

- 5.1.16 Changes to Companion Policy 11-102CP Passport System, NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions, Companion Policy 23-103CP Electronic Trading and Direct Electronic Access to Marketplaces, Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations, Companion Policy 45-102CP to NI 45-102 Resale of Securities, Companion Policy 51-105CP Issuers Quoted in the U.S. Over-the-Counter Markets Relating to the Accredited Investor and Minimum Amount Investment Prospectus Exemptions

CHANGES TO SPECIFIED POLICIES

1. ***Companion Policy 11-102CP to Multilateral Instrument 11-102 Passport System, National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions, Companion Policy 23-103CP Electronic Trading and Direct Electronic Access to Marketplaces, Companion Policy 31-103CP to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, Companion Policy 45-102CP to National Instrument 45-102 Resale of Securities, Companion Policy 51-105CP to Multilateral Instrument 51-105 Issuers Quoted in the U.S. Over-the-Counter Markets are changed by this Instrument.***
2. ***The Policies named in section 1 are changed***
 - (a) ***by replacing “National Instrument 45-106 Registration and Prospectus Exemptions” with “National Instrument 45-106 Prospectus Exemptions” wherever it occurs, and***
 - (b) ***by replacing “National Instrument 45-106 Prospectus and Registration Exemptions” with “National Instrument 45-106 Prospectus Exemptions” wherever it occurs.***
3. Except in Ontario, the changes to these policies take effect on May 5, 2015. In Ontario, the changes to these policies will take effect on the later of the following:
 - (a) May 5, 2015 and
 - (b) the day on which subsection 12(2) of Schedule 26 of the *Budget Measures Act, 2009* is proclaimed in force.

5.1.17 Changes to Companion Policy 45-106CP Prospectus and Registration Exemptions Relating to the Family, Friends and Business Associates Exemption

CHANGES TO COMPANION POLICY 45-106CP PROSPECTUS AND REGISTRATION EXEMPTIONS

This Annex reflects changes to 45-106CP that will take effect upon the coming into force of the Rule Amendments set out in Appendix A. Additions are represented in underlined text.

3.1 Soliciting purchasers

(1) Soliciting purchasers – Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec, Saskatchewan and Yukon

Part 2, Division 1 (capital raising exemptions) in NI 45-106 does not prohibit the use of registrants, finders, or advertising in any form (for example, Internet, e-mail, direct mail, newspaper or magazine) to solicit purchasers under any of the exemptions. However, use of any of these means to find purchasers under the private issuer exemption in section 2.4 of NI 45-106 or under the family, friends and business associates exemption in section 2.5 of NI 45-106, may give rise to a presumption that the relationship required for use of these exemptions is not present. If, for example, an issuer advertises or pays a commission or finder's fee to a third party to find purchasers under the family, friends and business associates exemption, it suggests that the precondition of a close relationship between the purchaser and the issuer may not exist and therefore the issuer cannot rely on this exemption.

Use of a finder by a private issuer to find an accredited investor, however, would not preclude the private issuer from relying upon the private issuer exemption, provided that all of the other conditions to that exemption are met.

Any solicitation activities that aim to identify a particular category of investor should clearly state the kind of investor being sought and the criteria that investors will be required to meet. Any print materials used to find accredited investors, for example, should clearly and prominently state that only accredited investors should respond to the solicitation.

(2) Soliciting purchasers – Ontario

Part 2, Division 1 (capital raising exemptions) in NI 45-106 does not prohibit the use of registrants, finders, or advertising in any form (for example, Internet, e-mail, direct mail, newspaper or magazine) to solicit purchasers under any of the exemptions.

Any solicitation activities that aim to identify a particular category of investor should clearly state the kind of investor being sought and the criteria that investors will be required to meet. Any print materials used to find accredited investors, for example, should clearly and prominently state that only accredited investors should respond to the solicitation.

The Ontario Securities Commission considers the use of registrants, finders or advertising to find or attract purchasers to be inconsistent with the use of the family, friends and business associates exemption in section 2.5 of NI 45-106 and the private issuer exemption in section 2.4 of NI 45-106 for distributions to family members, close personal friends or close business associates. Since advertising should not be required to find a family member, close personal friend or close business associate, the Ontario Securities Commission does not expect that advertising would be used to find or attract purchasers for distributions made solely under section 2.5 of NI 45-106 or to identify purchasers for distributions made in reliance on that exemption. The Ontario Securities Commission also does not expect that advertising would be used for distributions made solely to family members, close personal friends or close business associates under section 2.4 of NI 45-106 or to identify those types of purchasers for distributions made in reliance on that exemption.

If a distribution is being made in reliance on one or more other prospectus exemptions, advertising in connection with those other exemptions does not prevent concurrent reliance on the family, friends and business associates exemption in section 2.5 or the private issuer exemption in section 2.4 of NI 45-106. Similarly, use of a finder by a private issuer to find an accredited investor would not preclude the private issuer from relying upon the private issuer exemption under section 2.4 of NI 45-106 provided that all of the other conditions to that exemption are met.

3.4.01 Payment of Finder's Fees or Commissions to Any Person

Subsection 2.5(2) of NI 45-106 prohibits the payment of commissions or finder's fees to any director, officer, founder or control person of an issuer or an affiliate of an issuer in connection with a distribution under the family, friends and business associates exemption.

The Ontario Securities Commission considers the payment of fees or commissions to any person, including registrants or finders, to identify, find or introduce one's family members, close personal friends or close business associates to be inconsistent with the family, friends and business associates exemption. However, the Ontario Securities Commission

recognizes that fees may be paid to a person in connection with a distribution under the family, friends and business associates exemption in certain circumstances.

For example:

- Documentation and certain other activities – Fees may be paid for the documentation and other activities relating to the closing of the distribution.
- Concurrent reliance on other prospectus exemptions – If distributing securities on the same terms concurrently under one or more other prospectus exemptions in respect of which fees or commissions are being paid, then such fees and commissions may also be paid in respect of securities distributed under the family, friends and business associates exemption.