_\_
- 21. When will point to point testing be completed? **(insert date)** \_\_\_\_\_
- 22. Did point to point testing result in material exceptions that remain unresolved as of this filing? \_\_\_\_\_
- 23. What is the current completion status (expressed as a percentage) of your internal mission critical systems with respect to the following phases:
  - (a) Assessment \_\_\_\_\_ %
  - (b) Remediation/replacement \_\_\_\_\_ %
  - (c) Testing \_\_\_\_\_ %
  - (d) Implementation \_\_\_\_\_ %
- 24. What is the current completion status (expressed as a percentage) of the project plan? \_\_\_\_\_ %
- 25. What is the planned completion date of the project plan? **(insert date)** \_\_\_\_\_

**Contingency planning**

- 26. Are there contingency plans to deal promptly with unforeseen issues that arise relating to the Year 2000 Problem? \_\_\_\_\_

**Reporting**

- 27. Is the Board of Directors (or similar body) receiving regular reports on addressing the broad impacts of the Year 2000 Problem and related issues on a timely basis? \_\_\_\_\_
- 28. What is the level of management responsible for addressing problems caused by the Year 2000 Problem? \_\_\_\_\_

**Other**

- 29. Identify third parties upon whom you rely for mission critical systems:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

30. Has any third party upon whom you rely for mission critical systems declined or failed to provide you with assurances that it is taking the necessary steps to prepare for the Year 2000 Problem? \_\_\_\_\_

31. Provide any additional comments or material information that will assist in understanding the preparations of your firm for the Year 2000 Problem. \_\_\_\_\_

**Name and Title – Type**

**Signature**

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Chief Financial Officer

\_\_\_\_\_  
Designated Year 2000 person responsible

\_\_\_\_\_  
Chairman of Year 2000 Board Committee  
(if any) or Chairman of the Board

\_\_\_\_\_  
[date]

