

National and Ontario Prospectus and Registration Exemptions

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TABLE OF CONTENTS

National Instrument 45-106	3
Form 45-106F1 Report of Exempt Distribution.....	45
Form 45-106F2 Offering Memorandum for Non-Qualifying Issuers.....	53
Form 45-106F3 Offering Memorandum for Qualifying Issuers.....	67
Form 45-106F4 - Risk Acknowledgment.....	77
Form 45-106F5 - Risk Acknowledgment.....	79
Companion Policy 45-106CP.....	81
OSC Rule 45-501	95
Form 45-501F1.....	105
Companion Policy 45-501CP.....	111
Repeal of National Instrument 32-101, National Instrument 62-101 and Multilateral Instrument 45-105	117
National Instrument 33-105 Amendments	118
National Instrument 45-101 Amendments	119
National Instrument 62-103 Amendments	120
Multilateral Instrument 45-102 Amendments	121
Companion Policy 45-102CP Amendments.....	136
OSC Rule 45-802	138
OSC Rule 13-502 Amendments	139
OSC Rule 31-503 Amendments	140
OSC Rule 91-501 Amendments	141
OSC Rule 91-502 Amendments	142
OSC Rule 32-504 under the Commodity Futures Act	143

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**NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS**

Text boxes in this Instrument refer to National Instrument 45-102 Resale of Securities. These text boxes are located above sections 2.1 to 2.5, 2.7 to 2.21, 2.24 to 2.27, and 2.30 to 2.42. These text boxes do not form part of this Instrument.

PART 1: DEFINITIONS AND INTERPRETATION

- 1.1 Definitions
- 1.2 Affiliate
- 1.3 Control
- 1.4 Registration requirement
- 1.5 Definition of distribution - Manitoba and Yukon
- 1.6 Definition of trade - Québec

PART 2: PROSPECTUS AND REGISTRATION EXEMPTIONS¹¹

Division 1: Capital Raising Exemptions

- 2.1 Rights offering
- 2.2 Reinvestment plan
- 2.3 Accredited investor
- 2.4 Private issuer
- 2.5 Family, friends and business associates
- 2.6 Family, friends and business associates - Saskatchewan
- 2.7 Founder, control person and family- Ontario
- 2.8 Affiliates
- 2.9 Offering memorandum
- 2.10 Minimum amount investment

Division 2: Transaction Exemptions

- 2.11 Business combination and reorganization
- 2.12 Asset acquisition
- 2.13 Petroleum, natural gas and mining properties
- 2.14 Securities for debt
- 2.15 Issuer acquisition or redemption
- 2.16 Take-over bid and issuer bid
- 2.17 Offer to acquire to security holder outside local jurisdiction

Division 3: Investment Fund Exemptions

- 2.18 Investment fund reinvestment
- 2.19 Additional investment in investment funds
- 2.20 Private investment club
- 2.21 Private investment fund - loan and trust pools

Division 4: Employee, Executive Officer, Director and Consultant Exemptions

- 2.22 Definitions
- 2.23 Interpretation
- 2.24 Employee, executive officer, director and consultant
- 2.25 Unlisted reporting issuer exception
- 2.26 Trades among current or former employees, executive officers, directors, or consultants of non-reporting issuer
- 2.27 Permitted transferees
- 2.28 Resale - non-reporting issuer
- 2.29 Issuer bid

Division 5: Miscellaneous Exemptions

- 2.30 Isolated trade by issuer

- 2.31 Dividends and distributions
- 2.32 Trade to lender by control person for collateral
- 2.33 Acting as underwriter
- 2.34 Guaranteed debt
- 2.35 Short-term debt
- 2.36 Mortgages
- 2.37 Personal Property Security Act
- 2.38 Not for profit issuer
- 2.39 Variable insurance contract
- 2.40 RRSP/RRIF
- 2.41 Schedule III banks and cooperative associations - evidence of deposit
- 2.42 Conversion, exchange, or exercise
- 2.43 Removal of exemptions - market intermediaries

PART 3: REGISTRATION ONLY EXEMPTIONS

- 3.1 Registered dealer
- 3.2 Exchange contract
- 3.3 Isolated trade
- 3.4 Estates, bankruptcies, and liquidations
- 3.5 Employees of registered dealer
- 3.6 Small security holder selling and purchase arrangements
- 3.7 Adviser
- 3.8 Investment dealer acting as portfolio manager
- 3.9 Removal of exemptions – market intermediaries

PART 4: CONTROL BLOCK DISTRIBUTIONS

- 4.1 Control block distributions
- 4.2 Trades by a control person after a take-over bid

PART 5: OFFERINGS BY TSX VENTURE EXCHANGE OFFERING DOCUMENT

- 5.1 Application and interpretation
- 5.2 TSX Venture Exchange offering
- 5.3 Underwriter obligations

PART 6: REPORTING REQUIREMENTS

- 6.1 Report of exempt distribution
- 6.2 When report not required
- 6.3 Required form of report of exempt distribution
- 6.4 Required form of offering memorandum
- 6.5 Required form of risk acknowledgement
- 6.6 Required forms in British Columbia

PART 7: EXEMPTION

- 7.1 Exemption

PART 8: TRANSITIONAL, COMING INTO FORCE

- 8.1 Additional investment - investment funds
- 8.2 Definition of “accredited investor” - investment fund
- 8.3 Transition - MI 45-103/MI 45-105/ OSC Rule 45-501
- 8.4 Transition - Closely-held issuer
- 8.5 Coming into force

APPENDIX A - VARIABLE INSURANCE CONTRACT EXEMPTION

APPENDIX B – CONTROL BLOCK DISTRIBUTION

**NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS**

PART 1: DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Instrument

“accredited investor” means

- (a) a Canadian financial institution, or a Schedule III bank,
- (b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada),
- (c) a subsidiary of any person referred to in paragraphs (a) or (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary,
- (d) a person registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer, other than a person registered solely as a limited market dealer under one or both of the *Securities Act* (Ontario) or the *Securities Act* (Newfoundland and Labrador),
- (e) an individual registered or formerly registered under the securities legislation of a jurisdiction of Canada as a representative of a person referred to in paragraph (d),
- (f) the Government of Canada or a jurisdiction of Canada, or any crown corporation, agency or wholly owned entity of the Government of Canada or a jurisdiction of Canada,
- (g) a municipality, public board or commission in Canada and a metropolitan community, school board, the Comité de gestion de la taxe scolaire de l'île de Montréal or an intermunicipal management board in Québec;
- (h) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any agency of that government,
- (i) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a pension commission or similar regulatory authority of a jurisdiction of Canada,
- (j) an individual who, either alone or with a spouse, beneficially owns, directly or indirectly, financial assets having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds \$1 000 000,
- (k) an individual whose net income before taxes exceeded \$200 000 in each of the 2 most recent calendar years or whose net income before taxes combined with that of a spouse exceeded \$300 000 in each of the 2 most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year,
- (l) an individual who, either alone or with a spouse, has net assets of at least \$5 000 000,
- (m) a person, other than an individual or investment fund, that has net assets of at least \$5 000 000 as shown on its most recently prepared financial statements,
- (n) an investment fund that distributes or has distributed its securities only to
 - (i) a person that is or was an accredited investor at the time of the distribution,
 - (ii) a person that acquires or acquired securities in the circumstances referred to in sections 2.10 [*Minimum amount investment*], and 2.19 [*Additional investment in investment funds*], or
 - (iii) a person described in paragraph (i) or (ii) that acquires or acquired securities under section 2.18 [*Investment fund reinvestment*],
- (o) an investment fund that distributes or has distributed securities under a prospectus in a jurisdiction of Canada for which the regulator or, in Québec, the securities regulatory authority, has issued a receipt,

- (p) a trust company or trust corporation registered or authorized to carry on business under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in a jurisdiction of Canada or a foreign jurisdiction, acting on behalf of a fully managed account managed by the trust company or trust corporation, as the case may be,
- (q) a person acting on behalf of a fully managed account managed by that person, if that person
 - (i) is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or a foreign jurisdiction, and
 - (ii) in Ontario, is purchasing a security that is not a security of an investment fund;
- (r) a registered charity under the *Income Tax Act* (Canada) that, in regard to the trade, has obtained advice from an eligibility adviser or an adviser registered under the securities legislation of the jurisdiction of the registered charity to give advice on the securities being traded,
- (s) an entity organized in a foreign jurisdiction that is analogous to any of the entities referred to in paragraphs (a) to (d) or paragraph (i) in form and function,
- (t) a person in respect of which all of the owners of interests, direct, indirect or beneficial, except the voting securities required by law to be owned by directors, are persons that are accredited investors,
- (u) an investment fund that is advised by a person registered as an adviser or a person that is exempt from registration as an adviser, or
- (v) a person that is recognized or designated by the securities regulatory authority or, except in Ontario and Québec, the regulator as
 - (i) an accredited investor, or
 - (ii) an exempt purchaser in Alberta or British Columbia after this Instrument comes into force;

“AIF” means

- (a) for financial years starting before January 1, 2004, a current AIF as defined in Multilateral Instrument 45-102 *Resale of Securities* that came into force on November 30, 2001, and
- (b) for financial years starting on or after January 1, 2004,
 - (i) an AIF as defined in NI 51-102,
 - (ii) a prospectus filed in a jurisdiction, other than a prospectus filed under a CPC instrument, if the issuer has not filed or been required to file an AIF or annual financial statements under NI 51-102, or
 - (iii) a QT circular if the issuer has not filed or been required to file annual financial statements under NI 51-102 subsequent to filing its QT circular;

“approved credit rating” has the same meaning as in National Instrument 81-102 *Mutual Funds*;

“approved credit rating organization” has the same meaning as in National Instrument 81-102 *Mutual Funds*;

“bank” means a bank named in Schedule I or II of the *Bank Act* (Canada);

“Canadian financial institution” means

- (a) an association governed by the *Cooperative Credit Associations Act* (Canada) or a central cooperative credit society for which an order has been made under section 473(1) of that Act, or
- (b) a bank, loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative, or league that, in each case, is authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada;

“control person” has the same meaning as in securities legislation except in Manitoba, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island and Québec where control person means any person that holds or is one of a combination of persons that holds

- (a) a sufficient number of any of the securities of an issuer so as to affect materially the control of the issuer, or
- (b) more than 20% of the outstanding voting securities of an issuer except where there is evidence showing that the holding of those securities does not affect materially the control of the issuer;

“CPC instrument” means a rule or regulation of a jurisdiction of Canada or a rule, regulation or policy of an exchange in Canada that applies only to capital pool companies;

“debt security” means any bond, debenture, note or similar instrument representing indebtedness, whether secured or unsecured;

“director” means

- (a) a member of the board of directors of a company or an individual who performs similar functions for a company, and
- (b) with respect to a person that is not a company, an individual who performs functions similar to those of a director of a company;

“eligibility adviser” means

- (a) a person that is registered as an investment dealer or in an equivalent category of registration under the securities legislation of the jurisdiction of a purchaser and authorized to give advice with respect to the type of security being distributed, and
- (b) in Saskatchewan or Manitoba, also means a lawyer who is a practicing member in good standing with a law society of a jurisdiction of Canada or a public accountant who is a member in good standing of an institute or association of chartered accountants, certified general accountants or certified management accountants in a jurisdiction of Canada provided that the lawyer or public accountant must not
 - (i) have a professional, business or personal relationship with the issuer, or any of its directors, executive officers, founders, or control persons, and
 - (ii) have acted for or been retained personally or otherwise as an employee, executive officer, director, associate or partner of a person that has acted for or been retained by the issuer or any of its directors, executive officers, founders or control persons within the previous 12 months;

“eligible investor” means

- (a) a person whose
 - (i) net assets, alone or with a spouse, in the case of an individual, exceed \$400 000,
 - (ii) net income before taxes exceeded \$75 000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year, or
 - (iii) net income before taxes, alone or with a spouse, in the case of an individual, exceeded \$125 000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year,
- (b) a person of which a majority of the voting securities are beneficially owned by eligible investors or a majority of the directors are eligible investors,
- (c) a general partnership of which all of the partners are eligible investors,
- (d) a limited partnership of which the majority of the general partners are eligible investors,
- (e) a trust or estate in which all of the beneficiaries or a majority of the trustees or executors are eligible investors,

- (f) an accredited investor,
- (g) a person described in section 2.5 [*Family, friends and business associates*], or
- (h) a person that has obtained advice regarding the suitability of the investment and, if the person is resident in a jurisdiction of Canada, that advice has been obtained from an eligibility adviser;

“executive officer” means, for an issuer, an individual who is

- (a) a chair, vice-chair or president,
- (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production,
- (c) an officer of the issuer or any of its subsidiaries and who performs a policy-making function in respect of the issuer, or
- (d) performing a policy-making function in respect of the issuer;

“financial assets” means

- (a) cash,
- (b) securities, or
- (c) a contract of insurance, a deposit or an evidence of a deposit that is not a security for the purposes of securities legislation;

“founder” means, in respect of an issuer, a person who,

- (a) acting alone, in conjunction, or in concert with one or more persons, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of the issuer, and
- (b) at the time of the trade is actively involved in the business of the issuer;

“fully managed account” means an account of a client for which a person makes the investment decisions if that person has full discretion to trade in securities for the account without requiring the client’s express consent to a transaction;

“investment fund” has the same meaning as in National Instrument 81-106 *Investment Fund Continuous Disclosure*;

“marketplace” has the same meaning as in National Instrument 21-101 *Marketplace Operation*;

“MD&A” has the same meaning as in NI 51-102;

“NI 45-102” means National Instrument 45-102 *Resale of Securities*;

“NI 51-102” means National Instrument 51-102 *Continuous Disclosure Obligations*;

“non-redeemable investment fund” has the same meaning as in National Instrument 81-106 *Investment Fund Continuous Disclosure*;

“person” includes

- (a) an individual,
- (b) a corporation,
- (c) a partnership, trust, fund and an association, syndicate, organization or other organized group of persons, whether incorporated or not, and
- (d) an individual or other person in that person’s capacity as a trustee, executor, administrator or personal or other legal representative;

“**QT circular**” means an information circular or filing statement in respect of a qualifying transaction for a capital pool company under a CPC instrument;

“**qualifying issuer**” means a reporting issuer in a jurisdiction of Canada that

- (a) is a SEDAR filer,
- (b) has filed all documents required to be filed under the securities legislation of that jurisdiction, and
- (c) if not required to file an AIF, has filed in the jurisdiction,
 - (i) an AIF for its most recently completed financial year for which annual statements are required to be filed, and
 - (ii) copies of all material incorporated by reference in the AIF not previously filed;

“**related liabilities**” means

- (a) liabilities incurred or assumed for the purpose of financing the acquisition or ownership of financial assets, or
- (b) liabilities that are secured by financial assets;

“**reporting issuer**” means, in Northwest Territories, Nunavut and Prince Edward Island, an issuer that is a reporting issuer in a jurisdiction of Canada;

“**RRIF**” means a registered retirement income fund as defined in the *Income Tax Act* (Canada);

“**RRSP**” means a registered retirement savings plan as defined in the *Income Tax Act* (Canada);

“**Schedule III bank**” means an authorized foreign bank named in Schedule III of the *Bank Act* (Canada);

“**SEDAR filer**” means an issuer that is an electronic filer under National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;

“**spouse**” means, an individual who,

- (a) is married to another individual and is not living separate and apart within the meaning of the *Divorce Act* (Canada), from the other individual,
- (b) is living with another individual in a marriage-like relationship, including a marriage-like relationship between individuals of the same gender, or
- (c) in Alberta, is an individual referred to in paragraph (a) or (b), or is an adult interdependent partner within the meaning of the *Adult Interdependent Relationships Act* (Alberta);

“**subsidiary**” means an issuer that is controlled directly or indirectly by another issuer and includes a subsidiary of that subsidiary.

Affiliate

1.2 For the purpose of this Instrument, an issuer is an affiliate of another issuer if

- (a) one of them is the subsidiary of the other, or
- (b) each of them is controlled by the same person.

Control

1.3 Except in Part 2, Division 4, for the purpose of this Instrument, a person (first person) is considered to control another person (second person) if

- (a) the first person, directly or indirectly, beneficially owns or exercises control or direction over securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors of the second person, unless that first person holds the voting securities only to secure an obligation,
- (b) the second person is a partnership, other than a limited partnership, and the first person holds more than 50% of the interests of the partnership, or
- (c) the second person is a limited partnership and the general partner of the limited partnership is the first person.

Registration requirement

1.4 (1) An exemption from the dealer registration requirement or from the prospectus requirement that refers to a registered dealer is only available for a trade in a security if the dealer is registered in a category that permits the trade described in the exemption.

(2) An exemption from the dealer registration requirement is deemed to be an exemption from the underwriter registration requirement.

Definition of distribution - Manitoba and Yukon

1.5 For the purpose of this Instrument, in Manitoba and Yukon, “distribution” means a primary distribution to the public.

Definition of trade - Québec

1.6 For the purpose of this Instrument, in Québec, “trade” includes any of the following activities:

- (a) any of the activities referred to in the definition of “dealer” in section 5 of the *Securities Act* (Québec);
- (b) the sale or disposition of a security for valuable consideration, whether the terms of payment are on margin, installment or otherwise, but does not include,
 - (i) except as provided in paragraph (e), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith, or
 - (ii) the purchase of a security;
- (c) participation as a trader in any transaction in a security through the facilities of an exchange or a quotation and trade reporting system;
- (d) receipt by a registrant of an order to buy or sell a security;
- (e) a transfer, pledge or encumbering of securities of an issuer from the holdings of a control person for the purpose of giving collateral for a debt made in good faith;
- (f) entering into a derivative;
- (g) any activity, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the activities referred to in paragraphs (a) to (f).

PART 2: PROSPECTUS AND REGISTRATION EXEMPTIONS

Division1: Capital Raising Exemptions

Rights offering

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.1 (1) The dealer registration requirement does not apply in respect of a trade by an issuer in a right granted by the issuer to purchase a security of its own issue to a security holder of the issuer if

- (a) the issuer has given the regulator or, in Québec, the securities regulatory authority, prior written notice stating the date, amount, nature and conditions of the trade, including the approximate net proceeds to be derived by the issuer on the basis of the additional securities being fully taken up,
 - (b) except in British Columbia, the regulator or, in Québec, the securities regulatory authority, has not objected in writing to the trade within 10 days of receipt of the notice referred to in paragraph (a) or, if the regulator or securities regulatory authority objects to the trade, the issuer has delivered to the regulator or securities regulatory authority information relating to the securities that is satisfactory to and accepted by the regulator or securities regulatory authority, and
 - (c) the issuer has complied with the applicable requirements of National Instrument 45-101 *Rights Offerings*.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Reinvestment plan

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.2 (1) Subject to subsections (3) and (5), the dealer registration requirement does not apply in respect of the following trades by an issuer, or by a trustee, custodian or administrator acting for or on behalf of the issuer, to a security holder of the issuer if the trades are permitted by a plan of the issuer:

- (a) a trade in a security of the issuer's own issue if dividends or distributions out of earnings, surplus, capital or other sources payable in respect of the issuer's securities are applied to the purchase of the security that is of the same class or series as the securities to which the dividends or distributions out of earnings, surplus, capital or other sources is attributable, and
- (b) subject to subsection (2), a trade in a security of the issuer's own issue if the security holder makes optional cash payments to purchase the security of the issuer that is of the same class or series of securities described in paragraph (a) that trade on a marketplace.

(2) The aggregate number of securities issued under the optional cash payment referred to in subsection (1)(b) must not exceed, in any financial year of the issuer during which the trade takes place, 2% of the issued and outstanding securities of the class to which the plan relates as at the beginning of the financial year.

(3) A plan that permits the trades described in subsection (1) must be available to every security holder in Canada to which the dividend or distribution is available.

(4) Subject to subsections (3) and (5), the prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

(5) This section does not apply to a trade in a security of an investment fund.

Accredited investor

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

2.3 (1) The dealer registration requirement does not apply in respect of a trade in a security if the purchaser purchases the security as principal and is an accredited investor.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

(3) Subject to subsection (4), for the purpose of this section, a trust company or trust corporation described in paragraph (p) of the definition of "accredited investor" in section 1.1 [*Definitions*] is deemed to be purchasing as principal.

(4) Subsection (3) does not apply to a trust company or trust corporation registered under the laws of Prince Edward Island that is not registered or authorized under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in another jurisdiction of Canada.

(5) For the purpose of this section, a person described in paragraph (q) of the definition of “accredited investor” in section 1.1 [Definitions] is deemed to be purchasing as principal.

(6) This section does not apply to a trade in a security to a person if that person is created or used solely to purchase or hold securities as an accredited investor as described in paragraph (m) of the definition of “accredited investor” in section 1.1 [Definitions].

Private issuer

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.4 (1) In this section, “private issuer” means an issuer

- (a) that is not a reporting issuer or an investment fund,
- (b) whose securities, other than non-convertible debt securities,
 - (i) are subject to restrictions on transfer that are contained in the issuer’s constating documents or security holders’ agreements, and
 - (ii) are beneficially owned, directly or indirectly, by not more than 50 persons, not including employees and former employees of the issuer or its affiliates, provided that each person is counted as one beneficial owner unless the person is created or used solely to purchase or hold securities of the issuer in which case each beneficial owner or each beneficiary of the person, as the case may be, must be counted as a separate beneficial owner, and
- (c) that has distributed securities only to persons described in this section.

(2) The dealer registration requirement does not apply in respect of a trade in a security of a private issuer to a person who purchases the security as principal and is

- (a) a director, officer, employee, founder or control person of the issuer,
- (b) a spouse, parent, grandparent, brother, sister or child of a director, executive officer, founder or control person of the issuer,
- (c) a parent, grandparent, brother, sister or child of the spouse of a director, executive officer, founder or control person of the issuer,
- (d) a close personal friend of a director, executive officer, founder or control person of the issuer,
- (e) a close business associate of a director, executive officer, founder or control person of the issuer,
- (f) a spouse, parent, grandparent, brother, sister or child of the selling security holder or of the selling security holder’s spouse,
- (g) a security holder of the issuer,
- (h) an accredited investor,
- (i) a person of which a majority of the voting securities are beneficially owned by, or a majority of the directors are, persons described in paragraphs (a) to (h),
- (j) a trust or estate of which all of the beneficiaries or a majority of the trustees or executors are persons described in paragraphs (a) to (h), or
- (k) a person that is not the public.

(3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (2).

(4) Except for a trade to an accredited investor, no commission or finder's fee may be paid to any director, officer, founder or control person of an issuer in connection with a trade under subsection (2) or (3).

Family, friends and business associates

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

2.5 (1) Except in Ontario and subject to section 2.6 [*Family, friends and business associates - Saskatchewan*], the dealer registration requirement does not apply in respect of a trade in a security to a person who purchases the security as principal and is

- (a) a director, executive officer or control person of the issuer, or of an affiliate of the issuer,
- (b) a spouse, parent, grandparent, brother, sister or child of a director, executive officer or control person of the issuer, or of an affiliate of the issuer,
- (c) a parent, grandparent, brother, sister or child of the spouse of a director, executive officer or control person of the issuer or of an affiliate of the issuer,
- (d) a close personal friend of a director, executive officer or control person of the issuer, or of an affiliate of the issuer,
- (e) a close business associate of a director, executive officer or control person of the issuer, or of an affiliate of the issuer,
- (f) a founder of the issuer or a spouse, parent, grandparent, brother, sister, child, close personal friend or close business associate of a founder of the issuer,
- (g) a parent, grandparent, brother, sister or child of a spouse of a founder of the issuer,
- (h) a person of which a majority of the voting securities are beneficially owned by, or a majority of the directors are, persons described in paragraphs (a) to (g), or
- (i) a trust or estate of which all of the beneficiaries or a majority of the trustees or executors are persons described in paragraphs (a) to (g).

(2) Except in Ontario and subject to section 2.6 [*Family, friends and business associates - Saskatchewan*], the prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

(3) No commission or finder's fee may be paid to any director, officer, founder, or control person of an issuer or an affiliate of the issuer in connection with a trade under subsection (1) or (2).

Family, friends and business associates - Saskatchewan

2.6 (1) In Saskatchewan, section 2.5 [*Family, friends and business associates*] does not apply unless the person making the trade obtains a signed risk acknowledgement from the purchaser in the required form for a trade to

- (a) a person described in section 2.5(1) (d) or (e) [*Family, friends and business associates*],
- (b) a close personal friend or close business associate of a founder of the issuer, or
- (c) a person described in section 2.5(1)(h) or (i) [*Family, friends and business associates*] if the trade is based in whole or in part on a close personal friendship or close business association.

(2) The person making the trade must retain the required form referred to in subsection (1) for 8 years after the trade.

Founder, control person and family- Ontario

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

2.7 (1) In Ontario, the dealer registration requirement does not apply in respect of a trade in a security to a person who purchases the security as principal and is

- (a) a founder of the issuer,
- (b) an affiliate of a founder of the issuer,
- (c) a spouse, parent, brother, sister, grandparent or child of an executive officer, director or founder of the issuer, or
- (d) a person that is a control person of the issuer.

(2) In Ontario, the prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Affiliates

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

2.8 (1) The dealer registration requirement does not apply in respect of a trade by an issuer in a security of its own issue to an affiliate of the issuer that is purchasing as principal.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Offering memorandum

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

2.9 (1) In British Columbia, New Brunswick, Nova Scotia and Newfoundland and Labrador, the dealer registration requirement does not apply in respect of a trade by an issuer in a security of its own issue to a purchaser if

- (a) the purchaser purchases the security as principal, and
- (b) at the same time or before the purchaser signs the agreement to purchase the security, the issuer
 - (i) delivers an offering memorandum to the purchaser in compliance with subsections (7) to (13), and
 - (ii) obtains a signed risk acknowledgement from the purchaser in compliance with subsection (14).

(2) In Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Québec and Saskatchewan, the dealer registration requirement does not apply in respect of a trade by an issuer in a security of its own issue to a purchaser if

- (a) the purchaser purchases the security as principal,
- (b) the purchaser is an eligible investor or the acquisition cost to the purchaser does not exceed \$10 000,
- (c) at the same time or before the purchaser signs the agreement to purchase the security, the issuer
 - (i) delivers an offering memorandum to the purchaser in compliance with subsections (7) to (13), and
 - (ii) obtains a signed risk acknowledgement from the purchaser in compliance with subsection (14),

and

- (d) if the issuer is an investment fund, the investment fund is
 - (i) a non-redeemable investment fund, or
 - (ii) a mutual fund that is

- (A) a reporting issuer, and
 - (B) in Manitoba, Québec and Saskatchewan, is an issuer listed for trading on an exchange or quoted on an over-the-counter market.
- (3) In British Columbia, New Brunswick, Nova Scotia and Newfoundland and Labrador, the prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).
- (4) In Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Québec and Saskatchewan, the prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (2).
- (5) In Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Québec and Saskatchewan, this section does not apply to a trade in a security to a person described in paragraph (a) of the definition of “eligible investor” in section 1.1 [Definitions] if that person is created or used solely to purchase or hold securities in reliance on an exemption from the dealer registration requirement or the prospectus requirement set out in subsections (2) and (4).
- (6) No commission or finder’s fee may be paid to any person, other than a registered dealer, in connection with a trade to a purchaser in
- (a) Northwest Territories, Nunavut and Saskatchewan under subsections (2) and (4), or
 - (b) New Brunswick under subsections (1) and (3).
- (7) An offering memorandum delivered under this section must be in the required form.
- (8) If the securities legislation where the purchaser is resident does not provide a comparable right, an offering memorandum delivered under this section must provide the purchaser with a contractual right to cancel the agreement to purchase the security by delivering a notice to the issuer not later than midnight on the 2nd business day after the purchaser signs the agreement to purchase the security.
- (9) If the securities legislation where the purchaser is resident does not provide statutory rights of action in the event of a misrepresentation in an offering memorandum delivered under this section, the offering memorandum must contain a contractual right of action against the issuer for rescission or damages that
- (a) is available to the purchaser if the offering memorandum, or any information or documents incorporated or deemed to be incorporated by reference into the offering memorandum, contains a misrepresentation, without regard to whether the purchaser relied on the misrepresentation,
 - (b) is enforceable by the purchaser delivering a notice to the issuer
 - (i) in the case of an action for rescission, within 180 days after the purchaser signs the agreement to purchase the security, or
 - (ii) in the case of an action for damages, before the earlier of
 - (A) 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
 - (B) 3 years after the date the purchaser signs the agreement to purchase the security,
 - (c) is subject to the defence that the purchaser had knowledge of the misrepresentation,
 - (d) in the case of an action for damages, provides that the amount recoverable
 - (i) must not exceed the price at which the security was offered, and
 - (ii) does not include all or any part of the damages that the issuer proves does not represent the depreciation in value of the security resulting from the misrepresentation, and
 - (e) is in addition to, and does not detract from, any other right of the purchaser.
- (10) An offering memorandum delivered under this section must contain a certificate that states the following:

“This offering memorandum does not contain a misrepresentation.”

- (11) A certificate under subsection (10) must be signed
- (a) by the issuer’s chief executive officer and chief financial officer or, if the issuer does not have a chief executive officer or chief financial officer, a person acting in that capacity,
 - (b) on behalf of the directors of the issuer,
 - (i) by any 2 directors who are authorized to sign, other than the persons referred to in paragraph (a), or
 - (ii) by all the directors of the issuer, and
 - (c) by each promoter of the issuer.
- (12) A certificate under subsection (10) must be true
- (a) at the date the certificate is signed, and
 - (b) at the date the offering memorandum is delivered to the purchaser.
- (13) If a certificate under subsection (10) ceases to be true after it is delivered to the purchaser, the issuer cannot accept an agreement to purchase the security from the purchaser unless
- (a) the purchaser receives an update of the offering memorandum,
 - (b) the update of the offering memorandum contains a newly dated certificate signed in compliance with subsection (11), and
 - (c) the purchaser re-signs the agreement to purchase the security.
- (14) A risk acknowledgement under subsection (1), (2), (3) or (4) must be in the required form and an issuer relying on subsection (1), (2) (3) or (4) must retain the signed risk acknowledgment for 8 years after the distribution.
- (15) The issuer must
- (a) hold in trust all consideration received from the purchaser in connection with a trade in a security under subsection (1), (2), (3) or (4) until midnight on the 2nd business day after the purchaser signs the agreement to purchase the security, and
 - (b) return all consideration to the purchaser promptly if the purchaser exercises the right to cancel the agreement to purchase the security described under subsection (8).
- (16) The issuer must file a copy of an offering memorandum delivered under this section and any update of a previously filed offering memorandum with the securities regulatory authority on or before the 10th day after the distribution under the offering memorandum or update of the offering memorandum.
- (17) If a qualifying issuer uses a form of offering memorandum that allows the qualifying issuer to incorporate previously filed information into the offering memorandum by reference, the qualifying issuer is exempt from the requirement under National Instrument 43-101 *Standards of Disclosure for Mineral Projects* to file a technical report to support scientific or technical information about the qualifying issuer’s mineral project in the offering memorandum or incorporated by reference into the offering memorandum if the information about the mineral project is contained in a previously filed technical report under National Instrument 43-101 **Standards of Disclosure for Mineral Projects**.

Minimum amount investment

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

- 2.10 (1) The dealer registration requirement does not apply in respect of a trade in a security to a person if
- (a) that person purchases as principal,

- (b) the security has an acquisition cost to the purchaser of not less than \$150 000 paid in cash at the time of the trade, and
 - (c) the trade is in a security of a single issuer.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).
- (3) This section does not apply to a trade in a security to a person if that person is created or used solely to purchase or hold securities in reliance on this exemption from the dealer registration requirement or the prospectus requirement.

Divisions 2: Transaction Exemptions

Business combination and reorganization

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

- 2.11 (1) The dealer registration requirement does not apply in respect of a trade in a security in connection with
- (a) an amalgamation, merger, reorganization or arrangement that is under a statutory procedure,
 - (b) an amalgamation, merger, reorganization or arrangement that
 - (i) is described in an information circular made pursuant to NI 51-102 or in a similar disclosure record and the information circular or similar disclosure record is delivered to each security holder whose approval of the amalgamation, merger, reorganization or arrangement is required before it can proceed, and
 - (ii) is approved by the security holders referred to in subparagraph (i),
- or
- (c) a dissolution or winding-up of the issuer.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Asset acquisition

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

- 2.12 (1) The dealer registration requirement does not apply in respect of a trade by an issuer in a security of its own issue to a person as consideration for the assets of the person, if those assets have a fair value of not less than \$150 000.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Petroleum, natural gas and mining properties

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

- 2.13 (1) The dealer registration requirement does not apply in respect of a trade by an issuer in a security of its own issue as consideration for the acquisition of petroleum, natural gas or mining properties or any interest in them.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Securities for debt

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

2.14 (1) The dealer registration requirement does not apply in respect of a trade by a reporting issuer in a security of its own issue to a creditor to settle a bona fide debt of that reporting issuer.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Issuer acquisition or redemption

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*.

2.15 (1) The dealer registration requirement does not apply in respect of a trade in a security to the issuer of the security.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Take-over bid and issuer bid

Refer to section 2.11 or Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale unless the requirements of section 2.11 of NI 45-102 are met.

2.16 (1) The dealer registration requirement does not apply in respect of a trade in a security in connection with a take-over bid or issuer bid.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Offer to acquire to security holder outside local jurisdiction

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.17 (1) The dealer registration requirement does not apply in respect of a trade by a security holder outside the local jurisdiction to a person in the local jurisdiction if the trade would have been in connection with a take-over bid or issuer bid made by that person were it not for the fact that the security holder is outside of the local jurisdiction.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Division 3: Investment Fund Exemptions

Investment fund reinvestment

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.18 (1) Subject to subsections (3), (4) and (5), the dealer registration requirement does not apply in respect of the following trades by an investment fund to a security holder of the investment fund if the trades are permitted by a plan of the investment fund:

- (a)** a trade in a security of the investment fund's own issue if dividends or distributions out of earnings, surplus, capital or other sources payable in respect of the investment fund's securities are applied to the purchase of the security that is of the same class or series as the securities to which the dividends or distributions out of earnings, surplus, capital or other sources are attributable, and
- (b)** subject to subsection (2), a trade in a security of the investment fund's own issue if the security holder makes optional cash payments to purchase the security of the investment fund that is of the same class or series of securities described in paragraph (a) that trade on a marketplace.

(2) The aggregate number of securities issued under the optional cash payment referred to in subsection (1) (b) must not exceed, in any financial year of the investment fund during which the trade takes place, 2% of the issued and outstanding securities of the class to which the plan relates as at the beginning of the financial year.

- (3) A plan that permits the trades described in subsection (1) must be available to every security holder in Canada to which the dividend or distribution is available.
- (4) No sales charge is payable on a trade described in subsection (1).
- (5) The most recent prospectus of the investment fund, if any, must set out
- (a) details of any deferred or contingent sales charge or redemption fee that is payable at the time of the redemption of the security,
 - (b) any right that the security holder has to make an election to receive cash instead of securities on the payment of a dividend or making of a distribution by the investment fund, and
 - (c) instructions on how the right referred to in paragraph (b) can be exercised.
- (6) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Additional investment in investment funds

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.

- 2.19 (1)** The dealer registration requirement does not apply in respect of a trade by an investment fund in a security of its own issue to a security holder of the issuer if
- (a) the security holder initially acquired securities of the investment fund as principal for an acquisition cost of not less than \$150 000 paid in cash at the time of the trade,
 - (b) the subsequent trade is for a security of the same class or series as the initial trade, and
 - (c) the security holder, as at the date of the subsequent trade, holds securities of the investment fund that have
 - (i) an acquisition cost of not less than \$150 000, or
 - (ii) a net asset value of not less than \$150 000.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Private investment club

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

- 2.20 (1)** The dealer registration requirement does not apply in respect of a trade in a security of an investment fund if the investment fund
- (a) has no more than 50 beneficial security holders,
 - (b) does not seek and has never sought to borrow money from the public,
 - (c) does not and has never distributed its securities to the public,
 - (d) does not pay or give any remuneration for investment management or administration advice in respect of trades in securities, except normal brokerage fees, and
 - (e) for the purpose of financing the operations of the investment fund, requires security holders to make contributions in proportion to the value of the securities held by them.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Private investment fund - loan and trust pools

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.21 (1) The dealer registration requirement does not apply in respect of a trade in a security of an investment fund if the investment fund

- (a) is administered by a trust company or trust corporation that is registered or authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada,
- (b) has no promoter or manager other than the trust company or trust corporation referred to in paragraph (a), and
- (c) co-mingles the money of different estates and trusts for the purpose of facilitating investment.

(2) Despite subsection (1), a trust company or trust corporation registered under the laws of Prince Edward Island that is not registered under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in another jurisdiction of Canada is not a trust company or trust corporation for the purpose of subsection (1)(a).

(3) Subject to subsection (2), the prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Division 4: Employee, Executive Officer, Director and Consultant Exemptions

Definitions

2.22 In this Division

“**associate**”, when used to indicate a relationship with a person, means

- (a) an issuer of which the person beneficially owns or controls, directly or indirectly, voting securities entitling the person to more than 10% of the voting rights attached to outstanding voting securities of the issuer,
- (b) any partner of the person,
- (c) any trust or estate in which the person has a substantial beneficial interest or in respect of which the person serves as trustee or executor or in a similar capacity, or
- (d) in the case of an individual, a relative of that individual, including
 - (i) a spouse of that individual, or
 - (ii) a relative of that individual's spouse

if the relative has the same home as that individual;

“**associated consultant**” means, for an issuer, a consultant of the issuer or of a related entity of the issuer if

- (a) the consultant is an associate of the issuer or of a related entity of the issuer, or
- (b) the issuer or a related entity of the issuer is an associate of the consultant;

“**compensation**” means an issuance of securities in exchange for services provided or to be provided and includes an issuance of securities for the purpose of providing an incentive;

“**consultant**” means, for an issuer, a person, other than an employee, executive officer, or director of the issuer or of a related entity of the issuer, that

- (a) is engaged to provide services to the issuer or a related entity of the issuer, other than services provided in relation to a distribution,
- (b) provides the services under a written contract with the issuer or a related entity of the issuer, and

- (c) spends or will spend a significant amount of time and attention on the affairs and business of the issuer or a related entity of the issuer

and includes, for an individual consultant, a corporation of which the individual consultant is an employee or shareholder, and a partnership of which the individual consultant is an employee or partner;

“holding entity” means a person that is controlled by an individual;

“investor relations activities” means activities or communications, by or on behalf of an issuer or a security holder of the issuer, that promote or could reasonably be expected to promote the purchase or sale of securities of the issuer, but does not include

- (a) the dissemination of information or preparation of records in the ordinary course of the business of the issuer
 - (i) to promote the sale of products or services of the issuer, or
 - (ii) to raise public awareness of the issuerthat cannot reasonably be considered to promote the purchase or sale of securities of the issuer,
- (b) activities or communications necessary to comply with the requirements of
 - (i) securities legislation of any jurisdiction of Canada,
 - (ii) the securities laws of any foreign jurisdiction governing the issuer, or
 - (iii) any exchange or market on which the issuer’s securities trade,or
- (c) activities or communications necessary to follow securities directions of any jurisdiction of Canada;

“investor relations person” means a person that is a registrant or that provides services that include investor relations activities;

“issuer bid requirements” means the requirements under securities legislation that apply to an issuer bid;

“listed issuer” means an issuer, any of the securities of which

- (a) are listed and not suspended, or the equivalent, from trading on
 - (i) the Toronto Stock Exchange,
 - (ii) TSX Venture Exchange Inc.,
 - (iii) the American Stock Exchange LLC,
 - (iv) The New York Stock Exchange, Inc.,
 - (v) the London Stock Exchange Limited, or
- (b) are quoted on the Nasdaq Stock Market;

“permitted assign” means, for a person that is an employee, executive officer, director or consultant of an issuer or of a related entity of the issuer,

- (a) a trustee, custodian, or administrator acting on behalf of, or for the benefit of the person,
- (b) a holding entity of the person,
- (c) an RRSP or a RRIF of the person,
- (d) a spouse of the person,

- (e) a trustee, custodian, or administrator acting on behalf of, or for the benefit of the spouse of the person,
- (f) a holding entity of the spouse of the person, or
- (g) an RRSP or a RRIF of the spouse of the person;

“**plan**” means a plan or program established or maintained by an issuer providing for the acquisition of securities of the issuer by persons described in section 2.24(1) [*Employee, executive officer, director and consultant*] as compensation;

“**related entity**” means, for an issuer, a person that controls or is controlled by the issuer or that is controlled by the same person that controls the issuer;

“**related person**” means, for an issuer,

- (a) a director or executive officer of the issuer or of a related entity of the issuer,
- (b) an associate of a director or executive officer of the issuer or of a related entity of the issuer, or
- (c) a permitted assign of a director or executive officer of the issuer or of a related entity of the issuer;

“**security holder approval**” means an approval for the issuance of securities of an issuer as compensation or under a plan

- (a) given by a majority of the votes cast at a meeting of security holders of the issuer other than votes attaching to securities beneficially owned by related persons to whom securities may be issued as compensation or under that plan, or
- (b) evidenced by a resolution signed by all the security holders entitled to vote at a meeting, if the issuer is not required to hold a meeting;

“**support agreement**” includes an agreement to provide assistance in the maintenance or servicing of indebtedness of the borrower and an agreement to provide consideration for the purpose of maintaining or servicing indebtedness of the borrower.

Interpretation

2.23 (1) In this Division, a person (first person) is considered to control another person (second person) if the first person, directly or indirectly, has the power to direct the management and policies of the second person by virtue of

- (a) ownership of or direction over voting securities in the second person,
- (b) a written agreement or indenture,
- (c) being the general partner or controlling the general partner of the second person, or
- (d) being a trustee of the second person.

(2) In this Division, participation in a trade is considered voluntary if

- (a) in the case of an employee or the employee’s permitted assign, the employee or the employee’s permitted assign is not induced to participate in the trade by expectation of employment or continued employment of the employee with the issuer or a related entity of the issuer,
- (b) in the case of an executive officer or the executive officer’s permitted assign, the executive officer or the executive officer’s permitted assign is not induced to participate in the trade by expectation of appointment, employment, continued appointment or continued employment of the executive officer with the issuer or a related entity of the issuer, and
- (c) in the case of a consultant or the consultant’s permitted assign, the consultant or the consultant’s permitted assign is not induced to participate in the trade by expectation of engagement of the consultant to provide services or continued engagement of the consultant to provide services to the issuer or a related entity of the issuer.

Employee, executive officer, director and consultant

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.24 (1) Subject to section 2.25 [*Unlisted reporting issuer exception*], the dealer registration requirement does not apply in respect of

- (a) a trade by an issuer in a security of its own issue, or
 - (b) a trade by a control person of an issuer in a security of the issuer or in an option to acquire a security of the issuer,
- with
- (c) an employee, executive officer, director or consultant of the issuer,
 - (d) an employee, executive officer, director or consultant of a related entity of the issuer, or
 - (e) a permitted assign of a person referred to in paragraphs (c) or (d)

if participation in the trade is voluntary.

(2) For the purposes of subsection (1), a person referred to in paragraph (c), (d) or (e) includes a trustee, custodian or administrator acting as agent for that person for the purpose of facilitating a trade.

(3) The dealer registration requirement does not apply in respect of an act by a related entity of an issuer in furtherance of a trade referred to in subsection (1).

(4) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Unlisted reporting issuer exception

2.25 (1) For the purpose of this section, “unlisted reporting issuer” means a reporting issuer in a jurisdiction of Canada that is not a listed issuer.

(2) Subject to subsection (3), section 2.24 [*Employee, executive officer, director and consultant*] does not apply to a trade to an employee or consultant of the unlisted reporting issuer who is an investor relations person of the issuer, an associated consultant of the issuer, an executive officer of the issuer, a director of the issuer, or a permitted assign of those persons if, after the trade,

- (a) the number of securities, calculated on a fully diluted basis, reserved for issuance under options granted to
 - (i) related persons, exceeds 10% of the outstanding securities of the issuer, or
 - (ii) a related person, exceeds 5% of the outstanding securities of the issuer, or
- (b) the number of securities, calculated on a fully diluted basis, issued within 12 months to
 - (i) related persons, exceeds 10% of the outstanding securities of the issuer, or
 - (ii) a related person and the associates of the related person, exceeds 5% of the outstanding securities of the issuer.

(3) Subsection (2) does not apply to a trade if the unlisted reporting issuer

- (a) obtains security holder approval, and
- (b) before obtaining security holder approval, provides security holders with the following information in sufficient detail to permit security holders to form a reasoned judgment concerning the matter:

- (i) the eligibility of employees, executive officers, directors, and consultants to be issued or granted securities as compensation or under a plan;
- (ii) the maximum number of securities that may be issued, or in the case of options, the number of securities that may be issued on exercise of the options, as compensation or under a plan;
- (iii) particulars relating to any financial assistance or support agreement to be provided to participants by the issuer or any related entity of the issuer to facilitate the purchase of securities as compensation or under a plan, including whether the assistance or support is to be provided on a full-, part-, or non-recourse basis;
- (iv) in the case of options, the maximum term and the basis for the determination of the exercise price;
- (v) particulars relating to the options or other entitlements to be granted as compensation or under a plan, including transferability;
- (vi) the number of votes attaching to securities that, to the issuer's knowledge at the time the information is provided, will not be included for the purpose of determining whether security holder approval has been obtained.

Trades among current or former employees, executive officers, directors, or consultants of non-reporting issuer

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.26 (1) Subject to subsection (2), the dealer registration requirement does not apply in respect of a trade in a security of an issuer by

- (a) a current or former employee, executive officer, director, or consultant of the issuer or related entity of the issuer, or
- (b) a permitted assign of a person referred to in paragraph (a),

to

- (c) an employee, executive officer, director, or consultant of the issuer or a related entity of the issuer, or
- (d) a permitted assign of the employee, executive officer, director, or consultant.

(2) The exemption in subsection (1) is only available if

- (a) participation in the trade is voluntary,
- (b) the issuer of the security is not a reporting issuer in any jurisdiction of Canada, and
- (c) the price of the security being traded is established by a generally applicable formula contained in a written agreement among some or all of the security holders of the issuer to which the transferee is or will become a party.

(3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Permitted transferees

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.27 (1) The dealer registration requirement does not apply in respect of a trade in a security of an issuer acquired by a person described in section 2.24(1) [*Employee, executive officer, director and consultant*] under a plan of the issuer if the trade

- (a) is between

- (i) a person who is an employee, executive officer, director or consultant of the issuer or a related entity of the issuer, and
- (ii) the permitted assign of that person,

or

- (b) is between permitted assigns of that person.

(2) The dealer registration requirement does not apply in respect of a trade in a security of an issuer by a trustee, custodian or administrator acting on behalf, or for the benefit, of employees, executive officers, directors or consultants of the issuer or a related entity of the issuer, to

- (a) an employee, executive officer, director or consultant of the issuer or a related entity of the issuer, or
- (b) a permitted assign of a person referred to in paragraph (a),

if the security was acquired from

- (c) an employee, executive officer, director or consultant of the issuer or a related entity of the issuer, or
- (d) the permitted assign of a person referred to in paragraph (c).

(3) For the purposes of the exemption in subsections (1) and (2) (c) and (d), all references to employee, executive officer, director, or consultant include a former employee, executive officer, director, or consultant.

(4) The prospectus requirement does not apply to a distribution in the circumstances referred to in subsection (1) or (2), if the security was acquired

- (a) by a person described in section 2.24(1) [*Employee, executive officer, director, and consultant*] under any exemption that makes the resale of the security subject to section 2.6 of NI 45-102, or
- (b) in Manitoba, and the Yukon, by a person described in section 2.24(1) [*Employee, executive officer, director, and consultant*].

Resale - non-reporting issuer

2.28 The dealer registration requirement does not apply in respect of the resale of a security that was acquired under this Division or by a person described in section 2.24(1) [*Employee, executive officer, director, and consultant*] if the conditions in section 2.14 of NI 45-102 are satisfied.

Issuer bid

2.29 The issuer bid requirements do not apply to the acquisition by an issuer of a security of its own issue that was acquired by a person described in section 2.24(1) [*Employee, executive officer, director, and consultant*] if

- (a) the purpose of the acquisition by the issuer is to
 - (i) fulfill withholding tax obligations, or
 - (ii) provide payment of the exercise price of a stock option,
- (b) the acquisition by the issuer is made in accordance with the terms of a plan that specifies how the value of the securities acquired by the issuer is determined,
- (c) in the case of securities acquired as payment of the exercise price of a stock option, the date of exercise of the option is chosen by the option holder, and
- (d) the aggregate number of securities acquired by the issuer within a 12 month period under this section does not exceed 5% of the outstanding securities of the class or series at the beginning of the period.

Division 5: Miscellaneous Exemptions**Isolated trade by issuer**

Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period.

2.30 (1) The dealer registration requirement does not apply in respect of a trade by an issuer in a security of its own issue if the trade is an isolated trade and is not made

- (a) in the course of continued and successive transactions of a like nature, and
- (b) by a person whose usual business is trading in securities.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Dividends and distributions

Refer to Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.31 (1) The dealer registration requirement does not apply in respect of a trade by an issuer in a security of its own issue to a security holder of the issuer as a dividend or distribution out of earnings, surplus, capital or other sources.

(2) The dealer registration requirement does not apply in respect of a trade by an issuer to a security holder of the issuer in a security of a reporting issuer as an in specie dividend or distribution out of earnings or surplus.

(3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1) or (2).

Trade to lender by control person for collateral

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. Trades by a lender, pledgee, mortgagee or other encumbrancer to realize on a debt are regulated by section 2.8 of NI 45-102.

2.32 (1) The dealer registration requirement does not apply in respect of a trade in a security of an issuer to a lender, pledgee, mortgagee or other encumbrancer from the holdings of a control person of the issuer for the purpose of giving collateral for a bona fide debt of the control person.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Acting as underwriter

Refer to Appendix F of NI 45-102 *Resale of Securities*. First trades are a distribution.

2.33 (1) The dealer registration requirement does not apply in respect of a trade in a security between a person and a purchaser acting as an underwriter or between or among persons acting as underwriters.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Guaranteed debt

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

2.34 (1) In this section

- (a) **“Asian Development Bank”** means a bank established pursuant to a resolution adopted by the United Nations Economic and Social Commission for Asia and the Pacific in 1965;
 - (b) **“Inter-American Development Bank”** means a bank established by the Agreement establishing the Inter-American Development Bank which became effective December 30, 1959, as amended from time to time, of which Canada is a member;
 - (c) **“International Bank for Reconstruction and Development”** means the bank established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods and Related Agreements Act* (Canada);
 - (d) **“International Finance Corporation”** means the corporation established by Articles of Agreement approved by the *Bretton Woods and Related Agreements Act* (Canada);
 - (e) **“permitted supranational agency”** means the Asian Development Bank, the International Bank for Reconstruction and Development, the Inter-American Development Bank and the International Finance Corporation.
- (2) The dealer registration requirement does not apply in respect of a trade in a debt security
- (a) of or guaranteed by the Government of Canada or the government of a jurisdiction of Canada,
 - (b) of or guaranteed by a government of a foreign jurisdiction if the debt security has an approved credit rating from an approved credit rating organization,
 - (c) of or guaranteed by any municipal corporation in Canada, or secured by or payable out of rates or taxes levied under the law of a jurisdiction of Canada on property in the jurisdiction and to be collected by or through the municipality in which the property is situated,
 - (d) of or guaranteed by a Canadian financial institution or a Schedule III bank, other than debt securities that are subordinate in right of payment to deposits held by the issuer or guarantor of those debt securities,
 - (e) in Ontario, of any school board in Ontario or of a corporation established under section 248(1) of the *Education Act* (Ontario),
 - (f) of the Comité de gestion de la taxe scolaire de l’île de Montréal, or
 - (g) of or guaranteed by a permitted supranational agency if
 - (i) the debt securities are payable in the currency of Canada or the United States of America, and
 - (ii) with respect to those securities, all documents or other information required by the regulator, or in British Columbia, Ontario and in Québec, the securities regulatory authority, are filed with the regulator or securities regulatory authority, as the case may be.
- (3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (2).

Short-term debt

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

2.35 (1) The dealer registration requirement does not apply in respect of a trade in a negotiable promissory note or commercial paper maturing not more than one year from the date of issue, if the note or commercial paper traded

- (a) is not convertible or exchangeable into or accompanied by a right to purchase another security other than a security described in this section, and
- (b) has an approved credit rating from an approved credit rating organization.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Mortgages

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

2.36 (1) In this section, “syndicated mortgage” means a mortgage in which 2 or more persons participate, directly or indirectly, as a lender in a debt obligation that is secured by a mortgage.

(2) Subject to subsection (4), the dealer registration requirement does not apply in respect of a trade in a mortgage on real property in a jurisdiction by a person who is registered or licensed, or exempted from registration or licensing, under mortgage brokerage or mortgage dealer legislation of that jurisdiction.

(3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (2).

(4) In British Columbia, Manitoba, Québec and Saskatchewan, subsections (2) and (3) do not apply to a syndicated mortgage.

Personal Property Security Act

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

2.37 (1) The dealer registration requirement does not apply in respect of a trade in a security evidencing indebtedness secured by or under a security agreement provided for under personal property security legislation of a jurisdiction providing for the acquisition of personal property if the security is not offered for sale to an individual.

The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Not for profit issuer

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

2.38 (1) The dealer registration requirement does not apply in respect of a trade by an issuer that is organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit in a security of its own issue if

- (a) no part of the net earnings benefit any security holder of the issuer, and
- (b) no commission or other remuneration is paid in connection with the sale of the security.

(2) Subsection (1) does not apply to a trade in British Columbia unless the issuer has delivered an information statement in the form prescribed by the regulator in British Columbia to the purchaser before the purchaser agrees in writing to purchase the security.

(3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Variable insurance contract

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

2.39 (1) In this section,

- (a) “contract” “group insurance”, “insurance company”, “life insurance” and “policy” have the respective meanings assigned to them in the legislation for a jurisdiction referenced in Appendix A.

- (b) “variable insurance contract” means a contract of life insurance under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets.

(2) The dealer registration requirement does not apply in respect of a trade in a variable insurance contract by an insurance company if the variable insurance contract is

- (a) a contract of group insurance,
- (b) a whole life insurance contract providing for the payment at maturity of an amount not less than 75% of the premium paid up to age 75 years for a benefit payable at maturity,
- (c) an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds, or
- (d) a variable life annuity.

(3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (2).

RRSP/RRIF

These securities will be cited in Appendix D and Appendix E of NI 45-102 *Resale of Securities*. The resale restriction is determined by the exemption under which the security was first acquired.

2.40 (1) The dealer registration requirement does not apply in respect of a trade in a security between

- (a) an individual or an associate of the individual, and
- (b) an RRSP or RRIF
- (i) established for or by the individual, or
- (ii) under which the individual is a beneficiary.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Schedule III banks and cooperative associations - evidence of deposit

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

2.41 (1) The dealer registration requirement does not apply in respect of a trade in an evidence of deposit issued by a Schedule III bank or an association governed by the *Cooperative Credit Associations Act* (Canada).

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Conversion, exchange, or exercise

Subsection (1)(a) will be cited in Appendix D and Appendix E of NI 45-102 *Resale of Securities*. Resale restriction is determined by the exemption under which the previously issued security was first acquired.

Subsection (1)(b) will be cited in Appendix E of NI 45-102 *Resale of Securities*. First trades are subject to a seasoning period on resale.

2.42 (1) The dealer registration requirement does not apply in respect of a trade by an issuer if

- (a) the issuer trades a security of its own issue to a security holder of the issuer in accordance with the terms and conditions of a security previously issued by that issuer, or

- (b) subject to subsection (2), the issuer trades a security of a reporting issuer held by it to a security holder of the issuer in accordance with the terms and conditions of a security previously issued by that issuer.
- (2) For a trade under subsection (1)(b),
- (a) the issuer must give the regulator or, in Québec, the securities regulatory authority, prior written notice stating the date, amount, nature and conditions of the trade, and
- (b) except in British Columbia, the regulator or, in Québec the securities regulatory authority, must not object in writing to the trade within 10 days of receipt of the notice referred to in paragraph (a) or, if the regulator or securities regulatory authority objects to the trade, the issuer must deliver to the regulator or securities regulatory authority information relating to the securities that is satisfactory to and accepted by the regulator or securities regulatory authority.
- (3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Removal of exemptions – market intermediaries

2.43 (1) Subject to subsection (2), in Ontario and Newfoundland and Labrador, the exemptions from the dealer registration requirement under the following sections are not available for a market intermediary except for a trade in a security with a registered dealer that is an affiliate of the market intermediary:

- (a) section 2.1 [*Rights offering*];
- (b) section 2.3 [*Accredited investor*];
- (c) section 2.4 [*Private issuer*];
- (d) section 2.7 [*Founder, control person and family - Ontario*];
- (e) section 2.10 [*Minimum amount investment*];
- (f) section 2.11 [*Business combination and reorganization*];
- (g) section 2.12 [*Asset acquisition*];
- (h) section 2.14 [*Securities for debt*];
- (i) section 2.15 [*Issuer acquisition or redemption*];
- (j) section 2.16 [*Take-over bid and issuer bid*];
- (k) section 2.17 [*Offer to acquire to security holder outside local jurisdiction*];
- (l) section 2.19 [*Additional investment in investment funds*];
- (m) section 2.21 [*Private investment fund - loan and trust pools*];
- (n) section 2.30 [*Isolated trade by issuer*];
- (o) section 2.31 [*Dividends and distributions*];
- (p) section 2.33 [*Acting as underwriter*];
- (q) section 2.34 [*Guaranteed debt*];
- (r) section 2.35 [*Short-term debt*];
- (s) section 2.39 [*Variable insurance contract*];
- (t) section 2.42 [*Conversion, exchange, or exercise*].

(2) Subsection (1) does not apply to a trade in a security by a lawyer or accountant if the trade is incidental to the principal business of that lawyer or accountant.

PART 3: REGISTRATION ONLY EXEMPTIONS

Registered dealer

3.1 The dealer registration requirement does not apply in respect of a trade by a person acting solely through an agent who is a registered dealer.

Exchange contract

3.2 (1) In Alberta, British Columbia, Québec and Saskatchewan, the dealer registration requirement does not apply in respect of the following trades in exchange contracts:

- (a) a trade by a person acting solely through a registered dealer;
- (b) subject to subsection (2) and (3), a trade resulting from an unsolicited order placed with an individual who is not a resident of and does not carry on business in the jurisdiction;
- (c) a trade that may occasionally be transacted by employees of a registered dealer if the employees
 - (i) do not usually trade in exchange contracts, and
 - (ii) have been designated by the regulator or, in Québec, the securities regulatory authority, as “non-trading” employees, either individually or as a class.

(2) An individual referred to in subsection (1)(b) must not

- (a) advertise or engage in promotional activity that is directed to persons in the jurisdiction during the 6 months preceding the trade, and
- (b) pay any commission or finder’s fee to any person in the jurisdiction in connection with the trade.

(3) Subsection (1)(b) does not apply in Saskatchewan.

Isolated trade

3.3 The dealer registration requirement does not apply in respect of a trade in a security by a person if the trade is an isolated trade and is not made

- (a) by the issuer of the security,
- (b) in the course of continued and successive transactions of a like nature, and
- (c) by a person whose usual business is trading in securities.

Estates, bankruptcies, and liquidations

3.4 The dealer registration requirement does not apply in respect of a trade by a person acting under the authority of

- (a) a direction, order or judgment of a court,
- (b) a will, or
- (c) any law of a jurisdiction

in the course of enforcing legal obligations or administering the affairs of another person.

Employees of registered dealer

3.5 The dealer registration requirement does not apply in respect of a trade by an employee of a registered dealer in a security if the employee does not usually trade in securities and has been designated by the regulator or, in Québec, the securities regulatory authority, as a “non-trading” employee, either individually or as a class.

Small security holder selling and purchase arrangements

3.6(1) For the purposes of this section

“exchange” means

- (a) the Toronto Stock Exchange,
- (b) the TSX Venture Exchange Inc., or
- (c) an exchange that
 - (i) has a policy that is substantially similar to the policy of the Toronto Stock Exchange, and
 - (ii) is designated by the securities regulatory authority for the purpose of this section;

“policy” means

- (a) in the case of the Toronto Stock Exchange, *Policy Statement on Small Shareholder Selling and Purchase Arrangements* as amended from time to time,
- (b) in the case of the TSX Venture Exchange Inc., *Policy 5.7 Small Shareholder Selling and Purchase Arrangements* as amended from time to time, or
- (c) in the case of an exchange referred to in paragraph (c) of the definition of “exchange”, the rule, policy or other similar instrument of the exchange on small shareholder selling and purchase arrangements and every successor to that rule, policy or other similar instrument published by that exchange as amended from time to time.

(2) The dealer registration requirement does not apply in respect of a trade by an issuer or its agent, in securities of the issuer that are listed on an exchange if

- (a) the trade is an act in furtherance of participation by the holders of the securities in an arrangement that is in accordance with the policy of that exchange,
- (b) the issuer and its agent do not provide advice to a security holder about the security holder’s participation in the arrangement referred to in paragraph (a), other than a description of the arrangement’s operation, procedures for participation in the arrangement, or both,
- (c) the trade is made in accordance with the policy of that exchange, without resort to an exemption from, or variation of, the significant subject matter of the policy, and
- (d) at the time of the trade after giving effect to a purchase under the arrangement, the market value of the maximum number of securities that a security holder is permitted to hold in order to be eligible to participate in the arrangement is not more than \$25 000.

(3) For the purposes of subsection (2)(c), an exemption from, or variation of, the maximum number of securities that a security holder is permitted to hold under a policy in order to be eligible to participate in the arrangement provided for in the policy is not an exemption from, or variation of, the significant subject matter of the policy.

Adviser

3.7 The adviser registration requirement does not apply to

- (a) the following persons if performance of services as an adviser are incidental to their principal business or occupation:

- (i) a Canadian financial institution and a Schedule III bank;
- (ii) the Business Development Bank of Canada continued under the *Business Development Bank of Canada Act* (Canada);
- (iii) a société d'entraide économique or the Fédération des sociétés d'entraide économique du Québec governed by the Act respecting the sociétés d'entraide économique (Québec);
- (iv) a lawyer, accountant, engineer or teacher, or, in Québec, a notary, if that individual
 - (A) does not recommend securities of an issuer in which that individual has an interest, and
 - (B) does not receive remuneration for the performance of services as an adviser separate from remuneration received by that individual for practicing in their professions;
- (v) a registered dealer or any partner, officer or employee of a registered dealer;

or

- (b) a publisher or a writer for a newspaper, news magazine or business or financial journal or periodical, however delivered, that is of general and regular paid circulation, and only available to subscribers for value, or purchasers of it, if the publisher or writer
 - (i) gives advice only through the written publication,
 - (ii) has no interest either directly or indirectly in any of the securities on which that individual gives advice, and
 - (iii) receives no commission or other consideration for giving the advice other than for acting in that person's capacity as a publisher or writer.

Investment dealer acting as portfolio manager

3.8 (1) Subject to subsection (2) and, in Ontario, subsections (2) and (3), the adviser registration requirement does not apply to a registered investment dealer who manages the investment portfolios of its clients through discretionary authority granted by the clients if

- (a) the investment dealer follows the rules, policies or other similar instruments made by the Investment Dealers Association of Canada for portfolio managers, and
- (b) in British Columbia, those rules, policies or other similar instruments
 - (i) have been filed with the securities regulatory authority before they take effect, and
 - (ii) have not been objected to in writing by the securities regulatory authority within 30 days after filing.

(2) Any partner, director, officer or employee of a registered investment dealer referred to in subsection (1) who manages an investment portfolio for the registered investment dealer must be registered under the securities legislation of the jurisdiction to trade in securities.

(3) In Ontario, the registered investment dealer must provide the securities regulatory authority with

- (a) the names of any partner, director, officer or employee of the investment dealer designated and approved by the Investment Dealers Association of Canada pursuant to the rules, policies or other similar instruments referred to in subsection (1) to make investment decisions on behalf of or to offer advice to clients, and
- (b) any changes made from time to time in the designation and approval of any partner, director, officer or employee referred to in paragraph (a).

Removal of exemptions – market intermediaries

3.9 (1) Subject to subsection (2), in Ontario and Newfoundland and Labrador, the exemptions from the dealer registration requirements under the following sections are not available for a market intermediary except for a trade in a security with a registered dealer that is an affiliate of the market intermediary:

- (a) section 3.1 [*Registered dealer*];
- (b) section 3.3 [*Isolated trade*].

(2) Subsection (1) does not apply in respect of a trade in a security by a lawyer or accountant if the trade is incidental to the principal business of that lawyer or accountant.

PART 4: CONTROL BLOCK DISTRIBUTIONS**Control block distributions**

4.1 (1) In this Part

“**control block distribution**” means a trade to which the provisions of securities legislation listed in Appendix B apply;

“**NI 62-103**” means National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues*.

(2) Terms defined or interpreted in NI 62-103 and used in this Part have the same meaning as is assigned to them in that Instrument.

(3) The prospectus requirement does not apply to a control block distribution by an eligible institutional investor of a reporting issuer’s securities if

- (a) the eligible institutional investor
 - (i) has filed the reports required under the early warning requirements or files the reports required under Part 4 of NI 62-103,
 - (ii) does not have knowledge of any material fact or material change with respect to the reporting issuer that has not been generally disclosed,
 - (iii) does not receive in the ordinary course of its business and investment activities knowledge of any material fact or material change with respect to the reporting issuer that has not been generally disclosed, and
 - (iv) either alone or together with any joint actors, does not possess effective control of the reporting issuer,
- (b) there are no directors or officers of the reporting issuer who were, or could reasonably be seen to have been, selected, nominated or designated by the eligible institutional investor or any joint actor,
- (c) the control block distribution is made in the ordinary course of business or investment activity of the eligible institutional investor,
- (d) securities legislation would not require the securities to be held for a specified period of time if the trade was not a control block distribution,
- (e) no unusual effort is made to prepare the market or to create a demand for the securities, and
- (f) no extraordinary commission or consideration is paid in respect of the control block distribution.

(4) An eligible institutional investor that makes a distribution in reliance on subsection (3) must file a letter within 10 days after the distribution that describes the date and size of the distribution, the market on which it was made and the price at which the securities being distributed were sold.

Trades by a control person after a take-over bid

4.2 (1) Subject to subsection (2), the prospectus requirement does not apply to a trade in a security from the holdings of a control person acquired under a take-over bid for which a take-over bid circular was issued and filed if

- (a) the issuer whose securities are being acquired under the take-over bid has been a reporting issuer for at least 4 months at the date of the take-over bid,
- (b) the intention to make the trade is disclosed in the take-over bid circular issued in respect of the take-over bid,
- (c) the trade is made within the period beginning on the date of the expiry of the bid and ending 20 days after that date,
- (d) a notice of intention to distribute securities in Form 45-102F1 *Notice of Intention to Distribute Securities under Section 2.8 of NI 45-102 Resale of Securities* under NI 45-102 is filed before the trade,
- (e) an insider report of the trade in Form 55-102F2 *Insider Report* or Form 55-102F6 *Insider Report*, as applicable, under National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)* is filed within 3 days after the completion of the trade,
- (f) no unusual effort is made to prepare the market or to create a demand for the security, and
- (g) no extraordinary commission or consideration is paid in respect of the trade.

(2) A control person referred to in subsection (1) is not required to comply with subsection (1) (b) if

- (a) another person makes a competing take-over bid for securities of the issuer for which the take-over bid circular is issued, and
- (b) the control person sells those securities to that other person for a consideration that is not greater than the consideration offered by that other person under its take-over bid.

PART 5: OFFERINGS BY TSX VENTURE EXCHANGE OFFERING DOCUMENT**Application and interpretation**

5.1 (1) This Part does not apply in Ontario.

(2) In this Part

“**exchange policy**” means Exchange Policy 4.6 - *Public Offering by Short Form Offering Document* and Exchange Form 4H - *Short Form Offering Document*, of the TSX Venture Exchange as amended from time to time;

“**gross proceeds**” means the gross proceeds that are required to be paid to the issuer for listed securities distributed under a TSX Venture exchange offering document;

“**listed security**” means a security of a class listed on the TSX Venture Exchange;

“**NI 43-101**” means National Instrument 43-101 *Standards of Disclosure for Mineral Projects*;

“**NI 51-101**” means National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*;

“**prior exchange offering**” means a distribution of securities by an issuer under a TSX Venture exchange offering document that was completed during the 12-month period immediately preceding the date of the TSX Venture exchange offering document;

“**subsequently triggered report**” means a material change report that must be filed no later than 10 days after a material change under securities legislation as a result of a material change that occurs after the date the TSX Venture exchange offering document is certified but before a purchaser enters into an agreement of purchase and sale;

“**TSX Venture Exchange**” means the TSX Venture Exchange Inc.;

“**TSX Venture exchange offering document**” means an offering document that complies with the exchange policy;

“**warrant**” means a warrant of an issuer distributed under a TSX Venture exchange offering document that entitles the holder to acquire a listed security or a portion of a listed security of the same issuer.

TSX Venture Exchange offering

Refer to Appendix D of NI 45-102 *Resale of Securities*. These securities will be free trading unless

- (i) the purchaser who acquires the security was an insider, a promoter of the issuer, an underwriter of the issuer, or a member of the underwriter’s professional group at the time the security was acquired, or**
- (ii) any other purchaser who purchases securities in excess of \$40 000.**

The first trade by purchasers under (i) and (ii) are subject to a restricted period.

- 5.2 The prospectus requirement does not apply to a distribution by an issuer in a security of its own issue if
- (a) the issuer has filed an AIF in a jurisdiction of Canada,
 - (b) the issuer is a SEDAR filer,
 - (c) the issuer is a reporting issuer in a jurisdiction of Canada and has filed with the securities regulatory authority of that jurisdiction
 - (i) a TSX Venture exchange offering document,
 - (ii) all documents required to be filed under the securities legislation of that jurisdiction, and
 - (iii) any subsequently triggered report,
 - (d) the distribution is of listed securities or units consisting of listed securities and warrants,
 - (e) the issuer has filed with the TSX Venture Exchange a TSX Venture exchange offering document in respect of the distribution, that
 - (i) incorporates by reference the following documents of the issuer filed with the securities regulatory authority in any jurisdiction of Canada:
 - (A) the AIF,
 - (B) the most recent annual financial statements and, for financial years starting on or after January 1, 2004, the MD&A relating to those financial statements,
 - (C) all unaudited interim financial statements and, for financial years starting on or after January 1, 2004, the MD&A relating to those financial statements, filed after the date of the AIF but before or on the date of the TSX Venture exchange offering document,
 - (D) all material change reports filed after the date of the AIF but before or on the date of the TSX Venture exchange offering document, and
 - (E) all documents required under NI 43-101 and NI 51-101 filed on or after the date of the AIF but before or on the date of the TSX Venture exchange offering document,
 - (ii) deems any subsequently triggered report required to be delivered to a purchaser under this Part to be incorporated by reference,
 - (iii) grants to purchasers contractual rights of action in the event of a misrepresentation, as required by the exchange policy,
 - (iv) grants to purchasers contractual rights of withdrawal, as required by the exchange policy, and
 - (v) contains all the certificates required by the exchange policy,
 - (f) the distribution is conducted in accordance with the exchange policy,

- (g) the issuer or the underwriter delivers the TSX Venture exchange offering document and any subsequently triggered report to each purchaser
 - (i) before the issuer or the underwriter enters into the written confirmation of purchase and sale resulting from an order or subscription for securities being distributed under the TSX Venture exchange offering document, or
 - (ii) not later than midnight on the 2nd business day after the agreement of purchase and sale is entered into,
- (h) the listed securities issued under the TSX Venture exchange offering document, when added to the listed securities of the same class issued under prior exchange offerings do not exceed,
 - (i) the number of securities of the same class outstanding immediately before the issuer distributes securities of the same class under the TSX Venture exchange offering document, or
 - (ii) the number of securities of the same class outstanding immediately before a prior exchange offering,
- (i) the gross proceeds under the TSX Venture exchange offering document, when added to the gross proceeds from prior exchange offerings do not exceed \$2 million,
- (j) no purchaser acquires more than 20% of the securities distributed under the TSX Venture exchange offering document, and
- (k) no more than 50% of the securities distributed under the TSX Venture exchange offering document are subject to section 2.5 of NI 45-102.

Underwriter obligations

5.3 An underwriter that qualifies as a “sponsor” under TSX Venture Exchange Policy 2.2 - *Sponsorship and Sponsorship Requirements* as amended from time to time must sign the TSX Venture exchange offering document and comply with TSX Venture Exchange Appendix 4A - *Due Diligence Report* in connection with the distribution.

PART 6: REPORTING REQUIREMENTS

Report of exempt distribution

6.1 Subject to section 6.2 [*When report not required*], if an issuer distributes a security of its own issue, the issuer must file a report in the local jurisdiction in which the distribution takes place on or before the 10th day after the distribution under the following exemptions:

- (a) section 2.3(2) [*Accredited investor*];
- (b) section 2.5(2) [*Family, friends and business associates*];
- (c) section 2.9 (3) and (4) [*Offering memorandum for Alberta, B.C., Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador, Northwest Territories, Nunavut, Prince Edward Island, Québec, and Saskatchewan*];
- (d) section 2.10 (2) [*Minimum amount investment*];
- (e) section 2.12 (2) [*Asset acquisition*];
- (f) section 2.13(2) [*Petroleum, natural gas and mining properties*];
- (g) section 2.14 (2) [*Securities for debt*];
- (h) section 2.19 (2) [*Additional investment in investment funds*];
- (i) section 2.30(2) [*Isolated trade by issuer*];
- (j) section 5.2 [*TSX Venture Exchange offering*].

When report not required

6.2 (1) An issuer is not required to file a report under section 6.1(a) [*Report of exempt distribution*] for a distribution of a debt security of its own issue or, concurrently with the distribution of the debt security, an equity security of its own issue, to a Canadian financial institution or a Schedule III bank.

(2) An investment fund is not required to file a report under section 6.1 [*Report of exempt distribution*] for a distribution under sections 2.3 (2) [*Accredited investor*], 2.10 (2) [*Minimum amount*] and 2.19 (2) [*Additional investment in investment funds*] if the investment fund files the report not later than 30 days after the financial year-end of the investment fund.

Required form of report of exempt distribution

6.3 (1) Except in British Columbia, the required form of report under section 6.1 [*Report of exempt distribution*] is Form 45-106F1.

(2) Except in Manitoba, an issuer that makes a distribution under an exemption from a prospectus requirement not provided for in this Instrument is exempt from the requirements in securities legislation to file a report of exempt trade or exempt distribution in the required form, if the issuer files a report of exempt distribution in accordance with Form 45-106F1.

Required form of offering memorandum

6.4 (1) The required form of offering memorandum under section 2.9 [*Offering memorandum*] is Form 45-106F2.

(2) Despite subsection (1), a qualifying issuer may prepare an offering memorandum in accordance with Form 45-106F3.

(3) Subsections (1) and (2) do not apply in British Columbia.

Required form of risk acknowledgement

6.5 (1) Except in British Columbia, the required form of risk acknowledgement under section 2.9(14) [*Offering memorandum*] is Form 45-106F4.

(2) In Saskatchewan, the required form of risk acknowledgement under section 2.6(1) [*Family, friends and business associates*] is Form 45-106F5.

Required forms in British Columbia

6.6 In British Columbia, the required forms are the forms specified by the regulator under section 182 of the *Securities Act* (British Columbia).

PART 7: EXEMPTION**Exemption**

7.1 (1) Subject to subsection (2), the regulator or the 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) In Ontario, only the regulator may grant an exemption and only from Part 6, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(3) In Québec, the exemption in this section is granted pursuant to section 263 of the *Securities Act* (R.S.Q., c.V-V-1.1).

PART 8: TRANSITIONAL, COMING INTO FORCE**Additional investment - investment funds**

8.1 (1) The dealer registration requirement does not apply in respect of a trade by an investment fund in a security of its own issue to a purchaser that initially acquired the security as principal before this Instrument came into force if

- (a) the security was initially acquired under any of the following provisions:

- (i) in Alberta, sections 86(e) and 131(1)(d) of the *Securities Act* (Alberta) as they existed prior to their repeal by sections 9(a) and 13 of the *Securities Amendment Act* (Alberta), 2003 SA c.32 and sections 66.2 and 122.2 of the *Alberta Securities Commission Rules (General)*;
 - (ii) in British Columbia, sections 45(2) (5) and (22), and 74(2) (4) and (19) of the *Securities Act* (British Columbia),
 - (iii) in Manitoba, sections 19(3) and 58(1)(a) of the *Securities Act* (Manitoba) and section 90 of the *Securities Regulation* MR 491/88R;
 - (iv) in New Brunswick, section 2.8 of Local Rule 45-501 *Prospectus and Registration Exemptions*;
 - (v) in Newfoundland and Labrador, sections 36(1)(e) and 73(1)(d) of the *Securities Act* (Newfoundland and Labrador);
 - (vi) in Nova Scotia, sections 41(1)(e) and 77(1)(d) of the *Securities Act* (Nova Scotia);
 - (vii) in Northwest Territories, section 3(c) and (z) of Blanket Order No. 1;
 - (viii) in Nunavut, section 3(c) and (z) of Blanket Order No. 1;
 - (ix) in Ontario, sections 35(1)5 and 72(1)(d) of the *Securities Act* (Ontario) and section 2.12 of Ontario Securities Commission Rule 45-501 *Exempt Distributions*;
 - (x) in Prince Edward Island, section 2(3)(d) of the *Securities Act* (Prince Edward Island) and Prince Edward Island Local Rule 45-512 *-Exempt Distributions - Exemption for Purchase of Mutual Fund Securities*;
 - (xi) in Québec, section 51 and 155.1(2) of the *Securities Act* (Québec);
 - (xii) in Saskatchewan, sections 39(1)(e) and 81(1)(d) of the *The Securities Act, 1988* (Saskatchewan).
- (b) the trade is for a security of the same class or series as the initial trade, and
- (c) the security holder, as at the date of the trade, holds securities of the investment fund that have
- (i) an acquisition cost of not less than the minimum amount prescribed by securities legislation referred to in paragraph (a) under which the initial trade was conducted, or
 - (ii) a net asset value of not less than the minimum amount prescribed by securities legislation referred to in paragraph (a) under which the initial trade was conducted.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

Definition of “accredited investor” - investment fund

8.2 An investment fund that distributed its securities to persons pursuant to any of the following provisions is an investment fund under paragraph (n)(ii) of the definition of “accredited investor”:

- (a) in Alberta, sections 86(e) and 131(1)(d) of the *Securities Act* (Alberta) as they existed prior to their repeal by sections 9(a) and 13 of the *Securities Amendment Act* (Alberta), 2003 SA c.32 and sections 66.2 and 122.2 of the *Alberta Securities Commission Rules (General)*;
- (b) in British Columbia, sections 45(2) (5) and (22), and 74(2) (4) and (19) of the *Securities Act* (British Columbia),
- (c) in Manitoba, sections 19(3) and 58(1)(a) of the *Securities Act* (Manitoba) and section 90 of the *Securities Regulation* MR 491/88R;
- (d) in New Brunswick, section 2.8 of Local Rule 45-501 *Prospectus and Registration Exemptions*;
- (e) in Newfoundland and Labrador, sections 36(1)(e) and 73(1)(d) of the *Securities Act* (Newfoundland and Labrador);

- (f) in Nova Scotia, sections 41(1)(e) and 77(1)(d) of the *Securities Act* (Nova Scotia);
- (g) in Northwest Territories, section 3(c) and (z) of Blanket Order No. 2;
- (h) in Nunavut, section 3(c) and (z) of Blanket Order No. 3;
- (i) in Ontario, sections 35(1)5 and 72(1)(d) of the *Securities Act* (Ontario) and section 2.12 of Ontario Securities Commission Rule 45-501 *Exempt Distributions*;
- (j) in Prince Edward Island, section 2(3)(d) of the *Securities Act* (Prince Edward Island) and Prince Edward Island Local Rule 45-512 *Exempt Distributions - Exemption for Purchase of Mutual Fund Securities*;
- (k) in Québec, section 51 and 155.1(2) of the *Securities Act* (Québec);
- (l) in Saskatchewan, sections 39(1)(e) and 81(1)(d) of the *The Securities Act, 1988* (Saskatchewan).

Transition - MI 45-103/MI 45-105/ OSC Rule 45-501

8.3 (1) In this section,

“MI 45-103” means Multilateral Instrument 45-103 *Capital Raising Exemptions* that came into force on June 6, 2003;

“MI 45-105” means Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* that came into force on August 15, 2003;

“2004 OSC Rule 45-501” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004.

(2) The dealer registration requirement or the prospectus requirement does not apply in respect of a trade in a security if the trade complies with and is completed in accordance with the requirements of MI 45-103, MI 45-105, or 2004 OSC Rule 45-501 by November 30, 2005.

Transition - Closely-held issuer

8.4 (1) In this section,

“2001 OSC Rule 45-501” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on November 30, 2001;

“2004 OSC Rule 45-501” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

“closely-held issuer” has the same meaning as in 2004 OSC Rule 45-501;

(2) The dealer registration requirement does not apply in respect of a trade in a security that was previously distributed by a closely-held issuer under section 2.1 of 2001 OSC Rule 45-501 or under section 2.1 of 2004 OSC Rule 45-501 to a person who purchases the security as principal and is

- (a) a director, officer, employee, founder or control person of the issuer,
- (b) a spouse, parent, grandparent, brother, sister or child of a director, executive officer, founder or control person of the issuer,
- (c) a parent, grandparent, brother, sister or child of the spouse of a director, executive officer, founder or control person of the issuer,
- (d) a close personal friend of a director, executive officer, founder or control person of the issuer,
- (e) a close business associate of a director, executive officer, founder or control person of the issuer,
- (f) a spouse, parent, grandparent, brother, sister or child of the selling security holder or of the selling security holder's spouse,

- (g) a security holder of the issuer,
 - (h) an accredited investor,
 - (l) a person of which a majority of the voting securities are beneficially owned by, or a majority of the directors are, persons described in paragraphs (a) to (h),
 - (j) a trust or estate of which all of the beneficiaries or a majority of the trustees or executors are persons described in paragraphs (a) to (h), or
 - (k) a person that is not the public.
- (3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (2).

Coming into force

8.5 This Instrument comes into force on September 14, 2005.

APPENDIX A

TO

NATIONAL INSTRUMENT 45-106 PROSPECTUS AND REGISTRATION EXEMPTIONS

VARIABLE INSURANCE CONTRACT EXEMPTION
(section 2.39)

JURISDICTION	LEGISLATION REFERENCE
ALBERTA	<p>“contract of insurance”, “group insurance”, “life insurance”, and “policy” have the respective meanings assigned to them under the <i>Insurance Act</i> (Alberta) and the regulations under that Act.</p> <p>“insurance company” means an insurer as defined in the <i>Insurance Act</i> (Alberta) that is licensed under that Act.</p>
BRITISH COLUMBIA	<p>“contract”, “group insurance”, “life insurance”, and “policy” have the respective meanings assigned to them under the <i>Insurance Act</i> (British Columbia) and the regulations under that Act.</p> <p>“insurance company” means an insurance company, or an extraprovincial insurance corporation, authorized to carry on insurance business under the <i>Financial Institutions Act</i> (British Columbia).</p>
MANITOBA	<p>“contract of insurance”, “group insurance”, “life insurance”, and “policy” have the respective meanings assigned to them under the <i>Insurance Act</i> (Manitoba) and the regulations under that Act.</p> <p>“insurance company” means an insurer as defined in the <i>Insurance Act</i> (Manitoba) that is licensed under that Act.</p>
NEW BRUNSWICK	<p>“contract of insurance”, “group insurance”, “life insurance”, and “policy” have the respective meanings assigned to them under the <i>Insurance Act</i> (New Brunswick) and the regulations under that Act.</p> <p>“insurance company” means an insurer as defined in the <i>Insurance Act</i> (New Brunswick) that is licensed under that Act.</p>
NOVA SCOTIA	<p>“contract”, “group insurance”, “life insurance”, and “policy” have the respective meanings assigned to them under the <i>Insurance Act</i> (Nova Scotia) and the regulations under that Act.</p> <p>“insurance company” has the same meaning as in section 3(1)(a) of the General Securities Rules (Nova Scotia).</p>
ONTARIO	<p>“contract”, “group insurance”, “life insurance” and “policy” have the respective meanings assigned to them in section 1 and 171 the <i>Insurance Act</i> (Ontario).</p> <p>“insurance company” has the same meaning as in section 1(2) of the General Regulation (Ont. Reg. 1015).</p>
QUÉBEC	<p>“contract of insurance”, “group insurance”, “life insurance”, and “policy” have the respective meanings assigned to them under the Civil Code of Québec.</p> <p>“insurance company” means an insurer holding a license under the Act respecting insurance (R.S.Q., c. A-32).</p>
PRINCE EDWARD ISLAND	<p>“contract”, “group insurance”, “insurer”, “life insurance” and “policy” have the respective meanings assigned to them in sections 1 and 174 of the <i>Insurance Act</i> (Prince Edward Island)</p> <p>“insurance company” means an insurance company licensed under the <i>Insurance Act</i> (R.S.P.E.I. 1988, Cap. I-4),</p>
SASKATCHEWAN	<p>“contract”, “life insurance” and “policy” have the respective meanings assigned to them in section 2 of <i>The Saskatchewan Insurance Act</i> (Saskatchewan).</p>

“group insurance” has the respective meaning assigned to it in section 133 of *The Saskatchewan Insurance Act* (Saskatchewan).

“insurance company” means an issuer licensed under *The Saskatchewan Insurance Act* (Saskatchewan).

APPENDIX B
TO
NATIONAL INSTRUMENT 45-106 PROSPECTUS AND REGISTRATION EXEMPTIONS
CONTROL BLOCK DISTRIBUTIONS
(PART 4)

JURISDICTION	SECURITIES LEGISLATION REFERENCE
ALBERTA	Section 1(p)(iii) of the <i>Securities Act</i> (Alberta)
BRITISH COLUMBIA	Paragraph (c) of the definition of “distribution” contained in section 1 of the <i>Securities Act</i> (British Columbia)
MANITOBA	Section 1(b) of the definition of “primary distribution to the public” contained in subsection 1(1) of the <i>Securities Act</i> (Manitoba)
NEW BRUNSWICK	Paragraph (c) of the definition of “distribution” contained in section 1(1) of the <i>Securities Act</i> (New Brunswick)
NEWFOUNDLAND AND LABRADOR	Section 2(1)(1)(iii) of the <i>Securities Act</i> (Newfoundland and Labrador)
NOVA SCOTIA	Section 2(1)(1)(iii) of the <i>Securities Act</i> (Nova Scotia)
ONTARIO	Paragraph (c) of the definition of “distribution” contained in subsection 1(1) of the <i>Securities Act</i> (Ontario)
PRINCE EDWARD ISLAND	Section 1(f)(iii) of the <i>Securities Act</i> (Prince Edward Island)
QUÉBEC	Paragraph 9 of the definition of “distribution” contained section 5 of the <i>Securities Act</i> (Québec)
SASKATCHEWAN	Section 2(1)(r)(iii) of The <i>Securities Act</i> , 1988 (Saskatchewan)

**FORM 45-106F1
REPORT OF EXEMPT DISTRIBUTION**

This is the form required under section 6.1 of National Instrument 45-106 for a report of exempt distribution.

Issuer information

Item 1: State the full name of the issuer of the security distributed and the address and telephone number of its head office. If the issuer of the security distributed is an investment fund, state the name of the fund as the issuer, and provide the full name of the manager of the investment fund and the address and telephone number of the head office of the manager. Include the former name of the issuer if its name has changed since last report.

Item 2: State whether the issuer is or is not a reporting issuer and, if reporting, each of the jurisdictions in which it is reporting.

Item 3: Indicate the industry of the issuer by checking the appropriate box next to one of the industries listed below.

- | | |
|---|--|
| <input type="checkbox"/> Bio-tech | <input type="checkbox"/> Mining |
| <input type="checkbox"/> Financial Services | <input type="checkbox"/> exploration/development |
| <input type="checkbox"/> investment companies and funds | <input type="checkbox"/> production |
| <input type="checkbox"/> mortgage investment companies | <input type="checkbox"/> Oil and gas |
| <input type="checkbox"/> Forestry | <input type="checkbox"/> Real estate |
| <input type="checkbox"/> Hi-tech | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Industrial | <input type="checkbox"/> Other (describe) |

Details of distribution

Item 4: Complete Schedule I to this report. Schedule I is designed to assist in completing the remainder of this report.

Item 5: State the distribution date. If the report is being filed for securities distributed on more than one distribution date, state all distribution dates.

Item 6: For each security distributed:

- (a) describe the type of security,
- (b) state the total number of securities distributed. If the security is convertible or exchangeable, describe the type of underlying security, the terms of exercise or conversion and any expiry date; and
- (c) state the exemption(s) relied on.

Item 7: Complete the following table for each Canadian and foreign jurisdiction where purchasers of the securities reside. Do not include in this table, securities issued as payment for commissions or finder's fees disclosed under item 8, below.

Each jurisdiction where purchasers reside	Number of purchasers	Price per security (Canadian \$) ¹	Total dollar value raised from purchasers in the jurisdiction (Canadian \$)
Total number of Purchasers			
Total dollar value of distribution in all jurisdictions (Canadian \$)			

Note 1: If securities are issued at different prices list the highest and lowest price the securities were sold for.

Commissions and finder's fees

Item 8: Complete the following table by providing information for each person who has received or will receive compensation in connection with the distribution(s). Compensation includes commissions, discounts or other fees or payments of a similar

nature. Do not include payments for services incidental to the distribution, such as clerical, printing, legal or accounting services.

If the securities being issued as compensation are or include convertible securities, such as warrants or options, please add a footnote describing the terms of the convertible securities, including the term and exercise price. Do not include the exercise price of any convertible security in the total dollar value of the compensation unless the securities have been converted.

Full name and address of the person being compensated	Compensation paid or to be paid (cash and/or securities)				
	Cash (Canadian \$)	Securities			Total dollar value of compensation (Canadian \$)
		Number and type of securities issued	Price per security	Exemption relied on and date of distribution	

Item 9: If a distribution is made in Ontario, please include the attached “Authorization of Indirect Collection of Personal Information for Distributions in Ontario”. The “Authorization of Indirect Collection of Personal Information for Distributions in Ontario” is only required to be filed with the Ontario Securities Commission.

Certificate

On behalf of the issuer, I certify that the statements made in this report are true.

Date: _____

Name of issuer (please print)

Print name, title and telephone number of person signing

Signature

Item 10: State the name, title and telephone number of the person who may be contacted with respect to any questions regarding the contents of this report, if different than the person signing the certificate.

IT IS AN OFFENCE TO MAKE A MISREPRESENTATION IN THIS REPORT.

Notice - Collection and use of personal information

The personal information required under this form is collected on behalf of and used by the securities regulatory authorities or, where applicable, the regulators under the authority granted in securities legislation for the purposes of the administration and enforcement of the securities legislation.

If you have any questions about the collection and use of this information, contact the securities regulatory authority or, where applicable, the regulator in the jurisdiction(s) where the form is filed, at the address(es) listed at the end of this report.

Authorization of Indirect Collection of Personal Information for Distributions in Ontario

The attached Schedule I contains personal information of purchasers and details of the distribution(s). The issuer hereby confirms that each purchaser listed in Schedule I of this report

- (a) has been notified by the issuer
 - (i) of the delivery to the Ontario Securities Commission of the information pertaining to the person as set out in Schedule I,
 - (ii) that this information is being collected indirectly by the Ontario Securities Commission under the authority granted to it in securities legislation,
 - (iii) that this information is being collected for the purposes of the administration and enforcement of the securities legislation of Ontario, and
 - (iv) of the title, business address and business telephone number of the public official in Ontario, as set out in this report, who can answer questions about the Ontario Securities Commission's indirect collection of the information, and
- (b) has authorized the indirect collection of the information by the Ontario Securities Commission.

Schedule I

Complete the following table.

For reports filed under sub-section 6.1(1)(j) (*TSX Venture Exchange offering*) of National Instrument 45-106 the following table only needs to list the total number of purchasers by jurisdiction instead of including the name, residential address and telephone number of each purchaser.

Do not include in this table, securities issued as payment of commissions or finder's fees disclosed under item 8 of this report.

The information in this schedule will not be placed on the public file of any securities regulatory authority or, where applicable, regulator. However, freedom of information legislation in certain jurisdictions may require the securities regulatory authority or, where applicable, regulator to make this information available if requested.

Full name, residential address and telephone number of purchaser	Number and type of securities purchased	Total purchase price (Canadian \$)	Exemption relied on	Date of distribution

Instructions:

1. File this report and the applicable fee in each jurisdiction in which a distribution is made at the addresses listed at the end of this report. If the distribution is made in more than one jurisdiction, the issuer may complete a single report identifying all purchasers and file that report in each of the jurisdictions in which the distribution is made. Filing fees associated with the filing of the report are not affected by identifying all purchasers in a single report.
2. If the space provided for any answer is insufficient, additional sheets may be used and must be cross-referenced to the relevant part and properly identified and signed by the person whose signature appears on the report.
3. One report may be used for multiple distributions occurring within 10 days of each other provided that the report is filed on or before the 10th day following the first of such distributions.
4. In order to determine the applicable fee, consult the securities legislation of each jurisdiction in which a distribution is made.

Securities Regulatory Authorities and Regulators**British Columbia Securities Commission**

P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2
Telephone: (604) 899-6854
Toll free in British Columbia and Alberta 1-800-373-6393
Facsimile: (604) 899-6506

Alberta Securities Commission

4th Floor, 300 – 5th Avenue SW
Calgary, Alberta T2P 3C4
Telephone: (403) 297-6454
Facsimile: (403) 297-6156

Saskatchewan Financial Services Commission

6th Floor, 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 3V7
Telephone: (306) 787-5879
Facsimile: (306) 787-5899

The Manitoba Securities Commission

1130 – 405 Broadway Avenue
Winnipeg, Manitoba R3C 3L6
Telephone: (204) 945-2548
Facsimile: (204) 945-0330

Ontario Securities Commission

Suite 1903, Box 5520 Queen Street West
Toronto, Ontario M5H 3S8
Telephone: (416) 593-3682 *[Editor's Note: Please contact by Telephone at (416)-593-8314 or 1-877-785-1555]*
Facsimile: (416) 593-8252
Public official contact regarding indirect collection of information:
Administrative Assistant to the Director of Corporate Finance
Telephone (416) 593-8086

Autorité des marchés financiers

800, Square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montréal, Québec H4Z 1G3
Telephone: (514) 395-0337
Or 1877 525-0337
Facsimile: (514) 864-3681

New Brunswick Securities Commission

133 Prince William Street, Suite 606
Saint John, New Brunswick E2L 2B5
Telephone: (506) 658-3060
Facsimile: (506) 658-3059

Nova Scotia Securities Commission

2nd Floor, Joseph Howe Building
1690 Hollis Street
Halifax, Nova Scotia B3J 3J9
Telephone: (902) 424-7768
Facsimile: (902) 424-4625

Prince Edward Island Securities Office

95 Rochford Street, P.O. Box 2000
Charlottetown, Prince Edward Island C1A 7N8
Telephone: (902) 368-4569
Facsimile: (902) 368-5283

Securities Commission of Newfoundland and Labrador

P.O. Box 8700 2nd Floor, West Block Confederation Building
St. John's, Newfoundland and Labrador A1B 4J6
Telephone: (709) 729-4189
Facsimile: (709) 729-6187

Government of Yukon

Department of Community Services
Law Centre, 3rd Floor
2130 Second Avenue
Whitehorse, YT Y1A 5H6
Telephone: (867) 667-5314
Facsimile: (867) 393-6251

Government of Northwest Territories

Department of Justice
Securities Registry
1st Floor Stuart M. Hodgson Building
5009 – 49th Street
Yellowknife, Northwest Territories X1A 2L9
Telephone: (867) 920-3318
Facsimile: (867) 873-0243

Government of Nunavut

Department of Justice
Legal Registries Division
P.O. Box 1000 – Station 570
1st Floor, Brown Building
Iqaluit, Nunavut X0A 0H0
Telephone: (867) 975-6190
Facsimile: (867) 975-6194

FORM 45-106F2
OFFERING MEMORANDUM FOR NON-QUALIFYING ISSUERS

Date: [Insert the date from the certificate page.]

The Issuer

Name:

Head office: Address:

Phone #:

E-mail address:

Fax #:

Currently listed or quoted? [If no, state: "These securities do not trade on any exchange or market". If yes, state where, e.g., TSX/TSX Venture Exchange.]

Reporting issuer? [Yes/No. If yes, state where.]

SEDAR filer? [Yes/No]

The Offering

Securities offered:

Price per security:

Minimum/Maximum offering: [If there is no minimum, state "\$0" as the minimum and also state: "You may be the only purchaser."]

Minimum subscription amount: [State the minimum amount each investor must invest, or state "There is no minimum subscription amount an investor must invest."]

Payment terms:

Proposed closing date(s):

Income tax consequences: There are important tax consequences to these securities. See item 6. [If income tax consequences are not material, delete this item.]

Selling agent? [Yes/No. If yes, state "See item 7". The name of the selling agent may also be stated.]

Resale restrictions

State: "You will be restricted from selling your securities for [4 months and a day/an indefinite period]. See item 10."

Purchaser's rights

State: "You have 2 business days to cancel your agreement to purchase these securities. If there is a misrepresentation in this offering memorandum, you have the right to sue either for damages or to cancel the agreement. See item 11."

State in bold type:

"No securities regulatory authority has assessed the merits of these securities or reviewed this offering memorandum. Any representation to the contrary is an offence. This is a risky investment. See item 8."

[All of the above information must appear on a single cover page.]

Item 1: Use of Net Proceeds

1.1 Net Proceeds - Using the following table, disclose the net proceeds of the offering. If there is no minimum offering, state "\$0" as the minimum.

		Assuming min. offering	Assuming max. offering
A	Amount to be raised by this offering	\$	\$
B	Selling commissions and fees	\$	\$
C	Estimated offering costs (e.g., legal, accounting, audit.)	\$	\$
D	Net proceeds: $D = A - (B+C)$	\$	\$

1.2 Use of Net Proceeds - Using the following table, provide a detailed breakdown of how the issuer will use the net proceeds. If any of the net proceeds will be paid to a related party, disclose in a note to the table the name of the related party, the relationship to the issuer, and the amount. If the issuer has a working capital deficiency, disclose the portion, if any, of the net proceeds to be applied against the working capital deficiency.

Description of intended use of net proceeds listed in order of priority	Assuming min. offering	Assuming max. offering
	\$	\$
	\$	\$

1.3 Reallocation - The net proceeds must be used for the purposes disclosed in the offering memorandum. The board of directors can reallocate the proceeds to other uses only for sound business reasons. If the net proceeds may be reallocated, include the following statement:

"We intend to spend the net proceeds as stated. We will reallocate funds only for sound business reasons."

1.4 Working Capital Deficiency - State the amount of any working capital deficiency of the issuer as at a date not more than 30 days prior to the date of the offering memorandum. If the working capital deficiency will not be eliminated by the use of net proceeds, state how the issuer intends to eliminate or manage the deficiency.

Item 2: Business of [name of issuer or other term used to refer to issuer]

2.1 Structure - State the business structure (e.g., partnership, corporation or trust), the statute and the province, state or other jurisdiction under which the issuer is incorporated, continued or organized, and the date of incorporation, continuance or organization.

2.2 Our Business - Describe the issuer's business. For a non-resource issuer this may include principal products or services, operations, market and marketing plans and strategies. For a resource issuer this will require a description of principal properties (including interest held) and may include disclosure of the stage of development, reserves, geology, operations, production and mineral or resource being explored or developed. Generally, this description should not exceed 2 pages.

2.3 Development of Business - Describe (generally, in one or two paragraphs) the general development of the issuer's business over at least its two most recently completed financial years and any subsequent period. Include the major events that have occurred or conditions that have influenced (favourably or unfavourably) the development of the issuer.

2.4 Long Term Objectives - Disclose the issuer's long term objectives.

2.5 Short Term Objectives and How We Intend to Achieve Them

- (a) Disclose the issuer's objectives for the next 12 months.
- (b) Using the following table, disclose how the issuer intends to meet those objectives for the next 12 months.

What we must do and how we will do it	Target completion date or, if not known, number of months to complete	Our cost to complete
	\$	\$
	\$	\$

2.6 Insufficient Proceeds

If applicable, disclose that the proceeds of the offering either may not or will not be sufficient to accomplish all of the issuer's proposed objectives and there is no assurance that alternative financing will be available. If alternative financing has been arranged, disclose the amount, source and all outstanding conditions that must be satisfied.

2.7 Material Agreements - Disclose the key terms of all material agreements

- (a) to which the issuer is currently a party, or
- (b) with a related party

including the following information:

- (i) the agreement is with a related party, the name of the related party and the relationship,
- (ii) a description of any asset, property or interest acquired, disposed of, leased, under option, etc.,
- (iii) a description of any service provided,
- (iv) purchase price and payment terms (e.g., paid in instalments, cash, securities or work commitments),
- (v) the principal amount of any debenture or loan, the repayment terms, security, due date and interest rate,
- (vi) the date of the agreement,
- (vii) the amount of any finder's fee or commission paid or payable to a related party in connection with the agreement, and
- (viii) any material outstanding obligations under the agreement.

Item 3: Directors, Management, Promoters and Principal Holders

3.1 Compensation and Securities Held - Using the following table, provide the specified information about each director, officer and promoter of the issuer and each person who, directly or indirectly, beneficially owns or controls 10% or more of any class of voting securities of the issuer (a "principal holder"). If the principal holder is not an individual, state in a note to the table the name of any person that, directly or indirectly, beneficially owns or controls more than 50% of the voting rights of the principal holder. If the issuer has not completed its first financial year then include compensation paid since inception. Compensation includes any form of remuneration including cash, shares and options.

Name and municipality of principal residence	Positions held (e.g., director, officer, promoter and/or principal holder) and the date of obtaining that position	Compensation paid by issuer in the most recently completed financial year and the compensation anticipated to be paid in the current financial year	Number, type and percentage of securities of the issuer held after completion of min. offering	Number, type and percentage of securities of the issuer held after completion of max. offering

3.2 Management Experience - Using the following table, disclose the principal occupations of the directors and executive officers over the past five years. In addition, for each individual, describe any relevant experience in a business similar to the issuer's.

Name	Principal occupation and related experience

3.3 Penalties, Sanctions and Bankruptcy

- (a) Disclose any penalty or sanction (including the reason for it and whether it is currently in effect) that has been in effect during the last 10 years against
 - (i) a director, executive officer or control person of the issuer, or
 - (ii) an issuer of which a person referred to in (i) above was a director, executive officer or control person at the time.

- (b) Disclose any declaration of bankruptcy, voluntary assignment in bankruptcy, proposal under any bankruptcy or insolvency legislation, proceedings, arrangement or compromise with creditors or appointment of a receiver, receiver manager or trustee to hold assets, that has been in effect during the last 10 years with regard to any
 - (i) director, executive officer or control person of the issuer, or
 - (ii) issuer of which a person referred to in (i) above was a director, executive officer or control person at that time.

Item 4: Capital Structure

4.1 Share Capital - Using the following table, provide the required information about outstanding securities of the issuer (including options, warrants and other securities convertible into shares). If necessary, notes to the table may be added to describe the material terms of the securities.

Description of security	Number authorized to be issued	Number outstanding as at [a date not more than 30 days prior to the offering memorandum date]	Number outstanding after min. offering	Number outstanding after max. offering

4.2 Long Term Debt - Using the following table, provide the required information about outstanding long term debt of the issuer. If the securities being offered are debt securities, add a column to the table disclosing the amount of debt that will be outstanding after both the minimum and maximum offering. If the debt is owed to a related party, indicate that in a note to the table and identify the related party.

Description of long term debt (including whether secured)	Interest rate	Repayment terms	Amount outstanding at [a date not more than 30 days prior to the offering memorandum date]
			\$
			\$

4.3 Prior Sales - If the issuer has issued any securities of the class being offered under the offering memorandum (or convertible or exchangeable into the class being offered under the offering memorandum) within the last 12 months, use the following table to provide the information specified. If securities were issued in exchange for assets or services, describe in a note to the table the assets or services that were provided.

Date of issuance	Type of security issued	Number of securities issued	Price per security	Total funds received

Item 5: Securities Offered

5.1 Terms of Securities- Describe the material terms of the securities being offered, including:

- (a) voting rights or restrictions on voting,
- (b) conversion or exercise price and date of expiry,
- (c) rights of redemption or retraction, and
- (d) interest rates or dividend rates.

5.2 Subscription Procedure

- (a) Describe how a purchaser can subscribe for the securities and the method of payment.
- (b) State that the consideration will be held in trust and the period that it will be held (refer at least to the mandatory two day period).
- (c) Disclose any conditions to closing, e.g., receipt of additional funds from other sources. If there is a minimum offering, disclose when consideration will be returned to purchasers if the minimum is not met, and whether the issuer will pay the purchasers interest on consideration.

Item 6: Income Tax Consequences and RRSP Eligibility

6.1 State: "You should consult your own professional advisers to obtain advice on the income tax consequences that apply to you."

6.2 If income tax consequences are a material aspect of the securities being offered (e.g., flow-through shares), provide

- (a) a summary of the significant income tax consequences to Canadian residents, and
- (b) the name of the person providing the income tax disclosure in (a).

6.3 Provide advice regarding the RRSP eligibility of the securities and the name of the person providing the advice or state "Not all securities are eligible for investment in a registered retirement savings plan (RRSP). You should consult your own professional advisers to obtain advice on the RRSP eligibility of these securities."

Item 7: Compensation Paid to Sellers and Finders

If any person has or will receive any compensation (e.g., commission, corporate finance fee or finder's fee) in connection with the offering, provide the following information to the extent applicable:

- (a) a description of each type of compensation and the estimated amount to be paid for each type,
- (b) if a commission is being paid, the percentage that the commission will represent of the gross proceeds of the offering (assuming both the minimum and maximum offering),
- (c) details of any broker's warrants or agent's option (including number of securities under option, exercise price and expiry date), and

- (d) if any portion of the compensation will be paid in securities, details of the securities (including number, type and, if options or warrants, the exercise price and expiry date).

Item 8: Risk Factors

Describe in order of importance, starting with the most important, the risk factors material to the issuer that a reasonable investor would consider important in deciding whether to buy the issuer's securities.

Risk factors will generally fall into the following three categories:

- (a) Investment Risk - risks that are specific to the securities being offered. Some examples include
- arbitrary determination of price,
 - no market or an illiquid market for the securities,
 - resale restrictions, and
 - subordination of debt securities.
- (b) Issuer Risk - risks that are specific to the issuer. Some examples include
- insufficient funds to accomplish the issuer's business objectives,
 - no history or a limited history of sales or profits,
 - lack of specific management or technical expertise,
 - management's regulatory and business track record,
 - dependence on key employees, suppliers or agreements,
 - dependence on financial viability of guarantor,
 - pending and outstanding litigation, and
 - political risk factors.
- (c) Industry Risk - risks faced by the issuer because of the industry in which it operates. Some examples include
- environmental and industry regulation,
 - product obsolescence, and
 - competition.

Item 9: Reporting Obligations

9.1 Disclose the documents that will be sent to purchasers on an annual or on-going basis.

9.2 If corporate or securities information about the issuer is available from a government, regulatory authority, SRO or quotation and trade reporting system, disclose where that information can be located (including website address).

Item 10: Resale Restrictions

10.1 General Statement - For trades in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec and Saskatchewan, state:

"These securities will be subject to a number of resale restrictions, including a restriction on trading. Until the restriction on trading expires, you will not be able to trade the securities unless you comply with an exemption from the prospectus and registration requirements under securities legislation."

10.2 Restricted Period - For trades in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec and Saskatchewan state one of the following, as applicable:

- (a) If the issuer is not a reporting issuer in a jurisdiction at the distribution date state:

“Unless permitted under securities legislation, you cannot trade the securities before the date that is 4 months and a day after the date [insert name of issuer or other term used to refer to the issuer] becomes a reporting issuer in any province or territory of Canada.”

- (b) If the issuer is a reporting issuer in a jurisdiction at the distribution date state:

“Unless permitted under securities legislation, you cannot trade the securities before the date that is 4 months and a day after the distribution date.”

10.3 Manitoba Resale Restrictions - For trades in Manitoba, if the issuer will not be a reporting issuer in a jurisdiction at the time the security is acquired by the purchaser state:

“Unless permitted under securities legislation, you must not trade the securities without the prior written consent of the regulator in Manitoba unless

- (a) [name of issuer or other term used to refer to issuer] has filed a prospectus with the regulator in Manitoba with respect to the securities you have purchased and the regulator in Manitoba has issued a receipt for that prospectus, or
- (b) you have held the securities for at least 12 months.

The regulator in Manitoba will consent to your trade if the regulator is of the opinion that to do so is not prejudicial to the public interest.”

Item 11: Purchasers' Rights

State the following:

“If you purchase these securities you will have certain rights, some of which are described below. For information about your rights you should consult a lawyer.

(1) Two Day Cancellation Right - You can cancel your agreement to purchase these securities. To do so, you must send a notice to us by midnight on the 2nd business day after you sign the agreement to buy the securities.

(2) Statutory Rights of Action in the Event of a Misrepresentation - [Insert this section only if the securities legislation of the jurisdiction in which the trade occurs provides purchasers with statutory rights in the event of a misrepresentation in an offering memorandum. Modify the language, if necessary, to conform to the statutory rights.] If there is a misrepresentation in this offering memorandum, you have a statutory right to sue:

- (a) [name of issuer or other term used to refer to issuer] to cancel your agreement to buy these securities, or
- (b) for damages against [state the name of issuer or other term used to refer to issuer and the title of any other person against whom the rights are available].

This statutory right to sue is available to you whether or not you relied on the misrepresentation. However, there are various defences available to the persons or companies that you have a right to sue. In particular, they have a defence if you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations. You must commence your action to cancel the agreement within [state time period provided by the securities legislation]. You must commence your action for damages within [state time period provided by the securities legislation].

(3) Contractual Rights of Action in the Event of a Misrepresentation - [Insert this section only if the securities legislation of the jurisdiction in which the purchaser is resident does not provide purchasers with statutory rights in the event of a misrepresentation in an offering memorandum.] If there is a misrepresentation in this offering memorandum, you have a contractual right to sue [name of issuer or other term used to refer to issuer]:

- (a) to cancel your agreement to buy these securities, or

- (b) for damages.

This contractual right to sue is available to you whether or not you relied on the misrepresentation. However, in an action for damages, the amount you may recover will not exceed the price that you paid for your securities and will not include any part of the damages that [name of issuer or other term used to refer to issuer] proves does not represent the depreciation in value of the securities resulting from the misrepresentation. [Name of issuer or other term used to refer to issuer] has a defence if it proves that you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations. You must commence your action to cancel the agreement within 180 days after you signed the agreement to purchase the securities. You must commence your action for damages within the earlier of 180 days after learning of the misrepresentation and 3 years after you signed the agreement to purchase the securities.”

Item 12: Financial Statements

Include all financial statements required in the offering memorandum immediately before the certificate page of the offering memorandum.

Item 13: Date and Certificate

State the following on the certificate page of the offering memorandum:

“Dated [insert the date the certificate page of the offering memorandum is signed].

This offering memorandum does not contain a misrepresentation.”

The certificate must be signed by

- (a) the chief executive officer and the chief financial officer of the issuer (or, if the issuer does not have a chief executive officer or a chief financial officer, a person acting in that capacity),
- (b) on behalf of the directors of the issuer
 - (i) by any two directors who are authorized to sign other than the persons referred to in paragraph (a),
or
 - (ii) by all the directors of the issuer, and
- (c) by each promoter of the issuer.

**Instructions for Completing
Form 45-106F2
Offering Memorandum for Non-Qualifying Issuers**

A. General Instructions

1. Draft the offering memorandum so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms. If technical terms are necessary, provide definitions.
2. Address the items required by the form in the order set out in the form. However, it is not necessary to provide disclosure about an item that does not apply.
3. The issuer may include additional information in the offering memorandum other than that specifically required by the form. However, the offering memorandum is generally not required to contain the level of detail and extent of disclosure required by a prospectus.
4. The issuer may wrap the offering memorandum around a prospectus or similar document. However, all matters required to be disclosed by the offering memorandum must be addressed and the offering memorandum must provide a cross-reference to the page number or heading in the wrapped document where the relevant information is contained. The certificate to the offering memorandum must be modified to indicate that the offering memorandum, including the document around which it is wrapped, does not contain a misrepresentation.
5. It is an offence to make a misrepresentation in the offering memorandum. This applies both to information that is required by the form and to additional information that is provided.
6. If the issuer is a limited partnership or trust, where the offering memorandum form requires disclosure about “directors”, provide disclosure for the general partner(s) of the limited partnership and the trustee(s) and manager of the trust. If a general partner, trustee or manager is a corporation, provide disclosure of the directors and executive officers of the general partner or manager and trustee. If the issuer is a limited partnership, the general partner must sign as promoter of the issuer and, if the general partner is a corporation, the chief executive officer, chief financial officer and directors of the general partner must sign as the chief executive officer, chief financial officer and directors of the issuer. If the issuer is a trust, each trustee and the manager of the trust must sign as promoters of the issuer. If any trustee is a corporation, the signing officers of the trustee must also sign as promoters. If the manager of the trust is a corporation, the chief executive officer, chief financial officer and directors of the manager must sign as the chief executive officer, chief financial officer and directors of the issuer.
7. When the term “related party” is used in this form, it refers to:
 - (a) a director, officer, promoter or control person of the issuer,
 - (b) in regard to a person referred to in (a), a child, parent, grandparent or sibling, or other relative living in the same residence,
 - (c) in regard to a person referred to in (a) or (b), his or her spouse or a person with whom he or she is living in a marriage-like relationship,
 - (d) an insider of the issuer,
 - (e) a company controlled by one or more individuals referred to in (a) to (d), and
 - (f) in the case of an insider, promoter or control person that is not an individual, any person that controls that insider.

(If the issuer is not a reporting issuer, the reference to “insider” includes persons or companies who would be insiders of the issuer if that issuer were a reporting issuer.)
8. Refer to National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101) when disclosing scientific or technical information for a mineral project of the issuer.
9. Securities legislation restricts what can be told to investors about the issuer's intent to list or quote securities on an exchange or market. Refer to applicable securities legislation before making any such statements.

10. If an issuer uses this form in connection with a distribution under an exemption other than section 2.9 (*offering memorandum*) of National Instrument 45-106 *Prospectus and Registration Exemptions*, the issuer must modify the disclosure in item 11 to correctly describe the purchaser's rights. If a purchaser does not have statutory or contractual rights of action in the event of a misrepresentation in the offering memorandum, that fact must be stated in bold on the face page.

B. Financial Statements - General

1. All financial statements included in the offering memorandum must comply with National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107), regardless of whether the issuer is a reporting issuer or not.
2. Include all financial statements required in the offering memorandum immediately prior to the certificate page of the offering memorandum.
3. If the issuer has not completed one financial year, include the following financial statements of the issuer in the offering memorandum:
- (a) statements of income, retained earnings and cash flows for the period from inception to a date not more than 60 days before the date of the offering memorandum, and
 - (b) a balance sheet dated as at the ending date of the statements required by B.3(a).
4. If the issuer has completed one or more financial years, include the following financial statements of the issuer in the offering memorandum:
- (a) statements of income, retained earnings and cash flows for the most recently completed financial year that ended more than 120 days before the date of the offering memorandum,
 - (b) a balance sheet as at the last day of the most recently completed financial year that ended more than 120 days before the date of the offering memorandum,
 - (c) statements of income, retained earnings and cash flows for the most recently completed interim period ending 9, 6, or 3 months before the end of the issuer's financial year, if that interim period ended more than 60 days before the date of the offering memorandum, and ended after the date of any financial statements required under B.4(a), and
 - (d) a balance sheet dated as at the ending date of the statements required by B.4(c).
5. If financial statements of the issuer for a more recent annual or interim period than those required by B.3 or B.4 have been prepared, include those more recent financial statements in the offering memorandum.
6. If the issuer has changed its year-end, refer to NI 51-102 for guidance concerning interim periods in a transition year. To satisfy B.4(c) in a transition year, provide financial statements for the most recently completed interim period that ended more than 60 days before the date of the offering memorandum and ended after the date of any financial statements required under B.4(a).
7. If the issuer has completed two or more financial years that ended more than 120 days from the date of the offering memorandum, the annual financial statements required under B.4(a) and (b) must include comparatives for the prior year. The interim financial statements required under B.4(c) and (d) may exclude comparatives if financial statements for the comparative periods were not previously prepared.
8. The annual financial statements required under B.4(a) and (b) must be audited in accordance with the requirements of NI 52-107. The audit report must be included in the offering memorandum. The financial statements required under B.3, B.4(c) and (d) and B.5 and the comparatives required by B.7 may be unaudited; however, if any of those financial statements have been audited, the audit report on them must be included in the offering memorandum. Refer to National Instrument 52-108 *Auditor Oversight* for requirements for auditors of reporting issuers.
9. All unaudited financial statements must indicate in bold that the financial statements have not been audited.
10. If the offering memorandum does not contain audited financial statements for the issuer's most recently completed financial year, update the offering memorandum to include the annual audited financial statements and the audit report

as soon as the issuer has approved the audited financial statements, but in any event no later than the 120th day following the financial year end.

11. The offering memorandum does not have to be updated to include interim financial statements for periods completed after the date 60 days prior to the date of the offering memorandum unless it is necessary to do so to prevent the offering memorandum from containing a misrepresentation.
12. Refer to National Policy 48 *Future Oriented Financial Information* if future oriented financial information is included in the offering memorandum,
13. If the issuer is a limited partnership, include in the offering memorandum the financial statements required by Part B of the general partner and, if the limited partnership has active operations, of the limited partnership.

C. Financial Statements - Business Acquisitions

1. If the issuer
 - (a) has acquired a business during the past two years and the audited and/or unaudited consolidated financial statements of the issuer included in the offering memorandum do not include the results of the acquired business for 12 consecutive months, or
 - (b) is proposing to acquire a business and either:
 - (i) is obligated to complete the acquisition, or
 - (ii) has the right to acquire the business and has decided to complete the acquisition,

include the financial statements specified in C.4 for the business if the test in C.2 is met, irrespective of how the issuer accounts for the acquisition.
2. Include the financial statements for a business referred to in C.1 if either:
 - (a) the issuer's proportionate share of the consolidated assets of the business exceeds 40% of the consolidated assets of the issuer calculated using the most recent annual financial statements of each of the issuer and the business before the date of the acquisition or proposed date of acquisition, or
 - (b) the issuer's consolidated investments in and advances to the business as at the date of the acquisition or the proposed date of acquisition exceeds 40% of the consolidated assets of the issuer, excluding any investments in or advances to the business, as at the end of the issuer's most recently completed financial year that ended before the date of the acquisition or proposed date of acquisition.
3. Where an issuer or a business referred to in C.1 has not yet completed a financial year or has completed its first financial year that ended within 120 days of the offering memorandum date and financial statements for that year are not yet available, use the financial statements referred to in B.3(b) or B.4(d) to make the calculations in C.2.
4. If a business referred to in C.1 meets either of the threshold tests in C.2, include in the offering memorandum the following financial statements of the business:
 - (a) If the business has not completed one financial year include
 - (i) statements of income, retained earnings and cash flows for the period from inception to a date not more than 60 days before the date of the offering memorandum, and
 - (ii) a balance sheet dated as at the ending date of the statements required by C.4(a)(i).

However, if the date of acquisition for a business precedes the ending date of the period referred to in C.4(a)(i), then provide financial statements for the period from inception to the date of acquisition or a date not more than 30 days before the date of acquisition.
 - (b) If the business has completed one or more financial years include

- (i) statements of income, retained earnings and cash flows for the most recently completed financial year that ended before the date of acquisition and more than 120 days before the date of the offering memorandum,
 - (ii) a balance sheet dated as at the ending date of the statements required by C.4(b)(i),
 - (iii) statements of income, retained earnings and cash flows for either:
 - (A) the most recently completed 3, 6 or 9 month interim period that ended before the date of acquisition and more than 60 days before the date of the offering memorandum and ended after the date of the financial statements required under C.4(b)(i), or
 - (B) the period from the first day after the financial year referred to in C.4(b)(i) to the date of acquisition or a date not more than 30 days before the date of acquisition, and
 - (iv) a balance sheet dated as at the ending date of the statements required by C.4(b)(iii).
5. The annual financial statements required under C.4(b)(i) and (ii) must be audited in accordance with the requirements of Part 6 of NI 52-107. The audit report must be included in the offering memorandum. The financial statements required under C.4(a) and C.4(b)(iii) and (iv) may be unaudited; however, if any of those financial statements have been audited, the audit report must be included in the offering memorandum.
6. If the offering memorandum does not contain audited financial statements for a business referred to in C.1 for the business "most recently completed financial year that ended before the date of acquisition, update the offering memorandum to include those financial statements and the audit report when they are available, but in any event no later than the date 120 days following the year end.
7. The term "business" should be evaluated in light of the facts and circumstances involved. Generally, a separate entity or a subsidiary or division of an entity is a business and, in certain circumstances, a lesser component of an entity may also constitute a business, whether or not the subject of the acquisition previously prepared financial statements. The subject of an acquisition should be considered a business where there is, or the issuer expects there will be, continuity of operations. The issuer should consider:
 - (a) whether the nature of the revenue producing activity or potential revenue producing activity will remain generally the same after the acquisition, and
 - (b) whether any of the physical facilities, employees, marketing systems, sales forces, customers, operating rights, production techniques or trade names are acquired by the issuer instead of remaining with the vendor after the acquisition.
8. If an acquisition or a proposed acquisition has been or will be accounted for as a reverse take-over as defined in NI 51-102, include financial statements for the legal subsidiary in the offering memorandum in accordance with Part B. The legal parent, as that term is defined in the CICA Handbook, is considered to be the business acquired. C.1 may require financial statements of the legal parent.
9. An issuer is exempt from the requirements in C.4 if the issuer includes in the offering memorandum the financial statements required in a business acquisition report under NI 51-102.

D. Financial Statement - Exemptions

1. An issuer will satisfy the financial statement requirements of this form if it includes the financial statements required by securities legislation for a prospectus.
2. Notwithstanding the requirements in section 3.2(2)1 of NI 52-107, an audit report on financial statements contained in an offering memorandum of a non-reporting issuer may contain a reservation relating to opening inventory unless the issuer previously filed an audit report on financial statements for the same entity for a prior year in which there was a reservation relating to inventory.
3. If an acquisition is, or will be, an investment accounted for using the equity method, as that term is defined in the CICA Handbook, financial statements for a business required by C.4 are not required to be included in the offering memorandum if:

- (a) the offering memorandum includes disclosure for the periods for which financial statements are required under Part C that:
 - (i) summarizes the assets, liabilities and results of operations of the business, and
 - (ii) describes the issuer's proportionate interest in the business and any contingent issuance of securities by the business that might significantly affect the issuer's share of earnings;
- (b) the financial information provided under D.3(a) for any completed financial year has been audited, or has been derived from audited financial statements of the business; and
- (c) the offering memorandum discloses that:
 - (i) the financial information provided under D.3(a) for any completed financial year has been audited, or identifies the financial statements from which the financial information provided under D.3(a) has been derived; and
 - (ii) the audit opinion with respect to the financial information or financial statements referred to in D.3(c)(i) was issued without a reservation of opinion.

If the financial information included in an offering memorandum under D.3(a) has been derived from financial statements of a business incorporated or organized in a foreign jurisdiction that have been prepared in accordance with foreign GAAP, the information must be accompanied by a note that explains and quantifies the effect of material differences between Canadian GAAP and the foreign GAAP.

4. Financial statements relating to the acquisition or proposed acquisition of a business that is an interest in an oil and gas property are not required to be included in an offering memorandum if:
- (a) the required financial statements do not exist or the reporting issuer does not have access to those financial statements,
 - (b) the acquisition was not or will not be accounted for as a "reverse take-over" as defined in the CICA Handbook,
 - (c) the property did not or does not constitute a "reportable segment" of the seller, as defined in section 1701 of the CICA Handbook, at the time of acquisition, and
 - (d) the offering memorandum contains alternative disclosure for the property which includes:
 - (i) an operating statement (which must be accompanied by an audit report if it is prepared as an alternative to audited annual financial statements) presenting for the business, at a minimum, the following line items:
 - (A) gross revenue,
 - (B) royalty expenses,
 - (C) production costs, and
 - (D) operating income,
 - (ii) information with respect to the estimated reserves and related future net revenue attributable to the business, the material assumptions used in preparing the estimates and the identity and relationship to the issuer or to the seller of the person who prepared the estimates, and other relevant information regarding the property,
 - (iii) actual production volumes of the property for the most recently completed year, and
 - (iv) estimated production volumes of the property for the next year, based on information in the reserve report.
5. Financial statements for a business that is an interest in an oil and gas property or for the acquisition or proposed acquisition by an issuer of a property are not required to be audited if:

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- (a) the property was acquired prior to December 31, 2000, and the offering memorandum states that, despite making reasonable efforts, the issuer was unable to obtain audited operating statements because the seller refused to provide such audited statements or to permit access to the information necessary to audit the statements, or
- (b) during the 12 months preceding the date of the acquisition or the proposed date of an acquisition, the daily average production of the property on a barrel of oil equivalent basis (with gas converted to oil in the ratio of six thousand cubic feet of gas being the equivalent of one barrel of oil) is less than 20 per cent of the total daily average production of the seller for the same or similar periods and:
- (i) despite reasonable efforts during the purchase negotiations, the issuer was prohibited from including in the purchase agreement the rights to obtain an audited operating statement of the property,
 - (ii) the purchase agreement includes representations and warranties by the seller that the amounts presented in the operating statement agree to the seller's books and records, and
 - (iii) the offering memorandum discloses
 - 1. that the issuer was unable to obtain an audited operating statement,
 - 2. the reasons for that inability,
 - 3. the fact that the purchase agreement includes the representations and warranties referred to in D.5(b)(ii), and
 - 4. that the results presented in the operating statements may have been materially different if the statements had been audited.

FORM 45-106F3
OFFERING MEMORANDUM FOR QUALIFYING ISSUERS

Date: [Insert the date from the certificate page.]

The Issuer

Name:

Head office:

Address:

Phone #:

E-mail address:

Fax #:

Where currently listed or quoted? [e.g., TSX/TSX Venture Exchange]

Jurisdictions in which the issuer is a reporting issuer:

The Offering

Securities offered:

Price per security:

Minimum/Maximum offering: [If there is no minimum state "\$0" as the minimum and also state: "You may be the only purchaser."]

Minimum subscription amount: [State the minimum amount each investor must invest, or state "There is no minimum subscription amount an investor must invest."]

Payment terms:

Proposed closing date(s):

Income Tax consequences: "There are important tax consequences to these securities. See item 6." [If income tax consequences are not material, delete this item.]

Selling agent? [Yes/No. If yes, state "See item 7". The name of the selling agent may also be stated.]

Resale restrictions

State: "You will be restricted from selling your securities for 4 months and a day. See item 10".

Purchaser's rights

State: "You have 2 business days to cancel your agreement to purchase these securities. If there is a misrepresentation in this offering memorandum, you have the right to sue either for damages or to cancel the agreement. See item 11."

State in bold type:

"No securities regulatory authority has assessed the merits of these securities or reviewed this offering memorandum. Any representation to the contrary is an offence. This is a risky investment. See item 8."

[All of the above information must appear on a single cover page.]

Item 1: Use of Net Proceeds

1.1 Net Proceeds - Using the following table, disclose the net proceeds of the offering. If there is no minimum offering, state "\$0" as the minimum.

		Assuming min. offering	Assuming max. offering
A	Amount to be raised by this offering	\$	\$
B	Selling commissions and fees	\$	\$
C	Estimated offering costs (e.g., legal, accounting, audit)	\$	\$
D	Net proceeds: $D = A - (B+C)$	\$	\$

1.2 Use of Net Proceeds - Using the following table, provide a detailed breakdown of how the issuer will use the net proceeds. If any of the net proceeds will be paid to a related party, disclose in a note to the table the name of the related party, the relationship to the issuer, and the amount. If the issuer has a working capital deficiency, disclose the portion, if any, of the net proceeds to be applied against the working capital deficiency.

Description of intended use of net proceeds listed in order of priority.	Assuming min. offering	Assuming max. offering
	\$	\$
	\$	\$

1.3 Reallocation - The net proceeds must be used for the purposes disclosed in the offering memorandum. The board of directors can reallocate the proceeds to other uses only for sound business reasons. If the net proceeds may be reallocated, include the following statement:

"We intend to spend the net proceeds as stated. We will reallocate funds only for sound business reasons."

1.4 Working Capital Deficiency - State the amount of any working capital deficiency of the issuer as at a date not more than 30 days prior to the date of the offering memorandum. If the working capital deficiency will not be eliminated by the use of net proceeds, state how the issuer intends to eliminate or manage the deficiency.

1.5 Insufficient Proceeds - If applicable, disclose that the proceeds of the offering either may not or will not be sufficient to accomplish all of the issuer's proposed objectives and that there is no assurance that alternative financing will be available. If alternative financing has been arranged, disclose the amount, source and any outstanding conditions that must be satisfied.

Item 2: Information About [name of issuer or other term used to refer to issuer]

2.1 Business Summary - Briefly (in one or two paragraphs) describe the business intended to be carried on by the issuer over the next 12 months. State whether this represents a change of business. If the issuer is a non-resource issuer, describe the products that the issuer is or will be developing or producing and the stage of development of each of the products. If the issuer is a natural resource issuer, state: whether the issuer's principal properties are primarily in the exploration or in the development or production stage; what resources the issuer is engaged in exploring, developing or producing; and the locations of the issuer's principal properties.

2.2 Existing Documents Incorporated by Reference - State:

"Information has been incorporated by reference into this offering memorandum from documents listed in the table below, which have been filed with securities regulatory authorities in Canada. The documents incorporated by reference are available for viewing on the SEDAR website at www.sedar.com. In addition, copies of the documents may be obtained on request without charge from [insert complete address and telephone and the name of a contact person].

Documents listed in the table and information provided in those documents are not incorporated by reference to the extent that their contents are modified or superseded by a statement in this offering memorandum or in any other subsequently filed document that is also incorporated by reference in this offering memorandum."

Using the following table, list all of the documents incorporated by reference (as required by Instruction D.1):

Description of document (In the case of material change reports, provide a brief description of the nature of the material change)	Date of document

2.3 Existing Documents Not Incorporated by Reference - State:

“Other documents available on the SEDAR website (for example, most press releases, take-over bid circulars, prospectuses and rights offering circulars) are not incorporated by reference into this offering memorandum unless they are specifically referenced in the table above. Your rights as described in item 11 of this offering memorandum apply only in respect of information contained in this offering memorandum and documents or information incorporated by reference.”

2.4 Existing Information Not Incorporated by Reference - Certain specified information (as outlined in Instruction D.2) contained in the documents incorporated by reference may be, but is not required to be, incorporated by reference into the offering memorandum. If the issuer does not wish to incorporate that information into the offering memorandum, the issuer must state that and include a statement in the offering memorandum identifying:

- (a) the information that is not being incorporated by reference, and
- (b) the document in which the information is contained.

2.5 Future Documents Not Incorporated by Reference - State:

“Documents filed after the date of this offering memorandum are not deemed to be incorporated into this offering memorandum. However, if you subscribe for securities and an event occurs, or there is a change in our business or affairs, that makes the certificate to this offering memorandum no longer true, we will provide you with an update of this offering memorandum, including a newly dated and signed certificate, and will not accept your subscription until you have re-signed the agreement to purchase the securities.”

Item 3: Directors, Executive Officers, Promoters and Principal Holders

3.1 Using the following table, provide information about each director, executive officer, promoter and each person who, directly or indirectly, beneficially owns or controls 10% or more of any class of voting securities of the issuer (a “principal holder”). If the principal holder is not an individual, state in a note to the table the name of any person or company that, directly or indirectly, beneficially owns or controls more than 50% of the voting rights of the principal holder.

Name and municipality of principal residence	Position(s) with the issuer

3.2 State: “You can obtain further information about directors and executive officers from [insert the name and date of the document(s) with the most current information, e.g., management information circular, annual information form or material change report].”

3.3 State: “Current information regarding the securities held by directors, executive officers and principal holders can be obtained from [refer to the SEDI website at www.sedi.ca or, if information cannot be obtained from the SEDI website, refer to the securities regulatory authority(ies) from which the information can be obtained, including any website(s)]. [Name of issuer or other term used to refer to issuer] can not guarantee the accuracy of this information.”

Item 4: Capital Structure

Using the following table, provide the required information about outstanding securities of the issuer (including options, warrants and other securities convertible into shares). If necessary, notes to the table may be added to describe the material terms of the securities.

Description of security	Number authorized to be issued	Number outstanding as at[a date not more than 30 days prior to the offering memorandum date]	Number outstanding after min. offering	Number outstanding after max. offering

Item 5: Securities Offered

5.1 Terms of Securities - Describe the material terms of the securities being offered, including:

- (a) voting rights or restrictions on voting,
- (b) conversion or exercise price and date of expiry,
- (c) rights of redemption or retraction, and
- (d) interest rates or dividend rates.

5.2 Subscription Procedure

- (a) Describe how a purchaser can subscribe for the securities and the method of payment.
- (b) State that the consideration will be held in trust and the period that it will be held (refer at least to the mandatory two day period).
- (c) Disclose any conditions to closing e.g., receipt of additional funds from other sources. If there is a minimum offering, disclose when consideration will be returned to purchasers if the minimum is not met.

Item 6: Income Tax Consequences and RRSP Eligibility

6.1 State: "You should consult your own professional advisers to obtain advice on the income tax consequences that apply to you".

6.2 If income tax consequences are a material aspect of the securities being offered (e.g., flow-through shares), provide

- (a) a summary of the significant income tax consequences to Canadian residents, and
- (b) the name of the person or company providing the income tax disclosure in (a).

6.3 Provide advice regarding the RRSP eligibility of the securities and the name of the person or company providing the advice or state "Not all securities are eligible for investment in a registered retirement savings plan (RRSP). You should consult your own professional advisers to obtain advice on the RRSP eligibility of these securities."

Item 7: Compensation Paid to Sellers and Finders

If any person or company has or will receive any compensation (e.g., commission, corporate finance fee or finder's fee) in connection with the offering, provide the following information to the extent applicable:

- (a) a description of each type of compensation and the estimated amount to be paid for each type,
- (b) if a commission is being paid, the percentage that the commission will represent of the gross proceeds of the offering (assuming both the minimum and maximum offering),
- (c) details of any broker's warrants or agent's option (including number of securities under option, exercise price and expiry date), and

- (d) if any portion of the compensation will be paid in securities, details of the securities (including number, type and, if options or warrants, the exercise price and expiry date).

Item 8: Risk Factors

Describe in order of importance, starting with the most important, the risk factors material to the issuer that a reasonable investor would consider important in deciding whether to buy the issuer's securities.

Risk factors will generally fall into the following three categories:

- (a) Investment Risk - risks that are specific to the securities being offered. Some examples include
- arbitrary determination of price,
 - no market or an illiquid market for the securities,
 - resale restrictions, and
 - subordination of debt securities.
- (b) Issuer Risk - risks that are specific to the issuer. Some examples include
- insufficient funds to accomplish the issuer's business objectives,
 - no history or a limited history of sales or profits,
 - lack of specific management or technical expertise,
 - management's regulatory and business track record,
 - dependence on key employees, suppliers or agreements,
 - dependence on financial viability of guarantor,
 - pending and outstanding litigation, and
 - political risk factors.
- (c) Industry Risk - risks faced by the issuer because of the industry in which it operates. Some examples include
- environmental and industry regulation,
 - product obsolescence, and
 - competition.

Item 9: Reporting Obligations

9.1 Disclose the documents that will be sent to purchasers on an annual or on-going basis.

9.2 If corporate or securities information about the issuer is available from a government, regulatory authority, SRO or quotation and trade reporting system, disclose where that information can be located (including website address).

Item 10: Resale Restrictions

For trades in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Québec and Saskatchewan, state:

"These securities will be subject to a number of resale restrictions, including a restriction on trading. Until the restriction on trading expires, you will not be able to trade the securities unless you comply with an exemption from the prospectus and registration requirements under securities legislation.

Unless permitted under securities legislation, you cannot trade the securities before the date that is 4 months and a day after the distribution date.”

Item 11: Purchasers' Rights

State the following:

“If you purchase these securities you will have certain rights, some of which are described below. For information about your rights you should consult a lawyer.

(1) Two -Day Cancellation Right - You can cancel your agreement to purchase these securities. To do so, you must send a notice to us by midnight on the 2nd business day after you sign the agreement to buy the securities.

(2) Statutory Rights of Action in the Event of a Misrepresentation - [Insert this section only if the securities legislation of the jurisdiction in which the trade occurs provides purchasers with statutory rights in the event of a misrepresentation in an offering memorandum. Modify the language, if necessary, to conform to the statutory rights.] If there is a misrepresentation in this offering memorandum, you have a statutory right to sue:

- (a) [name of issuer or other term used to refer to issuer] to cancel your agreement to buy these securities, or
- (b) for damages against [state the name of issuer or other term used to refer to issuer and the title of any other person or company against whom the rights are available].

This statutory right to sue is available to you whether or not you relied on the misrepresentation. However, there are various defences available to the persons or companies that you have a right to sue. In particular, they have a defence if you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations. You must commence your action to cancel the agreement within [state time period provided by the securities legislation]. You must commence your action for damages within [state time period provided by the securities legislation].

(3) Contractual Rights of Action in the Event of a Misrepresentation - [Insert this section only if the securities legislation of the jurisdiction in which the purchaser is resident does not provide purchasers with statutory rights in the event of a misrepresentation in an offering memorandum.] If there is a misrepresentation in this offering memorandum, you have a contractual right to sue [name of issuer or other term used to refer to issuer]:

- (a) to cancel your agreement to buy these securities, or
- (b) for damages.

This contractual right to sue is available to you whether or not you relied on the misrepresentation. However, in an action for damages, the amount you may recover will not exceed the price that you paid for your securities and will not include any part of the damages that [name of issuer or other term used to refer to issuer] proves does not represent the depreciation in value of the securities resulting from the misrepresentation. [Name of issuer or other term used to refer to issuer] has a defence if it proves that you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations. You must commence your action to cancel the agreement within 180 days after you signed the agreement to purchase the securities. You must commence your action for damages within the earlier of 180 days after learning of the misrepresentation and 3 years after you signed the agreement to purchase the securities.”

Item 12: Date and Certificate

State the following on the certificate page of the offering memorandum:

“Dated [insert the date the certificate page of the offering memorandum is signed].

This offering memorandum does not contain a misrepresentation.”

The certificate must be signed by

- (a) the chief executive officer and the chief financial officer of the issuer (or, if the issuer does not have a chief executive officer or a chief financial officer, a person acting in that capacity),

- (b) on behalf of the directors of the issuer
 - (i) by any two directors who are authorized to sign other than the persons referred to in paragraph (a), or
 - (ii) by all the directors of the issuer, and
- (c) by each promoter of the issuer.

**Instructions for Completing
Form 45-106F3
Offering Memorandum for Qualifying Issuers**

A. General Instructions

1. Only a “qualifying issuer” may use this form.
2. An issuer using this form to draft an offering memorandum must incorporate by reference certain parts of its existing continuous disclosure base. An issuer that does not want to do this must use Form 45-106F2 *Offering Memorandum for Non-Qualifying Issuers*.
3. Draft the offering memorandum so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms. If technical terms are necessary, provide definitions.
4. Address the items required by the form in the order set out in the form. However, it is not necessary to provide disclosure about an item that does not apply.
5. The issuer may include additional information in the offering memorandum other than that specifically required by the form. However, the offering memorandum is generally not required to contain the level of detail and extent of disclosure required by a prospectus.
6. The issuer may wrap the offering memorandum around a prospectus or similar document. However, all matters required to be disclosed by the offering memorandum must be addressed and the offering memorandum must provide a cross-reference to the page number or heading in the wrapped document where the relevant information is contained. The certificate to the offering memorandum must be modified to indicate that the offering memorandum, including the document around which it is wrapped, does not contain a misrepresentation.
7. It is an offence to make a misrepresentation in the offering memorandum. This applies both to information that is required by the form and to additional information that is provided.
8. If the issuer is a limited partnership or trust, where the offering memorandum form requires disclosure about “directors”, provide disclosure for the general partner(s) of the limited partnership and the trustee(s) and manager of the trust. If a general partner, trustee or manager is a corporation, provide disclosure of the directors and executive officers of the general partner or manager and trustee. If the issuer is a limited partnership, the general partner must sign as promoter of the issuer and, if the general partner is a corporation, the chief executive officer, chief financial officer and directors of the general partner must sign as the chief executive officer, chief financial officer and directors of the issuer. If the issuer is a trust, each trustee and the manager of the trust must sign as promoters of the issuer. If any trustee is a corporation, the signing officers of the trustee must also sign as promoters. If the manager of the trust is a corporation, the chief executive officer, chief financial officer and directors of the manager must sign as the chief executive officer, chief financial officer and directors of the issuer.
9. Refer to National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101) when disclosing scientific or technical information for a mineral project of the issuer.
10. Securities legislation restricts what can be told to investors about the issuer’s intent to list or quote securities on an exchange or market. Refer to applicable securities legislation before making any such statements.
11. If an issuer uses this form in connection with a distribution under an exemption other than section 2.9 (*offering memorandum*) of National Instrument 45-106 *Prospectus and Registration Exemptions*, the issuer must modify the disclosure in item 11 to correctly describe the purchaser’s rights. If a purchaser does not have statutory or contractual rights of action in the event of a misrepresentation in the offering memorandum, that fact must be stated in bold on the face page.

B. Financial Statements

1. Any financial statements incorporated by reference into the offering memorandum must comply with NI 51-102 *Continuous Disclosure Obligations* (NI 51-102) and National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*.
2. Refer to National Policy 48 *Future Oriented Financial Information* if future oriented financial information is included in the offering memorandum.

C. Required Updates to the Offering Memorandum

1. If the offering memorandum does not incorporate by reference the issuer's AIF, and audited financial statements for its most recently completed financial year, update the offering memorandum to incorporate by reference the document as soon as the document is filed on SEDAR.
2. Except for documents referred to in C.1, the offering memorandum does not have to be updated to incorporate by reference interim financial statements or other documents referred to in D.1 unless it is necessary to do so to prevent the offering memorandum from containing a misrepresentation.

D. Information about the Issuer

1. *Existing Documents Incorporated by Reference* - In addition to any other document that an issuer may choose to incorporate by reference, the issuer must incorporate the following documents:
 - (a) the issuer's AIF reflecting the issuer's most recently completed financial year for which annual financial statements are required to be filed,
 - (b) material change reports, except confidential material change reports, filed after the commencement of the issuer's current financial year,
 - (c) the interim financial statements for the issuer's most recently completed financial period for which the issuer prepares interim financial statements that are required to be filed,
 - (d) the financial statements, together with the accompanying auditor's report, for the issuer's most recently completed financial year for which annual financial statements are required to be filed,
 - (e) if, before the offering memorandum is filed, financial information about the issuer for a financial period more recent than the period for which financial statements are required under 2.2(c) and (d) is publicly disseminated by, or on behalf of, the issuer through news release or otherwise, the content of the news release or public communication,
 - (f) management's discussion and analysis (MD&A) as required under NI 51-102,
 - (g) each business acquisition report required to be filed under NI 51-102,
 - (h) except as provided in D.2, information circulars or, if the issuer is not required under securities legislation to prepare information circulars, annual filings that, in each case, are required to be filed after the commencement of the issuer's current financial year,
 - (i) if the issuer has a mineral project, as defined in National Instrument 43-101 *Standards of Disclosure for Mineral Projects*, technical reports, certificates and consents required to be filed under NI 43-101 that, in each case, are required to be filed after the commencement of the issuer's current financial year, and
 - (j) if the issuer has oil and gas activities, as defined in National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*, all documents that it is required to file under NI 51-101 after the commencement of the issuer's current financial year.

An issuer may incorporate any additional document provided that the document is available for viewing on the SEDAR website and that, on request by a purchaser, the issuer provides a copy of the document to the purchaser, without charge.

2. *Existing Information Not Incorporated by Reference* - An issuer is not required to incorporate by reference in an offering memorandum the disclosure required:
 - (a) under securities legislation, in an information circular or annual filing of:
 - (i) the repricing downward of options or free standing stock appreciation rights,
 - (ii) the composition of the compensation committee of the board of directors of the issuer and its report on executive compensation, or

- (iii) a graph comparing the yearly percentage change in the issuer's cumulative total shareholder return on publicly traded securities with the cumulative total return of a broad equity market index of a published industry or line-of business index or other issuers, and
- (b) by an exchange or other market on which the issuer's securities trade, in the issuer's information circular regarding the issuer's corporate governance practices.

FORM 45-106F4

Risk Acknowledgement

- I acknowledge that this is a risky investment.
- I am investing entirely at my own risk.
- No securities regulatory authority has evaluated or endorsed the merits of these securities or the disclosure in the offering memorandum.
- The person selling me these securities is not registered with a securities regulatory authority and has no duty to tell me whether this investment is suitable for me. *[Instruction: Delete if sold by registrant]*
- I will not be able to sell these securities except in very limited circumstances. I may never be able to sell these securities. *[Instruction: Delete if issuer is reporting]*
- I will not be able to sell these securities for 4 months. *[Instruction: Delete if issuer is not reporting or if the purchaser is a Manitoba resident]*
- I could lose all the money I invest.

I am investing \$ _____ [total consideration] in total; this includes any amount I am obliged to pay in future. _____ [name of issuer] will pay \$ _____ [amount of fee or commission] of this to _____ [name of person selling the securities] as a fee or commission.

I acknowledge that this is a risky investment and that I could lose all the money I invest.

_____ Date

_____ Signature of Purchaser

_____ Print name of Purchaser

Sign 2 copies of this document. Keep one copy for your records.

WARNING

You have 2 business days to cancel your purchase *[Instruction: The issuer must complete this section before giving the form to the purchaser.]*

To do so, send a notice to [name of issuer] stating that you want to cancel your purchase. You must send the notice before midnight on the 2nd business day after you sign the agreement to purchase the securities. You can send the notice by fax or email or deliver it in person to [name of issuer] at its business address. Keep a copy of the notice for your records.

Issuer Name and Address:

Fax:

E-mail:

You are buying Exempt Market Securities

They are called *exempt market securities* because two parts of securities law do not apply to them. If an issuer wants to sell *exempt market securities* to you:

- the issuer does not have to give you a prospectus (a document that describes the investment in detail and gives you some legal protections), and
- the securities do not have to be sold by an investment dealer registered with a securities regulatory authority.

There are restrictions on your ability to resell *exempt market securities*. *Exempt market securities* are more risky than other securities.

You will receive an offering memorandum Read the offering memorandum carefully because it has important information about the issuer and its securities. Keep the offering memorandum because you have rights based on it. Talk to a lawyer for details about these rights.

You will not receive advice *[Instruction: Delete if sold by registrant]*

You will not get professional advice about whether the investment is suitable for you. But you can still seek that advice from a registered adviser or investment dealer. In Alberta, Manitoba, Northwest Territories, Prince Edward Island, Québec and Saskatchewan to qualify as an eligible investor, you may be required to obtain that advice. Contact the Investment Dealers Association of Canada (website at www.ida.ca) for a list of registered investment dealers in your area.

The securities you are buying are not listed *[Instruction: Delete if securities are listed or quoted]*

The securities you are buying are not listed on any stock exchange, and they may never be listed. You may never be able to sell these securities.

The issuer of your securities is a non-reporting issuer *[Instruction: Delete if issuer is reporting]*

A *non-reporting issuer* does not have to publish financial information or notify the public of changes in its business. You may not receive ongoing information about this issuer.

For more information on the exempt market, call your local securities regulatory authority. *[Instruction: Insert the name, telephone number and website address of the securities regulatory authority in the jurisdiction in which you are selling these securities.]*

[Instruction: The purchaser must sign 2 copies of this form. The purchaser and the issuer must each receive a signed copy.]

FORM 45-106F5

**Risk Acknowledgement
Saskatchewan Close Personal Friends and Close Business Associates**

I acknowledge that this is a risky investment:

- I am investing entirely at my own risk.
- No securities regulatory authority has evaluated or endorsed the merits of these securities.
- The person selling me these securities is not registered with a securities regulatory authority and has no duty to tell me whether this investment is suitable for me. *[Instruction: Delete if sold by registrant]*
- I will not be able to sell these securities except in very limited circumstances. I may never be able to sell these securities. *[Instruction: Delete if issuer is reporting]*
- I will not be able to sell these securities for 4 months. *[Instruction: Delete if issuer is not reporting]*
- I could lose all the money I invest.
- I do not have a 2-day right to cancel my purchase of these securities or the statutory rights of action for misrepresentation I would have if I were purchasing the securities under a prospectus.

I am investing \$_____ [total consideration] in total; this includes any amount I am obliged to pay in future.

I am a **close** personal friend or **close** business associate of _____ [state name], who is a _____ [state title - founder, director, executive officer or control person] of _____ [state name of issuer or its affiliate – if an affiliate state “an affiliate of the issuer” and give the issuer’s name].

I acknowledge that I am purchasing based on my close relationship with _____ [state name of founder, director, executive officer or control person] whom I know well enough and for a sufficient period of time to be able to assess her/his capabilities and trustworthiness.

I acknowledge that this is a risky investment and that I could lose all the money I invest.

_____ Date

_____ Signature of Purchaser

_____ Print name of Purchaser

Sign 2 copies of this document. Keep one copy for your records.

WARNING

You are buying Exempt Market Securities

They are called *exempt market securities* because two parts of securities law do not apply to them. If an issuer wants to sell *exempt market securities* to you:

- the issuer does not have to give you a prospectus (a document that describes the investment in detail and gives you some legal protections), and
- the securities do not have to be sold by an investment dealer registered with a securities regulatory authority.

There are restrictions on your ability to resell *exempt market securities*. Exempt market securities are more risky than other securities.

You may not receive any written information about the issuer or its business

If you have any questions about the issuer or its business, ask for written clarification before you purchase the securities. You should consult your own professional advisers before investing in the securities.

You will not receive advice *[Instruction: Delete if sold by registrant]*

Unless you consult your own professional advisers, you will not get professional advice about whether the investment is suitable for you.

The issuer of your securities is a non-reporting issuer *[Instruction: Delete if issuer is reporting]*

A *non-reporting issuer* does not have to publish financial information or notify the public of changes in its business. You may not receive ongoing information about this issuer. You can only sell the securities of a non-reporting issuer in very limited circumstances. You may never be able to sell these securities.

The securities you are buying are not listed *[Instruction: Delete if securities are listed or quoted]*

The securities you are buying are not listed on any stock exchange, and they may never be listed. There may be no market for these securities. You may never be able to sell these securities.

For more information on the exempt market, refer to the Saskatchewan Financial Services Commission's website at <http://www.sfsc.gov.sk.ca>.

[Instruction: The purchaser must sign 2 copies of this form. The purchaser and the issuer must each receive a signed copy.]

COMPANION POLICY 45-106CP
Prospectus and Registration Exemptions

PART 1 – INTRODUCTION

- 1.1 Purpose
- 1.2 Status in Yukon
- 1.3 All trades are subject to securities legislation
- 1.4 Multi-jurisdictional trades
- 1.5 Other exemptions
- 1.6 Discretionary relief
- 1.7 Advisers
- 1.8 Underwriters
- 1.9 Persons created to use exemptions (“syndication”)
- 1.10 Responsibility for compliance
- 1.11 Prohibited activities

PART 2 – INTERPRETATION

- 2.1 Definitions
- 2.2 Executive officer (“policy making function”)
- 2.3 Directors, executive officers and officers of non-corporate issuers
- 2.4 Founder
- 2.5 Investment fund
- 2.6 Affiliate, control and related entity
- 2.7 Close personal friend
- 2.8 Close business associate

PART 3 – CAPITAL RAISING EXEMPTIONS

- 3.1 Soliciting purchasers
- 3.2 Soliciting purchasers – Newfoundland and Labrador and Ontario
- 3.3 Advertising
- 3.4 Restrictions on finder’s fees or commissions
- 3.5 Accredited investor
- 3.6 Private issuer
- 3.7 Family, friends and business associates
- 3.8 Offering memorandum
- 3.9 Minimum amount investment

PART 4 - OTHER EXEMPTIONS

- 4.1 Employee, executive officer, director and consultant exemptions
- 4.2 Business combination and reorganization
- 4.3 Asset acquisition - character of assets to be acquired
- 4.4 Securities for debt - bona fide debt
- 4.5 Take-over bid and issuer bid
- 4.6 Isolated trade
- 4.7 Mortgages
- 4.8 Not for profit issuer
- 4.9 Exchange contracts

PART 5 – FORMS

- 5.1 Report of Exempt Distribution
- 5.2 Forms required under the offering memorandum exemption
- 5.3 Real estate securities
- 5.4 Risk Acknowledgement Form Respecting Close Personal Friends and Close Business Associates – Saskatchewan

PART 6 – RESALE OF SECURITIES ACQUIRED UNDER AN EXEMPTION

- 6.1 Resale restrictions

**COMPANION POLICY 45-106CP
PROSPECTUS AND REGISTRATION EXEMPTIONS
PART 1 – INTRODUCTION**

National Instrument 45-106 *Prospectus and Registration Exemptions* (“NI 45-106”) provides exemptions from the prospectus and registration requirements and one exemption from the issuer bid requirement.

1.1 Purpose

The purpose of this Companion Policy is to help users understand how the provincial and territorial securities regulatory authorities and regulators interpret or apply certain provisions of NI 45-106. This Companion Policy includes explanations, discussion and examples of various parts of NI 45-106.

1.2 Status in Yukon

Until such time as the Government of Yukon adopts NI 45-106 as a rule, it will consider applications for exemptions on a case-by-case basis and it will consider the provisions of NI 45-106 in exercising its discretionary authority.

1.3 All trades are subject to securities legislation

Market participants are reminded that the securities legislation of a local jurisdiction applies to any trade in a security in the local jurisdiction, whether or not the issuer of the security is a reporting issuer in that jurisdiction. Likewise, the definition of “trade” in securities legislation includes any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of a trade. A person, who engages in these activities, or other trading activities, must comply with the securities legislation of each jurisdiction in which the trade occurs.

If a trade is exempted from the dealer registration requirement, so too is any act, solicitation or conduct in furtherance of that trade.

1.4 Multi-jurisdictional trades

Market participants are further reminded that a trade can occur in more than one jurisdiction. If it does, the person conducting the trade must comply with the securities legislation of each jurisdiction in which the trade occurs. For example, a trade from a person in Alberta to a purchaser in British Columbia may be considered a trade in both jurisdictions.

1.5 Other exemptions

In addition to the exemptions in NI 45-106, exemptions may also be available to persons under securities legislation of each local jurisdiction. The Canadian Securities Administrators (“CSA”) has issued a notice that lists other exemptions available under securities legislation.

1.6 Discretionary relief

In addition to the exemptions contained in NI 45-106 and those available under securities legislation of a local jurisdiction the securities regulatory authority or regulator in each jurisdiction has the discretion to grant exemptions from the prospectus requirement and the registration requirement.

1.7 Advisers

Subsection 1.4(2) of NI 45-106 provides that an exemption from the dealer registration requirement is deemed to be an exemption from the underwriter registration requirement. However, it is not deemed to be an exemption from the adviser registration requirement. The adviser registration requirement is distinct from the dealer registration requirement. In general terms, persons engaged in the business of, or holding themselves out as being in the business of, providing investment advice are required to be registered, or exempted from registration, under applicable securities legislation. Accordingly, only advisers registered or exempted from registration as advisers may act as advisers in connection with a trade made under NI 45-106.

1.8 Underwriters

Underwriters should not sell securities to the public without providing a prospectus. If an underwriter purchases securities with a view to distribution, the underwriter should purchase the securities under the exemption from the dealer registration requirement and the prospectus requirement in section 2.33 of NI 45-106. If the underwriter purchases securities under this exemption, the first trade in the securities will be a distribution. As a result, the underwriter will only be able to resell the securities if it can rely on another exemption from the prospectus requirement, or if a prospectus is delivered to the purchasers of the securities.

There may be legitimate transactions where an underwriter purchases securities under an exemption from the dealer registration requirement and prospectus requirement other than the exemption in section 2.33 of NI 45-106; however, these transactions are only appropriate when the underwriter purchases the securities with investment intent and not with a view to distribution.

Where an underwriter purchases securities through a series of exempt trades in order to avoid the obligation to deliver a prospectus, the transactions will be looked at as a whole to determine if they constitute a distribution. If a transaction is in effect an indirect distribution, a prospectus will be required to qualify the sale of the securities despite the fact that each interim step in the transaction could otherwise be completed under a prospectus exemption. Such indirect distributions cannot be legitimately structured under NI 45-106.

1.9 Persons created to use exemptions (“syndication”)

Sections 2.3(6), 2.4(1), 2.9(5) and 2.10(3) of NI 45-106 specifically prohibit syndications. A distribution of securities to a person that had no pre-existing purpose and is created or used solely to purchase or hold securities under exemptions (a “syndicate”) may be considered a distribution of securities to the persons beneficially owning or controlling the syndicate.

For example, a newly formed company with 15 shareholders is set up with the intention of purchasing \$150 000 worth of securities under the minimum amount investment exemption. Each shareholder of the newly formed company contributes \$10 000. In this situation the shareholders of the newly formed company are indirectly investing \$10 000 when the exemption requires that they each invest \$150 000. Consequently, both the newly formed company and its shareholders may need to comply with the requirements of the minimum amount investment exemption, or find an alternative exemption to rely on.

Syndication related concerns should not ordinarily arise if the purchaser under the exemption is a corporation, syndicate, partnership or other form of entity that is pre-existing and has a bona fide purpose other than investing in the securities being sold. However, it is an inappropriate use of these exemptions to indirectly distribute securities when the exemption is not available to directly distribute securities to each person in the syndicate.

1.10 Responsibility for compliance

A person trading securities is responsible for determining when an exemption is available. In determining whether an exemption is available, a person may rely on factual representations by a purchaser, provided that the person has no reasonable grounds to believe that those representations are false. However, the person trading securities is responsible for determining whether, given the facts available, the exemption is available. Generally, a person trading securities under an exemption should retain all necessary documents that show the person properly relied upon the exemption.

For example, an issuer distributing securities to a close personal friend of a director could require that the purchaser provide a signed statement describing the purchaser’s relationship with the director. On the basis of that factual information, the issuer could determine whether the purchaser is a close personal friend of the director for the purposes of the exemption. The issuer should not rely merely on a representation: “I am a close personal friend of a director”. Likewise, under the accredited investor exemption, the seller must have a reasonable belief that the purchaser understands the meaning of the definition of “accredited investor”. Prior to discussing the particulars of the investment with the purchaser, the seller should discuss with the purchaser the various criteria for qualifying as an accredited investor and whether the purchaser meets any of the criteria.

It is not appropriate for a person to assume an exemption is available. For instance an seller should not accept a form of subscription agreement that only states that the purchaser is an accredited investor. Rather the seller should request that the purchaser provide the details on how they fit within the accredited investor definition.

1.11 Prohibited activities

Securities legislation in certain jurisdictions prohibits any person from making certain representations to a purchaser, including an undertaking about the future value or price of the securities. In certain jurisdictions, these provisions also prohibit a person from making any statement that the person knows or ought reasonably to know is a misrepresentation. These prohibitions apply whether or not a trade is made under an exemption.

Misrepresentation is defined in securities legislation. The use of exaggeration, innuendo or ambiguity in an oral or written representation about a material fact, or other deceptive behaviour relating to a material fact, might be a misrepresentation.

PART 2– INTERPRETATION**2.1 Definitions**

Unless defined in NI 45-106, terms used in NI 45-106 have the meaning given to them in local securities legislation or in National Instrument 14-101 Definitions.

2.2 Executive officer (“policy making function”)

The definition of “executive officer” in NI 45-106 is based on the definition of the same term contained in National Instrument 51-102 *Continuous Disclosure Obligations* (“NI 51-102”).

The definition includes someone who “performs a policy-making function” in respect of the issuer. The CSA is of the view that an individual who “performs a policy-making function” in respect of an issuer is someone who is responsible, solely or jointly with others, for setting the direction of the issuer and is sufficiently knowledgeable of the business and affairs of the issuer so as to be able to respond meaningfully to inquiries from investors about the issuer.

Paragraph (d) of the definition of “executive officer” includes individuals that are not employed by the issuer or any of its subsidiaries, but who perform a policy-making function in respect of the issuer.

2.3 Directors, executive officers and officers of non-corporate issuers

The term “director” is defined in NI 45-106 and it includes, for non-corporate issuers, individuals who perform functions similar to those of a director of a company.

When the term “officer” is used in NI 45-106, or any of the NI 45-106 forms, a non-corporate issuer should refer to the definitions in securities legislation. Securities legislation in most jurisdictions defines “officer” to include any individual acting in a capacity similar to that of an officer of a company. Therefore, non-corporate issuers must determine which individuals are acting in capacities similar to that of directors and officers of corporate issuers, for the purposes of complying with NI 45-106 and its forms.

For example, the determination of who is acting in the capacity of a director or executive officer may be important where a person intends to trade securities of a limited partnership under an exemption that is conditional on a relationship with a director or executive officer. The person must conclude that the purchaser has the necessary relationship with an individual who is acting in a capacity with the limited partnership that is similar to that of a director or executive officer of a company.

2.4 Founder

The definition of “founder” includes a requirement that, at the time of the trade, the person be actively involved in the business of the issuer. Accordingly, a person who takes the initiative in founding, organizing or substantially reorganizing the business of the issuer within the meaning of the definition but subsequently ceases to be actively engaged in the day to day operations of the business of the issuer would no longer be a “founder” for the purposes of NI 45-106, regardless of its degree of prior involvement with the issuer or the extent of its continued ownership interest in the issuer.

2.5 Investment fund

Generally, the definition of “investment fund” would not include a trust or other entity that issues securities that entitle the holder to net cash flows generated by: (i) an underlying business owned by the trust or other entity, or (ii) the income-producing properties owned by the trust or other entity. Examples of trusts or other entities that are not included in the definition are business income trusts, real estate investment trusts and royalty trusts.

2.6 Affiliate, control and related entity**(1) Affiliate**

Section 1.2 of NI 45-106 contains rules for determining whether persons are affiliates for the purposes of NI 45-106, which may be different than those contained in other securities legislation.

(2) Control

The concept of control has two different interpretations in NI 45-106. For the purposes of Division 4 of Part 2 (trades to employees, executive officers, directors and consultants), the interpretation of control is contained in section 2.23(1). For the purposes of the rest of NI 45-106 the interpretation of control is found at section 1.3 of NI 45-106. The reason for having two

different interpretations of control is that the exemption for trades to employees, executive officers, directors and consultants requires a broader concept of control to accommodate the issuance of compensation securities in a wide variety of business structures than is considered necessary for the rest of NI 45-106.

2.7 Close personal friend

For the purposes of both the private issuer exemption and the family, friends and business associates exemption, a “close personal friend” of a director, executive officer, founder or control person of an issuer is an individual who knows the director, executive officer, founder or control person well enough and has known them for a sufficient period of time to be in a position to assess their capabilities and trustworthiness. The term “close personal friend” can include a family member who is not already specifically identified in the exemptions if the family member satisfies the criteria described above.

The relationship between the individual and the director, executive officer, founder or control person must be direct. For example the exemption is not available to a close personal friend of a close personal friend of a director of the issuer.

An individual is not a close personal friend solely because the individual is:

- (a) a relative,
- (b) a member of the same organization, association or religious group, or
- (c) a client, customer, former client or former customer.

2.8 Close business associate

For the purposes of both the private issuer exemption and the family, friends and business associates exemption, a “close business associate” is an individual who has had sufficient prior business dealings with a director, executive officer, founder or control person of the issuer to be in a position to assess their capabilities and trustworthiness. An individual is not a close business associate solely because the individual is a client, customer, former client or former customer of the issuer.

The relationship between the individual and the director, executive officer, founder or control person must be direct. For example, the exemption is not available for a close business associate of a close business associate of a director of the issuer.

PART 3– CAPITAL RAISING EXEMPTIONS

3.1 Soliciting purchasers

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 sections 2.4 or 2.5 (respectively, the private issuer exemption or the family, friends and business associates exemption) 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 the 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.

3.2 Soliciting purchasers – Newfoundland and Labrador and Ontario

In Newfoundland and Labrador and Ontario, the exemptions from the dealer registration requirement set out in sections 2.43 and 3.9 of NI 45-106 are not available to a “market intermediary”. A person is a market intermediary if the person is in the business of trading in securities as principal or agent. In Ontario the term “market intermediary” is defined in Ontario Securities Commission Rule 14-501 *Definitions*.

The Ontario Securities Commission takes the position that if an issuer retains an employee whose primary job function is to actively solicit members of the public for the purposes of selling the issuer’s securities; the issuer and its employee are in the business of selling securities. Further, if an issuer and its employees are deemed to be in the business of selling securities the Ontario Securities Commission considers both the issuer and its employees to be market intermediaries. This applies whether

the issuer and its employees are located in Ontario and solicit members of the public outside of Ontario or whether the issuer and its employees are located outside of Ontario and solicit members of the public in Ontario. Accordingly, in order to be in compliance with securities legislation, these issuers and their employees should be registered under the appropriate category of registration in Ontario.

3.3 Advertising

NI 45-106 does not restrict the use of advertising to solicit or find purchasers. However, issuers and selling security holders should review other securities legislation and securities directions for guidelines, limitations and prohibitions on advertising intended to promote interest in an issuer or its securities. For example, any advertising or marketing communications must not contain a misrepresentation and should be consistent with the issuer's public disclosure record.

3.4 Restrictions on finder's fees or commissions

The following restrictions apply with respect to certain exemptions under NI 45-106:

- (1) no commissions or finder's fees may be paid to directors, officers, founders and control persons in connection with a trade made under the private issuer exemption or the family, friends and business associates exemption, except in connection with a trade to an accredited investor under the private issuer exemption; and
- (2) in Northwest Territories, Nunavut and Saskatchewan, only a registered dealer may be paid a commission or finder's fee in connection with a trade to a purchaser in one of those jurisdictions under the offering memorandum exemption.

3.5 Accredited investor

- (1) Individual qualification – financial tests

An individual is an "accredited investor" for the purposes of NI 45-106 if he or she satisfies, either alone or with a spouse, any of the financial asset test in paragraph (j), the net income test in paragraph (k) or the net asset test in paragraph (l) of the "accredited investor" definition in section 1.1 of NI 45-106.

These branches of the definition are designed to treat spouses as a single investing unit, so that either spouse qualifies as an "accredited investor" if the combined financial assets, net income or net assets of both spouses exceed the \$1 000 000, \$300 000 or \$5 000 000 thresholds.

If the combined net income of both spouses does not exceed \$300 000, but the net income of one of the spouses exceeds \$200 000, only the spouse whose net income exceeds \$200 000 qualifies as an accredited investor.

- (2) Bright-line standards – individuals

The monetary thresholds in the "accredited investor" definition are intended to create "bright-line" standards. Investors who do not satisfy these monetary thresholds do not qualify as accredited investors under the applicable paragraph.

- (3) Beneficial ownership of financial assets

Paragraph (j) of the "accredited investor" definition refers to an individual who, either alone or with a spouse, beneficially owns financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$1 000 000. As a general matter, it should not be difficult to determine whether financial assets are beneficially owned by an individual, an individual's spouse, or both, in any particular instance. However, financial assets held in a trust or in other types of investment vehicles for the benefit of an individual may raise questions as to whether the individual beneficially owns the financial assets in the circumstances. The following factors are indicative of beneficial ownership of financial assets:

- (a) physical or constructive possession of evidence of ownership of the financial asset;
- (b) entitlement to receipt of any income generated by the financial asset;
- (c) risk of loss of the value of the financial asset; and
- (d) the ability to dispose of the financial asset or otherwise deal with it as the individual sees fit.

For example, securities held in a self-directed RRSP, for the sole benefit of an individual are beneficially owned by that individual. In general, financial assets in a spousal RRSP would also be included for the purposes of the threshold test because paragraph (j) takes into account financial assets owned beneficially by a spouse. However, financial assets held in a group

RRSP under which the individual would not have the ability to acquire the financial assets and deal with them directly would not meet these beneficial ownership requirements.

(4) Calculation of purchaser's net assets

To calculate a purchaser's net assets under paragraph (l) of the "accredited investor" definition, subtract the purchaser's total liabilities from the purchaser's total assets. The value attributed to assets should reasonably reflect their estimated fair value. Income tax should be considered a liability if the obligation to pay it is outstanding at the time of the trade.

(5) Financial statements

The minimum net asset threshold of \$5 000 000 specified in paragraph (m) of the "accredited investor" definition must, in the case of a non-individual entity, be shown on the entity's "most recently prepared financial statements". The financial statements must be prepared in accordance with applicable generally accepted accounting principles.

(6) Time for assessing qualification

The financial tests prescribed in the accredited investor definition are to be applied only at the time of the trade. The person is not required to monitor the purchaser's continuing qualification as an accredited investor after the trade is completed.

(7) Recognition or Designation as an Accredited Investor

Paragraph (v) of the "accredited investor" definition in NI 45-106 contemplates that a person may apply to be recognized or designated as an accredited investor by the securities regulatory authorities or, except in Ontario and Québec, the regulators. The securities regulatory authorities or regulators will consider applications for accredited investor recognition or designation submitted by or on behalf of persons that do not meet any of the other criteria for accredited investor status but nevertheless have the requisite sophistication or financial resources.

The securities regulatory authorities or regulators have not adopted any specific criteria for granting accredited investor recognition or designation to applicants as the securities regulatory authorities or regulators believe that the "accredited investor" definition generally covers all types of persons that do not require the protection of the prospectus requirement and dealer registration requirement. Accordingly, the securities regulatory authorities or regulators expect that applications for accredited investor recognition or designation will be utilized on a very limited basis. If a securities regulatory authority or regulator considers it appropriate in the circumstances it may grant accredited investor recognition or designation to a person on terms and conditions, including a requirement that the person apply annually for renewal of accredited investor recognition or designation.

Securities legislation in British Columbia and Alberta does not contemplate recognition or designation as an accredited investor. Therefore, until changes are made to the securities legislation of these jurisdictions, applicants in British Columbia and Alberta should apply for designation or recognition as an exempt purchaser.

3.6 Private issuer

(1) Meaning of "the public"

Whether or not a person is a member of the public must be determined on the facts of each particular case. The courts have interpreted "the public" very broadly in the context of securities trading. Whether a person is a part of the public will be determined on the particular facts of each case, based on the tests that have developed under the relevant case law. A person who intends to trade securities in reliance upon the private issuer exemption in section 2.4(2) of NI 45-106 to a person not listed in paragraphs (a) through (j) of that section will have to satisfy itself that the trade is not to the public.

(2) Meaning of "close personal friends" and "close business associates"

See sections 2.7 and 2.8 of this Companion Policy for a discussion of the meaning of "close personal friend" and "close business associate".

(3) Business combination of private issuers

Securities distributed in connection with an amalgamation, merger, reorganization, arrangement or other statutory procedure involving two private issuers to holders of securities of those issuers is not a trade to the public provided that the resulting issuer is a private issuer.

Similarly, securities distributed by a private issuer in connection with a share exchange take-over bid for another private issuer is not a trade to the public provided the offeror remains a private issuer after completion of the bid.

(4) Acquisition of a private issuer

Persons relying on the private issuer exemption in NI 45-106 must be satisfied that the purchaser is not a member of the public. Generally, however, if the owner of a private issuer sells the business of the private issuer by way of a sale of securities, rather than assets, to another party who acquires all of the securities, the trade will not be considered to have been to the public.

(5) Ceasing to be a private issuer

The term “private issuer” is defined in section 2.4(1) of NI 45-106. A private issuer can distribute securities only to the persons listed in section 2.4(2) of NI 45-106. If a private issuer distributes securities to a person not listed in section 2.4(2), even under another exemption, it will no longer be a private issuer and will not be able to continue to use the private issuer exemption. For example, if a private issuer distributes securities under the offering memorandum exemption, it will no longer be a private issuer.

Issuers that cease to be private issuers will still be able to use other exemptions to distribute their securities. For example, such issuers could rely on the family, friends and business associates exemption (except in Ontario) or the accredited investor exemption. However, issuers that rely on these exemptions must file a report of exempt distribution with the securities regulatory authority in each jurisdiction in which the distribution took place.

3.7 Family, friends and business associates

(1) Number of purchasers

There is no restriction on the number of persons that the issuer may sell securities to under the family, friends and business associates exemption in section 2.5 of NI 45-106. However, an issuer selling securities to a large number of persons under this exemption may give rise to a presumption that not all of the purchasers are family, close personal friends or close business associates and that the exemption may not be available.

(2) Meaning of “close personal friends” and “close business associates”

See sections 2.7 and 2.8 of this Companion Policy for a discussion of the meaning of “close personal friend” and “close business associate”.

(3) Risk acknowledgement – Saskatchewan

Under section 2.6(1) of NI 45-106, the family, friends and business associates exemption in section 2.5 of NI 45-106 cannot be relied upon in Saskatchewan for a trade based on close personal friendship or close business association unless the person obtains a signed “risk acknowledgement” in the required form from the purchaser and retains the form for eight years after the trade.

3.8 Offering memorandum

(1) Eligibility criteria - Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Québec and Saskatchewan

Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Québec and Saskatchewan impose eligibility criteria on persons investing under the offering memorandum exemption. In these jurisdictions, anyone can purchase up to \$10 000 worth of securities under the offering memorandum exemption. However, the purchaser must be an eligible investor if the purchaser's acquisition cost is more than \$10 000.

In determining the acquisition cost to a purchaser who is not an eligible investor, include any future payments that the purchaser will be required to make. Proceeds which may be obtained on exercise of warrants or other rights, or on conversion of convertible securities, are not considered to be part of the acquisition cost unless the purchaser is legally obligated to exercise or convert the securities. The \$10 000 maximum acquisition cost is calculated per distribution.

Nevertheless, concurrent and consecutive closely timed offerings to the same purchaser will usually constitute one distribution. Consequently, when calculating the acquisition cost, all of these offerings by or on behalf of the issuer to the same purchaser who is not an eligible investor would be included. It would be inappropriate for an issuer to try to circumvent the \$10 000 threshold by dividing a subscription in excess of \$10 000 by one purchaser into a number of smaller subscriptions of \$10 000 or less that are made directly or indirectly by the same purchaser.

A purchaser can qualify as an eligible investor under various categories of the definition, including if the purchaser has and has had in prior years either \$75 000 pre-tax net income or has \$400 000 worth of net assets. In calculating a purchaser's net assets, subtract the purchaser's total liabilities from the purchaser's total assets. The value attributed to assets should reasonably reflect their estimated fair value. Income tax should be considered a liability if the obligation to pay it is outstanding at the time of the trade.

Another way a purchaser can qualify, as an eligible investor is to obtain advice from an eligibility adviser. An eligibility adviser is a person registered as an investment dealer (or in an equivalent category of unrestricted dealer in the purchaser's jurisdiction) that is authorized to give advice with respect to the type of security being distributed. In Saskatchewan and Manitoba, certain lawyers and public accountants may also act as eligibility advisers.

A registered investment dealer providing advice to a purchaser in these circumstances is expected to comply with the "know your client" and suitability requirements under applicable securities legislation and SRO rules and policies. Some dealers have obtained exemptions from the "know your client" and suitability requirements because they do not provide advice. An assessment of suitability by these dealers is not sufficient to qualify a purchaser as an eligible investor.

(2) Use of offering memorandum exemption by investment funds

In British Columbia, New Brunswick, Newfoundland and Labrador and Nova Scotia, investment funds can use the offering memorandum exemption.

In Alberta, Northwest Territories, Nunavut and Prince Edward Island, investment funds must be reporting issuers to use the offering memorandum exemption. In Manitoba, Québec and Saskatchewan in addition to being a reporting issuer, an investment fund must be listed on a stock exchange or quoted on an over the counter market.

(3) Form of offering memorandum

There are two forms of offering memorandum: Form 45-106F3, which may be used by qualifying issuers, and Form 45-106F2, which must be used by all other issuers. Form 45-106F3 requires qualifying issuers to incorporate by reference their annual information form (AIF), management's discussion and analysis (MD&A), annual financial statements and subsequent specified continuous disclosure documents required under NI 51-102.

A qualifying issuer is a reporting issuer that has filed an AIF under NI 51-102 and has met all of its other continuous disclosure obligations, including those in NI 51-102, National Instrument 43-101 *Standards of Disclosure for Mineral Projects*, and National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*. Under NI 51-102, venture issuers are not required to file AIFs. However, if a venture issuer wants to use Form 45-106F3, the venture issuer must voluntarily file an AIF under NI 51-102 in order to incorporate that AIF into its offering memorandum.

(4) Date of certificate and required signatories

The issuer must ensure that the information provided to the purchaser is current and does not contain a misrepresentation. For example, if a material change occurs in the business of the issuer after delivery of an offering memorandum to a potential purchaser, the issuer must give the potential purchaser an update to the offering memorandum before the issuer accepts the agreement to purchase the securities. The update to the offering memorandum may take the form of an amendment describing the material change, a new offering memorandum containing up-to-date disclosure or a material change report, whichever the issuer decides will most effectively inform purchasers.

Whatever form of update the issuer uses, it must include a newly signed and dated certificate as required in subsection 2.9(11) of NI 45-106.

The certificate must be signed by each of the following: the chief executive officer and the chief financial officer of the issuer (or, if the issuer does not have a chief executive officer or chief financial officer, persons acting in those capacities), by all promoters of the issuer, and any two directors of the issuer. If the issuer has more than two directors, any two directors who are authorized to sign the certificate, other than the chief executive officer and chief financial officer, may sign on behalf of all of the directors. If the issuer does not have at least two directors other than the chief executive officer and chief financial officer, then all directors must sign the certificate.

"Promoter" is defined differently in provincial securities legislation across CSA jurisdictions. It is generally defined as meaning a person who has taken the initiative in founding, organizing or substantially reorganizing the business of the issuer or who has received consideration over a prescribed amount for services or property or both in connection with founding, organizing or substantially reorganizing the issuer. "Promoter" has not been defined in the *Securities Act* (Québec) and a broad interpretation is taken in Québec in determining who would be considered a promoter.

Under securities legislation, persons who receive consideration solely as underwriting commissions or in consideration of property and who do not otherwise take part in the founding, organizing or substantially reorganizing the issuer are not promoters. Simply selling securities, or in some way facilitating sales in securities, does not make a person a promoter under this exemption.

In the case of an exempt distribution by a limited partnership where the general partner is a corporation, the general partner is expected to sign as promoter and the chief executive officer, chief financial officer and directors of the general partner to sign in those capacities on behalf of the issuer.

(5) Consideration to be held in trust

The purchaser has the right to cancel the agreement to purchase the securities until midnight on the 2nd business day after signing the agreement. During this period, the issuer must arrange for the consideration to be held in trust on behalf of the purchaser.

It is up to the issuer to decide what arrangements are necessary to preserve the consideration received from the purchaser. The requirement to hold the consideration in trust may be satisfied if, for example, the issuer keeps the purchaser's cheque, without cashing or depositing it, until the expiration of the two business day cancellation period.

It is also the issuer's responsibility to ensure that whoever is holding the consideration promptly returns it to the purchaser if the purchaser cancels the agreement to purchase the securities.

(6) Filing of offering memorandum

The issuer is required to file the offering memorandum with the securities regulatory authority in each of the jurisdictions in which the issuer distributes securities under the offering memorandum exemption. The issuer must file the offering memorandum on or before the 10th day after the distribution.

If the issuer is conducting multiple closings, the offering memorandum must be filed on or before the 10th day after the first closing. Once the offering memorandum has been filed, there is no need to file it again after subsequent closings, unless it has been updated.

(7) Purchasers' rights

Unless securities legislation in a purchaser's jurisdiction provides a purchaser with a comparable right of cancellation or revocation, an issuer must give each purchaser under an offering memorandum a contractual right to cancel the agreement to purchase the securities by delivering a notice to the issuer not later than midnight on the 2nd business day after the purchaser signs the agreement.

Unless securities legislation in a purchaser's jurisdiction provides purchasers with statutory rights, the issuer must also give the purchaser a contractual right of action against the issuer in the event the offering memorandum contains a misrepresentation. This contractual right of action must be available to the purchaser regardless of whether the purchaser relied on the misrepresentation when deciding to purchase the securities. This right is similar to that given to a purchaser under a prospectus. The purchaser may claim damages or ask that the agreement be cancelled. If the purchaser wants to cancel the agreement, the purchaser must commence the action within 180 days after signing the agreement to purchase the securities. If the purchaser is seeking damages, the purchaser must commence the action within the earlier of 180 days after learning of the misrepresentation or 3 years after signing the agreement to purchase the securities.

The issuer is required to describe in the offering memorandum any rights available to the purchaser, whether they are provided by the issuer contractually as a condition to the use of the exemption or provided under securities legislation.

3.9 Minimum amount investment

An issuer may wish to trade more than one kind of security of its own issue, such as shares and debt, in a single transaction under the minimum investment amount exemption. Provided that the shares and debt are sold in units that have a total acquisition cost of not less than \$150 000 paid in cash at the time of the trade, the exemption can be used notwithstanding that the acquisition cost of the shares and the acquisition cost of the debt, taken separately, are both less than \$150 000.

PART 4- OTHER EXEMPTIONS**4.1 Employee, executive officer, director and consultant exemptions**

Trustees, custodians or administrators who engage in activities contemplated by subsection 2.27(2) of NI 45-106 that bring together purchasers and sellers of securities should have regard to the provisions of National Instrument 21-101 *Marketplace Operation* respecting “marketplaces” and “alternative trading systems”.

4.2 Business combination and reorganization**(1) Statutory procedure**

The securities regulatory authorities interpret the phrase “statutory procedure” broadly and are of the view that the exemption can be used for all trades in securities of an issuer that are both part of the procedure and necessary to complete the transaction, regardless of when the trades occur.

Section 2.11 of NI 45-106 exempts trades in securities in connection with an amalgamation, merger, reorganization or arrangement if the same is done “under a statutory procedure”. The securities regulatory authorities are of the view that the references to statutory procedure in section 2.11 of NI 45-106 are to any statute of a jurisdiction or foreign jurisdiction under which the entities involved have been incorporated or created and exist or under which the transaction is taking place. This would include, for example, an arrangement under the *Companies’ Creditors Arrangement Act* (Canada).

(2) Three-cornered amalgamations

Certain corporate statutes permit a so-called “three-cornered merger or amalgamation” under which two companies will amalgamate or merge and security holders of the amalgamating or merging entities will receive securities of a third party affiliate of one amalgamating or merging entity. Section 2.11 of NI 45-106 exempts these trades as the exemption applies to any trade made in connection with an amalgamation or merger done under a statutory procedure.

(4) Exchangeable shares

A transaction involving a procedure described in section 2.11 of NI 45-106 may include an exchangeable share structure to achieve certain tax-planning objectives. For example, where a non-Canadian company seeks to acquire a Canadian company under a plan of arrangement, an exchangeable share structure may be used to allow the Canadian shareholders of the company to be acquired to receive, in substance, shares of the non-Canadian company while avoiding the adverse tax consequences associated with exchanging shares of a Canadian company for shares of a non-Canadian company. Instead of receiving shares of the non-Canadian company directly the Canadian shareholders receive: shares of a Canadian company which, through various contractual arrangements, have economic terms and voting rights that are essentially identical to the shares of the non-Canadian company and permit the holder to exchange such shares, at a time of the holder's choosing, for shares of the non-Canadian company.

Historically, the use of an exchangeable share structure in connection with a statutory procedure has raised a question as to whether the exemption in section 2.11 of NI 45-106 was available for all trades necessary to complete the transaction. For example, in the case of the acquisition under a plan of arrangement noted above, the use of an exchangeable share structure may result in a delay of several months or even years between the date of the arrangement and the date the shares of the non-Canadian company are distributed to the former shareholders of the acquired company. As a result of this delay, some filers have questioned whether the distribution of the non-Canadian company's shares upon the exercise of the exchangeable shares may still be viewed as being “in connection with” the statutory transaction, and have made application for exemptive relief to address this uncertainty.

The securities regulatory authorities have taken the position that the statutory procedure exemption in section 2.11 of NI 45-106 is available for all trades of securities that are necessary to complete an exchangeable share transaction involving a procedure described in section 2.11, even where such trades occur several months or years after the transaction. In the case of the acquisition noted above, the investment decision of the shareholders of the acquired company at the time of the arrangement ultimately represented a decision to exchange their shares for shares of the non-Canadian company. The distribution of such shares upon the exercise of the exchangeable shares does not represent a new investment decision, but merely represents the completion of that original investment decision. Accordingly, additional exemptive relief is not warranted in these circumstances.

4.3 Asset acquisition - character of assets to be acquired

When issuing securities, issuers must comply with the requirements under applicable corporate or other governing legislation that the securities be issued for fair value. Where securities are issued for non-cash consideration such as assets or resource properties, it is the responsibility of the issuer and its board of directors to determine the fair market value of the assets or

resource properties and to retain records to demonstrate how that fair market value was determined. In some situations cash assets that make up working capital could be considered in the total calculation of the fair market value.

4.4 Securities for debt - *bona fide debt*

A bona fide debt is one that was incurred for value, on commercially reasonable terms and that on the date the debt was incurred the parties believed would be repaid in cash.

A reporting issuer may distribute securities to settle a debt only after the debt becomes due, as evidenced by the creditor issuing an invoice, demand letter or other written statement to the issuer indicating that the debt is due. The securities for debt exemption may not be relied on for the issuance of securities by an issuer to secure a debt that will remain outstanding after the issuance.

4.5 Take-over bid and issuer bid

(1) Exempt bids

Issuers are reminded that the terms take-over bid and issuer bid, for the purposes of section 2.16 of NI 45-106, include an exempt take-over bid and exempt issuer bid.

(2) Bids involving exchangeable shares

The take-over bid and issuer bid exemption is available for trades necessary to complete a take-over bid or an issuer bid that involves an exchangeable share structure (as described under section 4.2 of this Companion Policy), even where such trades may occur several months or even years after the bid is completed.

4.6 Isolated trade

The isolated trade exemption in section 2.31 of NI 45-106 is limited to trades made by an issuer in a security of its own issue. A comparable exemption from the dealer registration requirement is available under section 3.3 of NI 45-106. The latter exemption is available for trades in any security but it is not available to issuers to trade a security of its own issue.

It is intended that the isolated trade exemptions will only be used rarely and are not available for registrants or others whose business is trading in securities. Reliance upon this exemption might be appropriate, for example, when a person who is not involved in the business of trading securities wishes to make a single trade of a security that person owns to another person. The exemption would not be available to a person for any subsequent trades for a period of time adequate to ensure that each transaction was truly isolated and unconnected.

4.7 Mortgages

In British Columbia, Manitoba, Québec and Saskatchewan, NI 45-106 specifically excludes syndicated mortgages from the mortgage exemption in section 2.36. In determining what constitutes a syndicated mortgage issuers will need to refer to the definition provided in section 2.36(1) of NI 45-106.

The mortgage exemption does not apply to securities that secure mortgages by bond, debenture, trust deed or similar obligation. The mortgage exemption also does not apply to a trade in a security that represents an undivided co-ownership interest in a pool of mortgages, such as a pass-through certificate issued by an issuer of asset-backed securities.

4.8 Not for profit issuer

This exemption allows trades in securities of an issuer that is organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit ("not for profit issuer"). To use this exemption, an issuer must be organized exclusively for one or more of the listed purposes and use the funds raised under this exemption for those purposes.

If an issuer is organized exclusively for one of the listed purposes, but its mandate changes so that it is no longer primarily engaged in the purpose it was organized for the issuer may no longer be able to rely on the exemption. For example, an issuer that is organized exclusively for educational purposes over time devotes more and more of its efforts to lending money, even if it is only to other educational entities, the lending issuer may be deemed unable to rely on this exemption. The same would also be true if one of an issuer's mandates was to provide an investment vehicle for its members. An issuer that issues securities that pay dividends would also not be able to use this exemption, because no part of the issuer's net earnings can go to any security holder.

In Québec, not for profit issuers may still rely on the broad exemption available for not for profit issuers under section 3 of the *Securities Act* (Québec). However, not for profit issuers that distribute outside of Québec must rely on the exemption in section 2.38 of NI 45-106.

4.9 Exchange contracts

The dealer registration exemption for exchange contracts in section 3.2 of NI 45-106 is only available in Alberta, British Columbia, Québec and Saskatchewan. In Manitoba and Ontario exchange contracts are governed by commodity futures legislation.

Except in Saskatchewan the dealer registration exemption for exchange contracts in section 3.2(1)(b) of NI 45-106 allows for trades resulting from unsolicited orders placed with an individual resident outside the jurisdiction. However, while an unsolicited trade does not require registration, if the individual conducts further trades in the future, that individual will be deemed to be carrying on business in the jurisdiction and will not be able to rely on this exemption.

PART 5 – FORMS

5.1 Report of Exempt Distribution

An issuer that has distributed a security of its own issue under any of the exemptions listed in section 6.1 of NI 45-106 is required to file Form 45-106F1 *Report of Exempt Distribution*, on or before the 10th day after the distribution. In determining if it is required to file a report in a particular jurisdiction, the issuer should consider the following questions:

- (a) is there a distribution in the jurisdiction? Please refer to the securities legislation of the jurisdiction for guidance on when a distribution occurs in the jurisdiction;
- (b) if there is a distribution in the jurisdiction, what exemption from the dealer registration requirement and the prospectus requirement is the issuer relying on for the distribution of the security? and
- (c) does the exemption referred to in paragraph (b) trigger a reporting requirement? Reports of exempt distribution are required for distributions made in reliance on the exemptions listed in section 6.1 of NI 45-106.

The securities legislation of several provinces requires that information filed with the securities regulatory authority or, where applicable, the regulator under such securities legislation, be made available for public inspection during normal business hours except for information that the securities regulatory authority, or where applicable, the regulator,

- (a) believes to be personal or other information of such a nature that the desirability of avoiding disclosure thereof in the interest of any affected individual outweighs the desirability of adhering to the principle that information filed with the securities regulatory authority or the regulator, as applicable, be available to the public for inspection,
- (b) in Alberta, considers that it would not be prejudicial to the public interest to hold the information in confidence, or
- (c) in Québec, considers that access to the information could result in serious prejudice.

Based on the above mentioned provisions of securities legislation, the securities regulatory authorities or the regulators, as applicable, have determined that the information listed in Form 45-106F1 *Report of Exempt Distribution*, Schedule I ("Schedule I") discloses personal or other information of such a nature that the desirability of avoiding disclosure of this personal information outweighs the desirability of making the information available to the public for inspection. In addition, in Alberta the regulator considers that it would not be prejudicial to the public interest to hold the information listed in Schedule I in confidence. In Québec, the securities regulatory authority considers that access to Schedule I by the public in general could result in serious prejudice and consequently the information listed in Schedule I will not be made publicly available.

5.2 Forms required under the offering memorandum exemption

NI 45-106 designates two forms of offering memorandum the first, Form 45-106F2 is for non-qualifying issuers and the second, Form 45-106F3, can only be used by qualifying issuers (as defined in NI 45-106).

The required form of risk acknowledgment under section 2.9(1) or 2.9(2) of NI 45-106 is Form 45-106F4.

The British Columbia regulator has specified the same offering memorandum forms (Form 45-106F2 and Form 45-106F3) and risk acknowledgment form (Form 45-106F4) for use in that jurisdiction under B.C. Policy 13-601 *Required Forms*.

5.3 Real estate securities

Certain jurisdictions impose alternative or additional disclosure requirements in relation to the distribution of real estate securities by offering memorandum. Refer to securities legislation in the jurisdictions where securities are being distributed.

5.4 Risk Acknowledgement Form Respecting Close Personal Friends and Close Business Associates – Saskatchewan

In Saskatchewan, a risk acknowledgment is also required under section 2.6(1) of NI 45-106 if the person intends to rely upon the “family, friends and business associates exemption” in section 2.5 of NI 45-106 based on a relationship of close personal friendship or close business association. The form of risk acknowledgment required in these circumstances is Form 45-106F5.

PART 6– RESALE OF SECURITIES ACQUIRED UNDER AN EXEMPTION

6.1 Resale restrictions

In most jurisdictions, securities distributed under an exemption may be subject to restrictions on their resale. The particular resale, or “first trade”, restrictions depend on the parties to the trade and the particular exemption that was relied upon to distribute the securities. In certain circumstances, no resale restrictions will apply and the securities acquired under an exempt trade will be freely tradable.

Resale restrictions are imposed under National Instrument 45-102 Resale of Securities (“NI 45-102”). While NI 45-106 contains text boxes providing commentary on resale, these text boxes are intended as guidance only and are not a substitute for reviewing the applicable provisions in NI 45-102 to determine what resale restrictions, if any, apply to the securities in question.

The resale restrictions operate by triggering the prospectus requirement unless certain conditions are satisfied. Securities that are subject to such restrictions in circumstances where the conditions cannot be satisfied may nevertheless be traded under an exemption from the prospectus requirement, whether under NI 45-106 or other securities legislation.

**ONTARIO SECURITIES COMMISSION RULE 45-501
ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS**

Text boxes in this Rule refer to National Instrument 45-102 *Resale of Securities*. These text boxes are located above sections 2.1 to 2.7 and sections 3.1 and 3.2. These text boxes do not form part of this Rule.

PART 1: DEFINITIONS AND INTERPRETATION

- 1.1 Definitions
- 1.2 Affiliate
- 1.3 Control
- 1.4 Registration requirement

PART 2: PROSPECTUS AND REGISTRATION EXEMPTIONS

- 2.1 Government incentive security
- 2.2 Government incentive security traded under section 2.1
- 2.3 Commodity futures option or contract
- 2.4 Security of a co-operative
- 2.5 Membership share of a credit union
- 2.6 Security of a credit union
- 2.7 Self-directed RESP
- 2.8 Filing requirements under section 2.34 of NI 45-106

PART 3: PROSPECTUS ONLY EXEMPTIONS

- 3.1 Execution Act
- 3.2 Trades in mutual fund securities to corporate sponsored plans

PART 4: REGISTRATION ONLY EXEMPTIONS

- 4.1 Certain trades by financial intermediaries and Schedule III banks
- 4.2 Adviser

PART 5: REMOVAL OF EXEMPTIONS

- 5.1 Removal of exemptions
- 5.2 Removal of exemptions - market intermediaries

PART 6: OFFERING MEMORANDUM

- 6.1 Application
- 6.2 Right of action for damages and right of rescission
- 6.3 Description of rights in offering memorandum
- 6.4 Delivery of offering memorandum

PART 7: REPORTING REQUIREMENTS

- 7.1 Report of exempt distribution
- 7.2 Required form of report of exempt distribution

PART 8: EXEMPTION

- 8.1 Exemption

PART 9: TRANSITION AND EFFECTIVE DATE

Repeal of former instrument
Effective date

FORM

Form 45-501F1 - Report of exempt distribution

PART 1: DEFINITIONS AND INTERPRETATION**1.1 Definitions** - In this Rule

“**bank**” means a bank named in Schedule I or II of the *Bank Act* (Canada);

“**Canadian financial institution**” means

- (a) an association governed by the *Cooperative Credit Associations Act* (Canada) or a central cooperative credit society for which an order has been made under section 473(1) of that Act, or
- (b) a bank, loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative, or league that, in each case, is authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada;

“**director**” means

- (a) a member of the board of directors of a company or an individual who performs similar functions for a company, and
- (b) with respect to a person that is not a company, an individual who performs functions similar to those of a director of a company;

“**entity**” means a company, syndicate, partnership, trust or unincorporated organization;

“**executive officer**” means, for an issuer, an individual who is

- (a) a chair, vice-chair or president,
- (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production,
- (c) an officer of the issuer or any of its subsidiaries who performs a policy-making function in respect of the issuer, or
- (d) performing a policy-making function in respect of the issuer;

“**government incentive security**” means

- (a) a security, or unit or interest in a partnership that invests in a security, that is issued by a company and for which the company has agreed to renounce in favour of the holder of the security, unit or interest, amounts that will constitute Canadian exploration expense, as defined in subsection 66.1(6) of the ITA, Canadian development expense, as defined in subsection 66.2(5) of the ITA, or Canadian oil and gas property expense, as defined in subsection 66.4(5) of the ITA, or
- (b) a unit or interest in a partnership or joint venture that is issued in order to fund Canadian exploration expense, as defined in subsection 66.1(6) of the ITA, Canadian development expense, as defined in subsection 66.2(5) of the ITA, or Canadian oil and gas property expense, as defined in subsection 66.4(5) of the ITA;

“**NI 45-106**” means National Instrument 45-106 *Prospectus and Registration Exemptions*;

“**person**” includes

- (a) an individual,
- (b) a corporation,
- (c) a partnership, trust, fund and an association, syndicate, organization or other organized group of persons, whether incorporated or not, and

- (d) an individual or other person in that person's capacity as a trustee, executor, administrator or personal or other legal representative;

“**Schedule III bank**” means an authorized foreign bank named in Schedule III of the *Bank Act* (Canada);

“**self-directed RESP**” means an RESP

- (a) that is structured so that contributions by a subscriber to the plan are deposited directly into an account in the name of the subscriber, and
- (b) under which the subscriber maintains control and direction over the plan that enables the subscriber to direct how the assets of the plan are to be held, invested or reinvested subject to compliance with the ITA;

“**spouse**” means an individual who

- (a) is married to another individual and is not living separate and apart, within the meaning of the *Divorce Act* (Canada), from the other individual, or
- (b) is living with another individual in a marriage-like relationship, including a marriage-like relationship between individuals of the same gender;

“**subscriber**” means an individual who signs an application form for a self-directed RESP and makes a contribution under that self-directed RESP; and

“**subsidiary**” means an issuer that is controlled directly or indirectly by another issuer and includes a subsidiary of that subsidiary.

1.2 **Affiliate** - For the purpose of this Rule, an issuer is an affiliate of another issuer if

- (a) one of them is the subsidiary of the other, or
- (b) each of them is controlled by the same person.

1.3 **Control** - For the purpose of this Rule, a person (first person) is considered to control another person (second person) if

- (a) the first person, directly or indirectly, beneficially owns or exercises control or direction over securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors of the second person, unless that first person holds the voting securities only to secure an obligation,
- (b) the second person is a partnership, other than a limited partnership, and the first person holds more than 50% of the interests of the partnership, or
- (c) the second person is a limited partnership and the general partner of the limited partnership is the first person.

1.4 **Registration requirement** –

- (1) An exemption from the dealer registration requirement or from the prospectus requirement that refers to a registered dealer is only available for a trade in a security if the dealer is registered in a category that permits the trade described in the exemption.
- (2) An exemption from the dealer registration requirement is deemed to be an exemption from the underwriter registration requirement.

PART 2: PROSPECTUS AND REGISTRATION EXEMPTIONS**2.1 Government incentive security -****Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.**

- (1) The dealer registration requirement does not apply to a trade by an issuer or a promoter of an issuer in a security of the issuer that is a government incentive security, if
- (a) in the aggregate in all jurisdictions in Canada, not more than 75 prospective purchasers are solicited resulting in sales to not more than 50 purchasers,
 - (b) before entering into an agreement of purchase and sale, the prospective purchaser has been supplied with an offering memorandum that includes information
 - (i) identifying every officer and director of the issuer,
 - (ii) identifying every promoter of the issuer,
 - (iii) giving the particulars of the professional qualifications and associations during the five years before the date of the offering memorandum of each officer, director and promoter of the issuer that are relevant to the offering,
 - (iv) indicating each of the directors that will be devoting his or her full time to the affairs of the issuer, and
 - (v) describing the right of action referred to in section 130.1 of the Act that is applicable in respect of the offering memorandum,
 - (c) the prospective purchaser has access to substantially the same information concerning the issuer that a prospectus filed under the Act would provide and,
 - (i) because of net worth and investment experience or because of consultation with or advice from a person that is not a promoter of the issuer and that is an adviser or dealer registered under the Act, is able to evaluate the prospective investment on the basis of information about the investment presented to the prospective purchaser by the issuer or selling security holder, or
 - (ii) is an executive officer or director of the issuer or of an affiliate of the issuer or a spouse or child of a director or executive officer of the issuer or of an affiliate of the issuer,
 - (d) the offer and sale of the security is not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred for the offer and sale except for professional services or for services performed by a dealer registered under the Act, and
 - (e) the promoter, if any, has not acted as a promoter of any other issue of securities under this exemption within the calendar year.
- (2) For the purpose of determining the number of purchasers or prospective purchasers under paragraph (1)(a), a corporation, partnership, trust or other entity is counted as one purchaser or prospective purchaser unless the entity has been created, or is being used, primarily for the purpose of purchasing a security of the issuer, in which event each beneficial owner of an equity security of the entity or each beneficiary of the entity, as the case may be, is counted as a separate purchaser or prospective purchaser.
- (3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

2.2 Government incentive security traded under section 2.1 -**Refer to Appendix D of NI 45-102 *Resale of Securities*. First trades are subject to a restricted period on resale.**

- (1) The dealer registration requirement does not apply to a trade in a security that was previously traded under the exemption in section 2.1 if each of the parties to the trade is one of the not more than 50 purchasers.

- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

2.3 Commodity futures option or contract -

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

- (1) The dealer registration requirement does not apply to a trade in a commodity futures option or commodity futures contract by a hedger through a dealer, within the meaning of the CFA.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

2.4 Security of a co-operative -

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

- (1) The dealer registration requirement does not apply to a trade in a security issued by a corporation to which the *Co-operative Corporations Act* applies.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

2.5 Membership share of a credit union -

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

- (1) The dealer registration requirement does not apply to a trade in a membership share of a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*.
- (2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

2.6 Security of a credit union -

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

- (1) The dealer registration requirement does not apply to a trade in a security issued to its members by a credit union to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
- (2) The dealer registration requirement does not apply to a security issued to its members or the members of its member credit unions by a league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
- (3) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1) or (2).

2.7 Self-directed RESP -

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

- (1) The dealer registration requirement does not apply to a trade in a security to or from a self-directed RESP if
 - (a) the trade is made by
 - (i) a mutual fund dealer or a person who is registered as a salesperson, partner or officer of a mutual fund dealer and who is acting on behalf of the mutual fund dealer, or

- (ii) a financial intermediary or a person who is an officer, salesperson or employee of a financial intermediary and who is acting on behalf of the financial intermediary, and
 - (b) the self-directed RESP restricts its investments in securities to securities in which the person who traded the self-directed RESP is permitted to trade.
- (2) The prospectus requirement does not apply to a distribution of a self-directed RESP if the application form provided to a subscriber for purposes of establishing the self-directed RESP includes, or is accompanied by, a copy of the provisions of the self-directed RESP and any additional documentation that may be necessary to provide disclosure of the following:
- (a) the income tax consequences of investing in a self-directed RESP,
 - (b) the responsibilities of the trustee under the self-directed RESP,
 - (c) the refund provisions,
 - (d) the types of investments in which the assets of the self-directed RESP may be invested or reinvested,
 - (e) the persons who may be designated as, and the procedures for designation of, a beneficiary under the self-directed RESP,
 - (f) the nature of any payments that may be made by the self-directed RESP to a beneficiary under the self-directed RESP, and
 - (g) any fees and charges associated with participation in the self-directed RESP.
- 2.8 **Filing requirement under section 2.34 of NI 45-106** – For the purpose of subparagraph 2.34(2)(g)(ii) and subsection 2.34(3) of NI 45-106 [*Guaranteed debt*], the Asian Development Bank and the Inter-American Development Bank must
- (a) file a copy of its annual report to its Board of Governors and a copy of its charter documents and any material modifications and amendments thereto,
 - (b) file, before the initial trade of securities in Ontario under subparagraph 2.34(2)(g)(ii) or subsection 2.34(3) of NI 45-106 and following the trade, the material that it would be required to file with the SEC if the trade made by it in Ontario had been made in the United States of America, and
 - (c) advise the Commission in writing if its filing requirements with, or exemptions from legislation administered by, the SEC are suspended, revoked or substantially amended.

PART 3: PROSPECTUS ONLY EXEMPTIONS

3.1 Execution Act –

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

- (1) The prospectus requirement does not apply to a distribution of a security by a sheriff under the *Execution Act* if
 - (a) there is no published market in respect of the security,
 - (b) the aggregate acquisition cost to the purchaser is not more than \$25,000, and
 - (c) each written notice to the public soliciting offers for the security, or giving notice of the intended auction of the security, is accompanied by a statement substantially as follows:

These securities are speculative. No representations are made concerning the securities, or the issuer of the securities. No prospectus is available and the protections, rights and remedies arising out of the prospectus provisions of the *Securities Act* (Ontario) including statutory rights of rescission and damages, will not be available to the purchaser of these securities.

- (2) For the purposes of subsection (1), “published market” means, for a security, any market on which the security is traded if the prices at which it has been traded on the market are regularly published in a newspaper or a business or financial publication of general and regular circulation.

3.2 Trades in mutual fund securities to corporate sponsored plans –

This provision will not be cited in any Appendix of NI 45-102 *Resale of Securities*. These securities will be free trading.

The prospectus requirement does not apply to a distribution by a person of

- (a) a security of a mutual fund, if the security is sold to a pension plan, deferred profit sharing plan, retirement savings plan or other similar capital accumulation plan maintained by the sponsor of the plan for its employees, and
 - (i) the employees deal only with the sponsor in respect of their participation in the plan and the purchase of the security by the plan, or
 - (ii) the decision to purchase the security is not made by or at the direction of the employee; and
- (b) a security of a mutual fund that
 - (i) is administered by a trust corporation registered under the *Loan and Trust Corporations Act*,
 - (ii) consists of a pool of funds that
 - (A) results from, and is limited to, the combination or commingling of funds of pension or other superannuation plans registered under the ITA, and
 - (B) is established by or related to persons that are associates or affiliates of or that otherwise do not deal at arm’s length with the promoters of the mutual fund except the trust corporation that administers the fund, and
 - (iii) is managed, in whole or in part, by a person who is registered or who is exempt from registration under the Act.

PART 4: REGISTRATION ONLY EXEMPTIONS

4.1 Certain trades by financial intermediaries and Schedule III banks –

- (1) Subject to subsection (2), the registration requirement does not apply to a trade by a financial intermediary or a Schedule III bank
- (a) of a type described in any section of Part 2 of NI 45-106 [*Prospectus and Registration Exemptions*] except the following:
 - (i) section 2.5 [*Family, friends and business associates*],
 - (ii) section 2.6 [*Family, friends and business associates – Saskatchewan*],
 - (iii) section 2.9 [*Offering memorandum*],
 - (iv) section 2.14 [*Securities for debt*],
 - (v) section 2.17 [*Offer to acquire to security holder outside local jurisdiction*],
 - (vi) section 2.18 [*Investment fund reinvestment*],
 - (vii) section 2.19 [*Additional investment in investment funds*] or
 - (viii) section 2.40 [*RRSP/RRIF*];
 - (b) of a type described in the following sections of NI 45-106:

- (i) section 3.1 [*Registered dealer*],
 - (ii) section 3.3 [*Isolated trade*],
 - (iii) section 3.4 [*Estates, bankruptcies, and liquidations*], and
 - (iv) section 3.5 [*Employees of registered dealer*];
- (c) of a type described in the following sections:
- (i) section 2.3 [*Commodity futures option or contract*],
 - (ii) section 2.4 [*Security of a co-operative*],
 - (iii) section 2.5 [*Membership share of a credit union*], and
 - (iv) section 2.6 [*Security of a credit union*];
- (d) in a security of a mutual fund, if the security is sold to a pension plan, deferred profit sharing plan, retirement savings plan or other similar capital accumulation plan maintained by the sponsor of the plan for its employees, and
- (i) the employees deal only with the sponsor in respect of their participation in the plan and the purchase of the security by the plan, or
 - (ii) the decision to purchase the security is not made by or at the direction of the employee; and
- (e) in a security of a mutual fund that
- (i) is administered by a trust corporation registered under the *Loan and Trust Corporations Act*,
 - (ii) consists of a pool of funds that,
 - (A) results from, and is limited to, the combination or commingling of funds of pension or other superannuation plans registered under the ITA, and
 - (B) is established by or related to persons that are associates or affiliates of or that otherwise do not deal at arm's length with the promoters of the mutual fund except the trust corporation that administers the fund, and
 - (iii) is managed, in whole or in part, by a person who is registered or who is exempt from registration under the Act.
- (2) The exemptions contained in paragraphs (1)(a), (b) and (c) do not apply to a trade in a security of a mutual fund.

4.2 **Adviser** – The adviser registration requirement does not apply to

- (a) a financial intermediary that is regulated by the federal Office of the Superintendent of Financial Institutions if the financial intermediary is acting as an adviser in accordance with the legislation of the Parliament of Canada governing the financial intermediary, or
- (b) a Schedule III bank if the Schedule III bank is acting as an adviser in accordance with the *Bank Act* (Canada).

PART 5: REMOVAL OF EXEMPTIONS

5.1 **Removal of exemptions -**

- (1) The exemptions from the adviser registration requirement in subsection 34(1) of the Act are not available to a person or company.
- (2) The exemptions from the dealer registration requirement in subsections 35(1) and (2) of the Act are not available for a trade in a security.

- (3) The exemptions from the prospectus requirement in subsection 72(1) and clauses 73(1)(a), (b) and (c) of the Act are not available for a distribution of a security.

5.2 Removal of registration exemptions - market intermediaries -

- (1) Subject to subsection (2), the exemptions from the dealer registration requirement under the following sections are not available to a market intermediary except for a trade in a security with a registered dealer that is an affiliate of the market intermediary:
- (a) section 2.1 [*Government incentive security*],
 - (b) section 2.2 [*Government incentive security traded under section 2.1*],
 - (c) section 2.4 [*Security of a co-operative*],
 - (d) section 2.5 [*Membership share of a credit union*], and
 - (e) section 2.6 [*Security of a credit union*].
- (2) Subsection (1) does not apply to a trade in a security by a lawyer or accountant that is solely incidental to his or her principal business.

PART 6: OFFERING MEMORANDUM

- 6.1 **Application** - This Part only applies to a distribution made in reliance on an exemption from the prospectus requirement in

- (a) section 2.3 of NI 45-106 [*Accredited investor*],
- (b) section 2.4 of NI 45-106 [*Private issuer*],
- (c) section 2.7 of NI 45-106 [*Founder, control person and family - Ontario*],
- (d) section 2.8 of NI 45-106 [*Affiliates*],
- (e) section 2.10 of NI 45-106 [*Minimum amount investment*],
- (f) section 2.19 of NI 45-106 [*Additional investment in investment funds*], and
- (g) section 2.1 [*Government incentive security*].

6.2 Right of action for damages and right of rescission -

- (1) The rights referred to in section 130.1 of the Act apply in respect of an offering memorandum delivered to a prospective purchaser.
- (2) Despite subsection (1), the rights referred to in section 130.1 of the Act do not apply in respect of an offering memorandum delivered to a prospective purchaser in connection with a distribution made in reliance on the exemption from the prospectus requirement in section 2.3 of NI 45-106 [*Accredited investor*] if the prospective purchaser is
- (a) a Canadian financial institution or a Schedule III bank,
 - (b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada), or
 - (c) a subsidiary of any person referred to in paragraphs (a) and (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary.

- 6.3 **Description of rights in offering memorandum** - If a selling security holder delivers an offering memorandum to a prospective purchaser in connection with a distribution to which the rights referred to in section 130.1 of the Act apply, the rights must be described in the offering memorandum.

- 6.4 **Delivery of offering memorandum** – If an offering memorandum is provided to a prospective purchaser, the seller must deliver to the Commission a copy of the offering memorandum or any amendment to a previously delivered offering memorandum within 10 days of the date of the distribution.

PART 7: REPORTING REQUIREMENTS

- 7.1 **Report of exempt distribution** – If an issuer distributes a security of its own issue under section 2.1 [*Government incentive security*], the issuer must file a report on or before the 10th day after the distribution.
- 7.2 **Required form of report of exempt distribution** – The required form of report under section 7.1 [*Report of exempt distribution*] is Form 45-501F1.

PART 8: EXEMPTION

- 8.1 **Exemption** - The Director may grant an exemption to Part 7 of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 9: TRANSITION AND EFFECTIVE DATE

- 9.1 **Revocation of former rule** – Ontario Securities Commission Rule 45-501 Exempt Distributions that came into force on January 12, 2004 is revoked.
- 9.2 **Effective date** - This Rule comes into force on September 14, 2005.

**FORM 45-501F1
REPORT OF EXEMPT DISTRIBUTION**

This is the form required under section 7.1 of Ontario Securities Commission Rule 45-501 for a report of exempt distribution.

Issuer information

Item 1: State the full name of the issuer of the security distributed and the address and telephone number of its head office. If the issuer of the security distributed is an investment fund, state the name of the fund as the issuer, and provide the full name of the manager of the investment fund and the address and telephone number of the head office of the manager. Include the former name of the issuer if its name has changed since last report.

Item 2: State whether the issuer is or is not a reporting issuer and, if reporting, each of the jurisdictions in which it is reporting.

Item 3: Indicate the industry of the issuer by checking the appropriate box next to one of the industries listed below.

- | | |
|---|--|
| <input type="checkbox"/> Bio-tech | <input type="checkbox"/> Mining |
| <input type="checkbox"/> Financial Services | <input type="checkbox"/> exploration/development |
| <input type="checkbox"/> investment companies and funds | <input type="checkbox"/> production |
| <input type="checkbox"/> mortgage investment companies | <input type="checkbox"/> Oil and gas |
| <input type="checkbox"/> Forestry | <input type="checkbox"/> Real estate |
| <input type="checkbox"/> Hi-tech | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Industrial | <input type="checkbox"/> Other (describe) |

Details of distribution

Item 4: Complete Schedule I to this report. Schedule I is designed to assist in completing the remainder of this report.

Item 5: State the distribution date. If the report is being filed for securities distributed on more than one distribution date, state all distribution dates.

Item 6: For each security distributed:

- (a) describe the type of security,
- (b) state the total number of securities distributed. If the security is convertible or exchangeable, describe the type of underlying security, the terms of exercise or conversion and any expiry date; and
- (c) state the exemption(s) relied on.

Item 7: Complete the following table for each Canadian and foreign jurisdiction where purchasers of the securities reside. Do not include in this table, securities issued as payment for commissions or finder's fees disclosed under item 8, below.

Each jurisdiction where purchasers reside	Number of purchasers	Price per security (Canadian \$) ¹	Total dollar value raised from purchasers in the jurisdiction (Canadian \$)
Total number of Purchasers			
Total dollar value of distribution in all jurisdictions (Canadian \$)			

Note 1: If securities are issued at different prices list the highest and lowest price the securities were sold for.

Commissions and finder's fees

Item 8: Complete the following table by providing information for each person who has received or will receive compensation in connection with the distribution(s). Compensation includes commissions, discounts or other fees or payments of a similar nature. Do not include payments for services incidental to the distribution, such as clerical, printing, legal or accounting services.

If the securities being issued as compensation are or include convertible securities, such as warrants or options, please add a footnote describing the terms of the convertible securities, including the term and exercise price. Do not include the exercise price of any convertible security in the total dollar value of the compensation unless the securities have been converted.

<i>Full name and address of the person being compensated</i>	Compensation paid or to be paid (cash and/or securities)				
	Cash (Canadian \$)	Securities			Total dollar value of compensation (Canadian \$)
		Number and type of securities issued	Price per security	Exemption relied on and date of distribution	

Item 9: Please include the attached "Authorization of Indirect Collection of Personal Information for Distributions in Ontario".

Certificate

On behalf of the issuer, I certify that the statements made in this report are true.

Date:

Name of issuer (please print)

Print name, title and telephone number of person signing

Signature

Item 10: State the name, title and telephone number of the person who may be contacted with respect to any questions regarding the contents of this report, if different than the person signing the certificate.

IT IS AN OFFENCE TO MAKE A MISREPRESENTATION IN THIS REPORT.

Notice - Collection and use of personal information

The personal information required under this form is collected on behalf of and used by the Ontario Securities Commission under the authority granted in securities legislation for the purposes of the administration and enforcement of the securities legislation.

If you have any questions about the collection and use of this information, contact the Ontario Securities Commission at the following address:

Ontario Securities Commission
Suite 1903, Box 55, 20 Queen Street West
Toronto, Ontario M5H 3S8
Public official contact regarding indirect collection of information:
Administrative Assistant to the Director of Corporate Finance
Telephone (416) 593-8086

Authorization of Indirect Collection of Personal Information for Distributions in Ontario

The attached Schedule I contains personal information of purchasers and details of the distribution(s). The issuer hereby confirms that each purchaser listed in Schedule I of this report

- (a) has been notified by the issuer
 - (i) of the delivery to the Ontario Securities Commission of the information pertaining to the person as set out in Schedule I,
 - (ii) that this information is being collected indirectly by the Ontario Securities Commission under the authority granted to it in securities legislation,
 - (iii) that this information is being collected for the purposes of the administration and enforcement of Ontario securities legislation, and
 - (iv) of the title, business address and business telephone number of the public official in Ontario, as set out in this report, who can answer questions about the Ontario Securities Commission's indirect collection of the information, and
- (b) has authorized the indirect collection of the information by the Ontario Securities Commission.

Schedule I

Complete the following table.

Do not include in this table, securities issued as payment of commissions or finder's fees disclosed under item 8 of this report.

The information in this schedule will not be placed on the public file of the Ontario Securities Commission. However, freedom of information legislation in Ontario may require the Ontario Securities Commission to make this information available if requested.

Full name, residential address and telephone number of purchaser	Number and type of securities purchased	Total purchase price (Canadian \$)	Exemption relied on	Date of distribution

Instructions:

1. File this report and the applicable fee at the following address:

Ontario Securities Commission

Suite 1900, Box 55, 20 Queen Street West

Toronto, Ontario M5H 3S8

Telephone: (416) 593-3682 *[Editor's Note: Please contact by Telephone at (416)-593-8314 or 1-877-785-1555]*

Facsimile: (416) 593-8252

Public official contact regarding indirect collection of information:

Administrative Assistant to the Director of Corporate Finance

Telephone (416) 593-8086

2. If the space provided for any answer is insufficient, additional sheets may be used and must be cross-referenced to the relevant part and properly identified and signed by the person whose signature appears on the report.
3. One report may be used for multiple distributions occurring within 10 days of each other provided that the report is filed on or before the 10th day following the first of such distributions.
4. In order to determine the applicable fee, consult Ontario securities legislation.

**COMPANION POLICY 45-501CP
TO ONTARIO SECURITIES COMMISSION RULE 45-501
ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS**

PART 1: INTRODUCTION

- 1.1 Introduction
- 1.2 Purpose

PART 2: OTHER EXEMPTIONS AND DISCRETIONARY RELIEF

- 2.1 Other exemptions
- 2.2 Discretionary relief

PART 3: GENERAL

- 3.1 All trades are subject to securities legislation
- 3.2 Multi-jurisdictional trades
- 3.3 Responsibility for compliance
- 3.4 Advisers
- 3.5 Underwriters
- 3.6 Soliciting purchasers

PART 4: INTERPRETATION

- 4.1 Definitions
- 4.2 Executive officer
- 4.3 Directors, executive officers and officers of non-corporate issuers
- 4.4 Investment fund

PART 5: OFFERING MEMORANDUM

- 5.1 Definition of offering memorandum
- 5.2 Mandatory and voluntary use of offering memorandum
- 5.3 Right of action for damages and right of rescission
- 5.4 Content of offering memorandum
- 5.5 Review of offering memorandum
- 5.6 Preliminary offering material
- 5.7 Availability of offering memorandum

PART 6: REPORTING REQUIREMENTS

- 6.1 Report of exempt distribution

PART 7: RESALE OF SECURITIES ACQUIRED UNDER AN EXEMPTION

- 7.1 Resale restrictions

PART 1: INTRODUCTION

- 1.1 **Introduction** - Ontario Securities Commission Rule 45-501 *Ontario Registration and Prospectus Exemptions* (the Rule) provides exemptions from the dealer registration requirement and the prospectus requirement.
- 1.2 **Purpose** – The purpose of this companion policy (the Policy) is to help users understand how the Commission interprets or applies certain provisions of the Rule. The Policy includes explanations, discussion and examples of various parts of the Rule.

PART 2: OTHER EXEMPTIONS AND DISCRETIONARY RELIEF

- 2.1 **Other exemptions** – In addition to the exemptions in the Rule, exemptions may also be available to persons under National Instrument 45-106 *Prospectus and Registration Exemptions* and other provisions of Ontario securities legislation.
- 2.2 **Discretionary relief** – In addition to the exemptions contained in the Rule and those available under other provisions of Ontario securities legislation, the Commission has the discretion to grant exemptions from the prospectus requirement and the dealer registration requirement.

PART 3: GENERAL**3.1 All trades are subject to securities legislation –**

- (1) Market participants are reminded that Ontario securities legislation applies to any trade in a security in Ontario, whether or not the issuer of the security is a reporting issuer in Ontario.
- (2) The definition of “trade” includes any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of a trade. A person who engages in these activities, or other trading activities, in Ontario must comply with Ontario securities legislation.
- (3) If a trade is exempted from the dealer registration requirement, so too is any act, solicitation or conduct in furtherance of that trade.

3.2 **Multi-jurisdictional trades** - Market participants are reminded that a trade can occur in more than one jurisdiction. If it does, the person conducting the trade must comply with the securities legislation of each jurisdiction in which the trade occurs.

3.3 **Responsibility for compliance** – A person trading securities is responsible for determining when an exemption is available. In determining whether an exemption is available, a person may rely on factual representations by a purchaser, provided that the person has no reasonable grounds to believe that those representations are false. However, the person trading securities is responsible for determining whether, given the facts available, the exemption is available. Generally a person trading securities under an exemption should retain all necessary documents that show that the person properly relied on the exemption. It is not appropriate for a person to assume an exemption is available.

3.4 **Advisers** - Subsection 1.4(2) of the Rule provides that an exemption from the dealer registration requirement is deemed to be an exemption from the underwriter registration requirement. However, it is not deemed to be an exemption from the adviser registration requirement. The adviser registration requirement is distinct from the dealer registration requirement. In general terms, persons engaged in the business of, or holding themselves out as being in the business of, providing investment advice are required to be registered, or exempted from registration, under Ontario securities legislation. Accordingly, only advisers registered or exempted from registration as advisers may act as advisers in connection with a trade made under the Rule.

3.5 Underwriters -

- (1) Underwriters should not sell securities to the public without providing a prospectus. If an underwriter purchases securities with a view to distribution, the underwriter should purchase the securities under the exemption from the dealer registration requirement and the prospectus requirement in section 2.33 of NI 45-106. If the underwriter purchases securities under this exemption, the first trade in the securities will be a distribution. As a result, the underwriter will only be able to resell the securities if it can rely on another exemption from the prospectus requirement, or if a prospectus is delivered to the purchasers of the securities.

- (2) There may be legitimate transactions where an underwriter purchases securities under an exemption from the dealer registration requirement and prospectus requirement other than the exemption in section 2.33 of NI 45-106; however, these transactions are only appropriate when the underwriter purchases the securities with investment intent and not with a view to distribution.
- (3) Where an underwriter purchases securities through a series of exempt trades in order to avoid the obligation to deliver a prospectus, the transactions will be looked at as a whole to determine if they constitute a distribution. If a transaction is in effect an indirect distribution, a prospectus will be required to qualify the sale of the securities despite the fact that each interim step in the transaction could otherwise be completed under a prospectus exemption. Such indirect distributions cannot be legitimately structured under NI 45-106 or the Rule.

3.6 **Soliciting purchasers -**

- (1) The exemptions from the dealer registration requirement set out in section 5.2 of the Rule are not available to a “market intermediary”. A person is a market intermediary if the person is in the business of trading in securities as principal or agent. The term “market intermediary” is defined in Ontario Securities Commission Rule 14-501 *Definitions*.
- (2) The Commission takes the position that if an issuer retains an employee whose primary job function is to actively solicit members of the public for the purposes of selling the issuer's securities, the issuer and its employees are in the business of selling securities. Further, if an issuer and its employees are deemed to be in the business of selling securities, the Commission considers both the issuer and its employees to be market intermediaries. This applies whether the issuer and its employees are located in Ontario and solicit members of the public outside of Ontario or whether the issuer and its employees are located outside of Ontario and solicit members of the public in Ontario. Accordingly, in order to be in compliance with Ontario securities legislation, these issuers and their employees should be registered under the appropriate category of registration in Ontario.

PART 4: INTERPRETATION

- 4.1 **Definitions** - Unless defined in the Rule, terms used in the Rule have the meaning given to them in Ontario securities legislation, including National Instrument 14-101 *Definitions*.
- 4.2 **Executive officer –**
 - (1) The definition of “executive officer” in the Rule is based on the definition of the same term in National Instrument 51-102 *Continuous Disclosure Obligations*.
 - (2) The definition includes someone who “performs a policy-making function” in respect of an issuer. We are of the view that an individual who “performs a policy-making function” in respect of an issuer is someone who is responsible, solely or jointly with others, for setting the direction of the issuer and is sufficiently knowledgeable of the business and affairs of the issuer so as to be able to respond meaningfully to inquiries from investors about the issuer.
 - (3) Paragraph (d) of the definition of “executive officer” includes individuals that are not employed by the issuer or any of its subsidiaries, but who perform a policy-making function in respect of the issuer.
- 4.3 **Directors, executive officers and officers of non-corporate issuers –**
 - (1) Non-corporate issuers must determine which individuals are acting in capacities similar to that of directors and officers of corporate issuers for the purpose of complying with the Rule.
 - (2) The term “director” is defined in the Rule and it includes, for non-corporate issuers, individuals who perform functions similar to those of a director of a company.
 - (3) When the term “officer” is used in the Rule, a non-corporate issuer should refer to the definition in the Act, which defines the term to include any individual acting in a capacity similar to that of an officer of a company.
- 4.4 **Investment fund** - Generally, the definition of “investment fund” would not include a trust or other entity that issues securities that entitle the holder to net cash flows generated by
 - (a) an underlying business owned by the trust or other entity, or
 - (b) the income-producing properties owned by the trust or other entity.

Examples of trusts or other entities that are not included in the definition are business income trusts, real estate investment trusts and royalty trusts.

PART 5: OFFERING MEMORANDUM

5.1 Definition of offering memorandum -

- (1) "Offering memorandum" is defined in Ontario Securities Commission Rule 14-501.
- (2) In our view, the phrase "prepared primarily for delivery to and review by a prospective purchaser" in the definition of offering memorandum means the document is prepared in contemplation of soliciting an investment from the prospective purchaser.

5.2 Mandatory and voluntary use of offering memorandum -

- (1) An issuer must prepare an offering memorandum for use in connection with a distribution made in reliance on the exemption in section 2.1 of the Rule [*Government incentive security*].
- (2) There is no obligation to prepare an offering memorandum for use in connection with a distribution made in reliance on an exemption in:
 - (a) section 2.3 of NI 45-106 [*Accredited investor*],
 - (b) section 2.4 of NI 45-106 [*Private issuer*],
 - (c) section 2.7 of NI 45-106 [*Family, founder and control person - Ontario*],
 - (d) section 2.8 of NI 45-106 [*Affiliates*],
 - (e) section 2.10 of NI 45-106 [*Minimum amount investment*], or
 - (f) section 2.19 of NI 45-106 [*Additional investment in investment funds*].

Business practice may dictate the preparation of offering material that is delivered voluntarily to a prospective purchaser in connection with a distribution made in reliance on an exemption in section 2.3, 2.4, 2.7, 2.8, 2.10 or 2.19 of NI 45-106. This offering material may constitute an "offering memorandum" as defined in OSC Rule 14-501 *Definitions*.

5.3 Right of action for damages and right of rescission -

- (1) Part 6 of the Rule provides for the application of the rights referred to in section 130.1 of the Act if an offering memorandum is delivered to a prospective purchaser in connection with a distribution made in reliance on an exemption in:
 - (a) section 2.3 of NI 45-106 (subject to the provisions of subsection 4.2(3) of the Rule) [*Accredited investor*],
 - (b) section 2.4 of NI 45-106 [*Private issuer*],
 - (c) section 2.7 of NI 45-106 [*Family, founder and control person - Ontario*],
 - (d) section 2.8 of NI 45-106 [*Affiliates*],
 - (e) section 2.10 of NI 45-106 [*Minimum amount investment*],
 - (f) section 2.19 of NI 45-106 [*Additional investment in investment funds*], or
 - (f) section 2.1 of the Rule [*Government incentive security*].

The rights apply when the offering memorandum is delivered mandatorily in connection with a distribution made in reliance on the exemption in section 2.1 of the Rule, or voluntarily in connection with a distribution made in reliance on an exemption in section 2.3, 2.4, 2.7, 2.8, 2.10 or 2.19 of NI 45-106.

- (2) A document delivered in connection with a distribution in a security made otherwise than in reliance on the exemptions referred to in subsection (1) does not give rise to the rights referred to in section 130.1 of the Act or subject the selling security holder to the requirements of Part 6 of the Rule.

5.4 Content of offering memorandum –

- (1) Other than in the case of an offering memorandum delivered in connection with a distribution made in reliance on the exemption in section 2.1 of the Rule and subject to subsection (2), Ontario securities legislation generally does not prescribe the content of an offering memorandum. The decision relating to the appropriate disclosure in an offering memorandum generally rests with the issuer, the selling security holder and their advisors.
- (2) Under section 6.3 of the Rule, the rights referred to in section 130.1 of the Act must be described in an offering memorandum delivered in connection with a distribution to which the rights apply.

5.5 Review of offering memorandum –

- (1) An offering memorandum or any amendment to a previously delivered offering memorandum delivered to the Commission under section 6.4 of the Rule is not generally reviewed or commented on by Commission staff.
- (2) If Commission staff becomes aware that an offering memorandum fails to disclose material information relating to a security that is the subject of a distribution, staff may seek to effect remedial action.

5.6 Preliminary offering material -

- (1) The Commission cautions against the practice of providing preliminary offering material to a prospective purchaser before furnishing a “final” offering memorandum unless the offering material contains a description of the rights referred to in section 130.1 of the Act in situations when the rights apply.
- (2) The only material delivered to a prospective purchaser in connection with a distribution made in reliance on an exemption referred to in section 6.1 of the Rule should be:
- (a) a “term sheet” (representing a skeletal outline of the features of a distribution without dealing extensively with the business and affairs of the issuer of the securities being distributed), and
 - (b) an offering memorandum describing the rights referred to in section 130.1 of the Act available to purchasers and complying in all other respects with Ontario securities legislation.

- 5.7 **Availability of offering memorandum –** Subject to *Freedom of Information and Protection of Privacy Act* requests, it is the Commission’s policy that an offering memorandum delivered to the Commission under section 6.4 of the Rule will not be made available to the public.

PART 6: REPORTING REQUIREMENTS

6.1 Report of exempt distribution -

- (1) Section 7.1 of the Rule requires an issuer that has distributed a security of its own issue under section 2.1 of the Rule [*Government incentive security*] to file Form 45-501F1 *Report of Exempt Distribution*, on or before the 10th day after the distribution.
- (2) In determining if it is required to file a report in Ontario, an issuer should consider the following questions:
- (a) is there a distribution in Ontario?

Please refer to Ontario securities legislation for guidance on when a distribution occurs in Ontario;
 - (b) if there is a distribution in Ontario, what exemption from the dealer registration requirement and the prospectus requirement is the issuer relying on for the distribution of the security?
 - (c) does the exemption referred to in paragraph (b) trigger a reporting requirement?

Reports of exempt distribution are required for distributions made in reliance on the exemptions listed in section 6.1 of NI 45-106 and section 7.1 of the Rule.

- (3) Section 140 of the Act requires that information filed with the Commission be made available for public inspection during normal business hours except for information that the Commission believes to be personal or other information of such a nature that the desirability of avoiding disclosure thereof in the interest of any affected individual outweighs the desirability of adhering to the principle that information filed with the Commission be available to the public for inspection.

Based on these provisions of Ontario securities legislation, the Commission has determined that the information listed in Form 45-501F1 *Report of Exempt Distribution*, Schedule I discloses personal or other information of such a nature that the desirability of avoiding disclosure of this personal information outweighs the desirability of making the information available to the public for inspection.

PART 7: RESALE OF SECURITIES ACQUIRED UNDER AN EXEMPTION

7.1 Resale restrictions –

- (1) A security distributed under an exemption may be subject to restrictions on its resale. The particular resale – or “first trade” – restrictions depend on the parties to the trade and the particular exemption that was relied on to distribute the security. In certain circumstances, no resale restrictions will apply and the security acquired under an exempt distribution will be freely tradable.
- (2) Resale restrictions are imposed under National Instrument 45-102 *Resale of Securities*. While the Rule contains text boxes providing commentary on resale, these text boxes are intended as guidance only and are not a substitute for reviewing the applicable provisions in National Instrument 45-102 *Resale of Securities* to determine what resale restrictions, if any, apply to the security in question.
- (3) The resale restrictions operate by triggering the prospectus requirement unless certain conditions are satisfied. A security that is subject to such restrictions in circumstances where the conditions cannot be satisfied may nevertheless be traded in reliance on an exemption from the prospectus requirement in the Rule, NI 45-106 or another provision in Ontario securities legislation.

**REPEAL OF
NATIONAL INSTRUMENT 32-101 SMALL SECURITYHOLDER SELLING AND PURCHASE ARRANGEMENTS**

AND

NATIONAL INSTRUMENT 62-101 CONTROL BLOCK DISTRIBUTION ISSUES

AND

MULTILATERAL INSTRUMENT 45-103 CAPITAL RAISING EXEMPTIONS

AND

**MULTILATERAL INSTRUMENT 45-105 TRADES TO EMPLOYEES,
SENIOR OFFICERS, DIRECTORS, AND CONSULTANTS**

PART 1 REPEAL OF NATIONAL INSTRUMENT 32-101

1.1 **Repeal** - National Instrument 32-101 *Small Securityholder Selling and Purchase Arrangements* is repealed.

PART 2 REPEAL OF NATIONAL INSTRUMENT 62-101

2.1 **Repeal** - National Instrument 62-101 *Control Block Distribution Issues* is repealed.

PART 3 REPEAL OF MULTILATERAL INSTRUMENT 45-103

3.1 **Repeal** - Multilateral Instrument 45-103 *Capital Raising Exemptions* is repealed.

PART 4 REPEAL OF MULTILATERAL INSTRUMENT 45-105

4.1 **Repeal** - Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants* is repealed.

PART 5 EFFECTIVE DATE

5.1 **Effective Date** - These repeals are effective September 14, 2005.

AMENDMENTS TO NATIONAL INSTRUMENT 33-105 UNDERWRITING CONFLICTS
PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 33-105

1.1 **Amendments** - National Instrument 33-105 *Underwriting Conflicts* (NI 33-105) is amended by:

- (a) in clause (b) of section 3.1, striking and replacing “a provision listed in Appendix B” with: “section 2.8 of National Instrument 45-102 Resale of Securities”;
- (b) repealing and replacing Appendix A with:

Appendix A - Exempt Securities

Jurisdiction	Securities Legislation Reference
All	Sections 2.20, 2.21 and 2.34 to 2.39 of National Instrument 45-106 <i>Prospectus and Registration Exemptions</i>
Alberta	Section 87(h), (h.1) and (h.2) of the <i>Securities Act</i> (Alberta)
British Columbia	Section 46 of the <i>Securities Act</i> (British Columbia)
Manitoba	Subsection 19(2)(g) and (h) of the <i>Securities Act</i> (Manitoba)
Newfoundland and Labrador	Subsections 36(2)(h) and (i) of the <i>Securities Act</i> (Newfoundland and Labrador)
Nova Scotia	Clause 41(2)(i) of the <i>Securities Act</i> (Nova Scotia)
Ontario	Sections 2.4 to 2.6 of OSC Rule 45-501
Prince Edward Island	Subsection 2(4)(f) and (g) of the <i>Securities Act</i> (Prince Edward Island)
Québec	Section 41 of the <i>Securities Act</i> (Québec)
Saskatchewan	Subsection 39(2)(i) and (j) of <i>The Securities Act, 1988</i> (Saskatchewan)

- (c) repealing Appendix B.

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - This amendment is effective September 14, 2005.

AMENDMENTS TO NATIONAL INSTRUMENT 45-101 RIGHTS OFFERINGS**PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 45-101**

1.1 Amendment - National Instrument 45-101 *Rights Offerings* is amended by

(a) repealing the definition of acceptance date in Part 1 and substituting:

"acceptance date" means

- (i) the date that is 10 days after the date the issuer gives the notice referred to in the rights offering prospectus exemption, or
- (ii) if the reviewing authority has objected to the proposed trade under the rights offering prospectus exemption, the date the reviewing authority notifies the issuer by written notice that it no longer objects to the use of the rights offering prospectus exemption;

(b) repealing the definition of "rights offering" in Part 1 and substituting:

"rights offering" means the issuance by an issuer to existing security holders of a right to purchase additional securities of the issuer's own issue.

PART 2 EFFECTIVE DATE

2.1 Effective Date - This amendment is effective September 14, 2005.

**AMENDMENTS TO NATIONAL INSTRUMENT 62-103
THE EARLY WARNING SYSTEM AND RELATED TAKE-OVER BID AND INSIDER REPORTING ISSUES**

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 62-103

1.1 Amendment - National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues* is amended by:

- (a) in the definition of “applicable provisions” in section 1.1, striking clause (f);
- (b) repealing subsection (1) of section 6.1 and substituting:
- (1) An entity is exempt from the early warning requirements and the obligation to report under Part 4 in connection with an increase in the securityholding percentage of the entity in a class of securities of a reporting issuer that arises without any action being taken by the entity and solely from a reduction in outstanding securities that occurs as a result of redemptions, retractions or other repurchases by the reporting issuer, that affect or are offered to all security holders of the relevant class.
- (c) repealing subsection (2) of section 6.1 and substituting:
- (2) An entity is exempt from the early warning requirements and the obligation to report under Part 4 in connection with a decrease in the securityholding percentage of the entity in a class of securities of a reporting issuer that arises without any action being taken by the entity and solely from an increase in outstanding securities that occurs as a result of treasury issuances of securities by the reporting issuer.
- (d) in Appendix A
- (i) under the Alberta securities legislative reference, striking and replacing “Clause 1(f)(iii) of the *Securities Act (Alberta)*” with:
- “Clause 1(p)(iii) of the *Securities Act (Alberta)*”
- (ii) under the New Brunswick securities legislative reference, striking and replacing “Paragraph (b) of the definition of “primary distribution to the public” contained in section 1 of the *Securities Frauds Prevention Act (New Brunswick)*” with:
- “Paragraph (c) of the definition of “distribution” contained in section 1(1) of the *Securities Act (New Brunswick)*” and
- (iii) adding the following jurisdiction and securities legislative reference after Ontario:
- “Québec Subparagraph 9 of the definition of “distribution” contained in section 5 of the *Securities Act (Québec)*”
- (e) in Appendix B
- (i) under the Alberta securities legislative reference, striking and replacing “Subsections 141(1), 141(2) and 141(3) of the *Securities Act (Alberta)*” with:
- “Subsections 176(1), 176(2) and 176(3) of the *Securities Act (Alberta)*”
- (ii) adding the following jurisdiction and securities legislative reference after Manitoba:
- “New Brunswick Subsection 126(1) and (2) of the *Securities Act (New Brunswick)*”

PART 2 EFFECTIVE DATE

2.1 Effective Date - These amendments are effective September 14, 2005.

AMENDMENTS TO MULTILATERAL INSTRUMENT 45-102 RESALE OF SECURITIES
PART 1 AMENDMENTS TO MULTILATERAL INSTRUMENT 45-102

1.1 **Amendment** - Multilateral Instrument 45-102 *Resale of Securities* (MI 45-102) is amended by:

- (a) in MI 45-102, striking “Multilateral Instrument 45-102” and substituting “National Instrument 45-102” as follows:
 - (i) in the title of the instrument, and
 - (ii) in the title of Appendix B and C;
- (b) in section 1.1,
 - (i) repealing the definition of “former MI 45-102”,
 - (ii) repealing and replacing the definition of “MI 45-102” with:

“MI 45-102” means this Instrument prior to its amendment on September 14, 2005;
 - (iii) repealing and replacing the definition of “MI 45-103” with:

“MI 45-103” means Multilateral Instrument 45-103 *Capital Raising Exemptions* prior to its repeal on September 14, 2005;
 - (iv) repealing and replacing the definition of “MI 45-105” with the following:

“MI 45-105” means Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* prior to its repeal on September 14, 2005;
 - (v) adding the following after the definition of “multiple convertible security”:

“NI 45-106” means National Instrument 45-106 *Prospectus and Registration Exemptions*;
 - (vi) repealing and replacing the definition of “private company” with the following:

“private company” has the same meaning as in securities legislation;
 - (vii) repealing and replacing the definition of “private issuer” with:

“private issuer” means, as the context requires,

 - (a) a private issuer as defined in securities legislation,
 - (b) a private issuer as defined in NI 45-106, or
 - (c) in Ontario, for purposes of the definition of private issuer as it existed in 1998 OSC Rule 45-501 (as defined in the Ontario transitional provisions in Appendix D) prior to its repeal on November 30, 2001, a person that
 - (i) is not a reporting issuer or a mutual fund,
 - (ii) is an issuer all of whose issued and outstanding shares
 - (A) are subject to restrictions on transfer contained in the constating documents of the issuer or one or more agreements among the issuer and the holders of its securities; and
 - (B) are beneficially owned, directly or indirectly, by not more than 50 persons or companies counting any two or more joint registered holders as one beneficial owner, exclusive of persons

- (I) that are employed by the issuer or an affiliated entity of the issuer, or
- (II) that beneficially owned, directly or indirectly, shares of the issuer while employed by it or an affiliated entity of it and at all times since ceasing to be so employed have continued to beneficially own, directly or indirectly, at least one share of the issuer, and
- (iii) has not distributed any securities to the public;
- (viii) repealing and replacing the definition of "SEDAR" with:
 - "SEDAR" has the same meaning as in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;
- (ix) adding the following after the definition of "SEDAR":
 - "trade", in Québec, has the same meaning as in NI 45-106; and
- (c) amending section 2.1 by striking "New Brunswick and the Yukon Territory" and substituting "and Yukon";
- (d) amending item 3. of section 2.5 (2) by adding " or on or after September 14, 2005 in Québec," after " March 30, 2004,"
- (e) amending item 3.(a) and (b) by adding "and, in Québec, the securities regulatory authority," after "regulator",
- (f) amending section 2.5(3) by adding "and, in Québec, the securities regulatory authority," after "regulator",
- (g) repealing and replacing section 2.7 with:

2.7 Exemption for a Trade if the Issuer Becomes a Reporting Issuer After the Distribution Date - Item 1 of subsection 2.5(2), 2.6(3) or 2.8(2) does not apply if the issuer became a reporting issuer after the distribution date by filing a prospectus in a jurisdiction listed in Appendix B and is a reporting issuer in a jurisdiction of Canada at the time of the trade.
- (h) amending section 2.8 by repealing subsection (5);
- (i) amending section 2.9 by repealing and replacing subsection (1) with:

(1) In determining the period of time that an issuer was a reporting issuer in a jurisdiction of Canada for the purposes of section 2.5, 2.6 or 2.8, if the issuer was a party to an amalgamation, merger, continuation or arrangement, the selling security holder may include the period of time that one of the parties to the amalgamation, merger, continuation or arrangement was a reporting issuer in a jurisdiction of Canada immediately before the amalgamation, merger, continuation or arrangement.
- (j) in Form 45-102F1,
 - (A) striking "MI 45-102" and substituting "NI 45-102" in the title and in the Notice to selling security holders - collection and use of personal information, and
 - (B) adding the following Québec contact information to the Notice to selling security holders - collection and use of personal information:

Autorité des marchés financiers
 Tour de la Bourse
 800 square Victoria
 C.P. 246, 22e étage
 Montréal, Québec H4Z 1G3
 Attention: Responsable de l'accès à l'information

- (k) repealing Appendices A, D, E and F and replacing them with the appendices (new Appendices A, D, E and F) in the attached Schedule 4.

PART 2 EFFECTIVE DATE

- 2.1 **Effective Date** - These amendments are effective September 14, 2005.

**APPENDIX A
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

CONTROL DISTRIBUTIONS

JURISDICTION SECURITIES LEGISLATION REFERENCE

Alberta	Definition of "control person" in section 1(l) and subclause (iii) of the definition of "distribution" contained in section 1(p) of the <i>Securities Act</i> (Alberta)
British Columbia	Paragraph (c) of the definition of "distribution" contained in section 1(1) of the <i>Securities Act</i> (British Columbia)
Manitoba	Paragraph (b) of the definition of "primary distribution to the public" contained in subsection 1(1) of the <i>Securities Act</i> (Manitoba)
Newfoundland and Labrador	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Newfoundland and Labrador)
New Brunswick	Definition of "control person" and clause (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (New Brunswick)
Northwest Territories	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Nova Scotia	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Nova Scotia)
Nunavut	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Ontario	Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (Ontario)
Prince Edward Island	Clause (iii) of the definition of "distribution" in section 1 of the <i>Securities Act</i> (Prince Edward Island)
Québec	Paragraph 9 of the definition of "distribution" contained in section 5 of the <i>Securities Act</i> (Québec)
Saskatchewan	Subclauses 2(1)(r)(iii), (iv) and (v) of <i>The Securities Act, 1988</i> (Saskatchewan)

APPENDIX D
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES

RESTRICTED PERIOD TRADES
(Section 2.3)

Except in Manitoba and the Yukon, the following exemptions from the prospectus requirement in NI 45-106:

- subsection 2.3(2) [Accredited investor]
- subsection 2.5(2) [Family, friends and business associates] (except in Ontario)
- subsection 2.7(2) [Founder, control person and family] (Ontario)
- subsection 2.8(2) [Affiliates]
- subsection 2.9(3) [Offering memorandum] (in British Columbia, New Brunswick, Nova Scotia, and Newfoundland and Labrador)
- subsection 2.9(5) [Offering memorandum] (in Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Québec and Saskatchewan)
- subsection 2.10(2) [Minimum amount investment]
- subsection 2.12(2) [Asset acquisition]
- subsection 2.13(2) [Petroleum, natural gas and mining properties]
- subsection 2.14(2) [Securities for debt]
- subsection 2.19(2) [Additional investment in investment funds]
- subsection 2.30(2) [Isolated trade by issuer]
- subsection 2.40(2) [RRSP/RRIF], if the security acquired under section 2.40 was initially acquired by an individual or an associate of the individual or an RRSP or RRIF established for or by that individual or under which that individual is a beneficiary under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to September 14, 2005 that the first trade was subject to section 2.5 of MI 45-102
- subsection 2.42(3) [Conversion, exchange or exercise] if the security acquired in the circumstances referred to in clause (a) of subsection 2.42 (1) was acquired in accordance with the terms and conditions of a previously issued security under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to September 14, 2005 that the first trade was subject to section 2.5 of MI 45-102
- section 5.2 [TSX Venture exchange offering], if the security acquired under section 5.2 was acquired by

- (a) a purchaser that, at the time the security was acquired, was an insider or promoter of the issuer of the security, the issuer's underwriter, or a member of the underwriter's "professional group" (as defined in National Instrument 33-105 *Underwriting Conflicts*), or
- (b) any other purchaser who purchases securities in excess of \$40,000.

as well as the following local exemptions from the prospectus requirement:

- section 3.1 of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta*
- clauses 77(1)(u) and (w) and subclauses 77(1)(ab)(ii) and (iii) of the *Securities Act* (Nova Scotia)
- an exemption from the prospectus requirement in a jurisdiction of Canada that specifies that the first trade is subject to section 2.5 of NI 45-102

Transitional Provisions

1. **General:** An exemption from the prospectus requirement listed in Appendix D of MI 45-102 in effect on March 30, 2004 or an exemption from the prospectus requirement that specified prior to September 14, 2005 that the first trade was subject to section 2.5 of MI 45-102. The exemptions listed in Appendix D on March 30, 2004 were:
 - Sections 131(1)(b), (c), (l), and (m) of the *Securities Act* (**Alberta**)
 - Section 122(d) and 122.2 of the Alberta Securities Commission Rules, section 3.1 of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta*, subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
 - Section 131(1)(f)(iii) of the *Securities Act* (**Alberta**), if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act* (Alberta), the Alberta Securities Commission Rules or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
 - Sections 74(2)(1) to (6), (16), (18), (19), (23) and (25) of the *Securities Act* (**British Columbia**)
 - Sections 128(a), (b), (c), (e), (f) and (h) of the *Securities Rules* (**British Columbia**) and subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
 - Sections 74(2)(11)(ii), 74(2)(11)(iii) and 74(2)(13) of the *Securities Act* (**British Columbia**) if the security acquired by the selling security holder or the right to purchase, convert or exchange or otherwise acquire, was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or MI 45-103 referred to in this Appendix, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
 - Section 74(2)(12) of the *Securities Act* (**British Columbia**) if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or MI 45-103 referred to in this Appendix, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
 - Clauses 54(3)(f) and (g) and 73(1)(a), (b), (c), (d), (h), (l), (m), (p) and (q) of the *Securities Act* (**Newfoundland and Labrador**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103, or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
 - Subclause 73(1)(f)(iii) of the *Securities Act* (**Newfoundland and Labrador**) if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act* (Newfoundland and Labrador) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102

- Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**), subsections 3.1(2), 4.1(2), 4.1(4), 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Clauses 77(1)(a), (b), (c), (d), (l), (m), (p), (q), (u), (w), (y), (ab) and (ad) of the *Securities Act* (**Nova Scotia**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Subclause 77(1)(f)(iii) of the *Securities Act* (**Nova Scotia**) if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act* (Nova Scotia) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z) of Blanket Order No.1 of the Registrar of Securities (**Nunavut**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Subparagraph 3(e)(iii) of Blanket Order No.1 of the Registrar of Securities (**Nunavut**) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under Blanket Order No. 1 of the Registrar of Securities (Nunavut) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Clauses 13(1)(a), (b), (c), (g) and (i) of the *Securities Act* (**Prince Edward Island**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Subclause 13(1)(e)(iii) of the *Securities Act* (**Prince Edward Island**) if the right to purchase, convert or exchange was previously acquired under one the above-listed exemptions under the *Securities Act* (Prince Edward Island) or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Clauses 81(1)(a), (b), (c), (d), (m), (n), (s), (t), (v), (w), (z), (bb) and (ee) of *The Securities Act, 1988* (**Saskatchewan**) and subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Subclauses 81(1)(f)(iii) and (iv) of *The Securities Act, 1988* (**Saskatchewan**) if the convertible security, exchangeable security or multiple convertible security was acquired under one of the exemptions of *The Securities Act, 1988* (Saskatchewan) or MI 45-103 referred to in this Appendix or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- Clause 81(1)(e) of *The Securities Act, 1988* (**Saskatchewan**) if the person or company from whom the securities were acquired obtained the securities under one of the exemptions of *The Securities Act, 1988* (Saskatchewan) referred to in this Appendix

2. Québec Provisions

- Sections 43, 47, 48 and 51 of the *Securities Act* (Québec) as they read prior to their amendment or repeal by section 7 and 8 of *An Act to amend the Securities Act and other legislative provisions*
- Prospectus and registration exemptions granted pursuant to section 263 of the *Securities Act* (Québec) before March 30, 2004 if the exemption included as a condition a restricted period of 12 months

3. Ontario Provisions

Definitions

In this Appendix

“**1998 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on December 22, 1998;

“**2001 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on November 30, 2001;

“**2004 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

“**2005 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions* that came into force on September 14, 2005;

“**convertible security**” means, in Ontario, a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;

“**exchangeable security**” means, in Ontario, a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or the right of the issuer to cause the purchase of, a security of another issuer;

“**exchange issuer**” means, in Ontario, an issuer that distributes securities of a reporting issuer held by it in accordance with the terms of an exchangeable security of its own issue;

“**multiple convertible security**” means, in Ontario, a security of an issuer that is convertible into or exchangeable for, or carries the right of the holder to purchase, or of the issuer or exchange issuer to cause the purchase of, a convertible security, an exchangeable security or another multiple convertible security;

“**OSC Rule 45-502**” means Ontario Securities Commission Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans*;

“**Type 1 trade**” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the *Securities Act* (Ontario);
- (b) section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501;
- (c) section 2.3, 2.12, 2.13 or 2.14 of the 2001 OSC Rule 45-501; or
- (d) section 2.3, 2.12, 2.13, 2.14 or 2.16 of the 2004 OSC Rule 45-501; and

“**underlying security**” means, in Ontario, a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.

(a) Securities Act (Ontario)

Clauses 72(1)(a), (b), (c), (d), (l), (m), (p) and (q) of the *Securities Act* (Ontario) and subclause 72(1)(f)(iii) of the *Securities Act* (Ontario) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act* (Ontario), or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102

(b) 2005 OSC Rule 45-501

Section 2.1 of the 2005 OSC Rule 45-501

Section 2.2 of the 2005 OSC Rule 45-501

(c) 2001 OSC Rule 45-501 and 2004 OSC Rule 45-501

Section 2.3 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.11 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if section 2.5 of MI 45-102 would have been applicable to a first trade in that security by the person making the exempt distribution under section 2.11 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501.

Section 2.12 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.13 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.14 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.16 of the 2004 OSC Rule 45-501

(d) 1998 OSC Rule 45-501

Section 2.4 of the 1998 OSC Rule 45-501

Section 2.5 of the 1998 OSC Rule 45-501

Section 2.11 of the 1998 OSC Rule 45-501

(e) Other

Any provision under which an underlying security was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade or in a trade under section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501.

APPENDIX E
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES
SEASONING PERIOD TRADES
(Section 2.4)

Except in Manitoba and the Yukon, the following exemptions from the prospectus requirement in NI 45-106:

- subsection 2.1(2) [Rights offering]
- subsection 2.2(4) [Reinvestment plan]
- subsection 2.4(2) [Private issuer]
- subsection 2.11(2) [Business combination and reorganization]
- subsection 2.16(2) [Take-over bid and issuer bid]
- subsection 2.17(2) [Offer to acquire to security holder outside local jurisdiction]
- subsection 2.18(6) [Investment fund reinvestment]
- subsection 2.20(2) [Private investment club]
- subsection 2.21(3) [Private investment fund - loan and trust pools]
- subsection 2.24(4) [Employee, executive officer, director and consultant]
- subsection 2.26(3) [Trades among current or former employees, executive officers, directors or consultants of non-reporting issuer]
- subsection 2.27(4) [Permitted transferees]
- subsection 2.31(3) [Dividends and distributions]
- subsection 2.40(2) [RRSP/RRIF], if the security acquired under section 2.40 was initially acquired by an individual or an associate of the individual or an RRSP or RRIF established for or by that individual or under which that individual is a beneficiary under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to September 14, 2005 that the first trade was subject to section 2.6 of MI 45-102
- subsection 2.42(3) [Conversion, exchange or exercise - security of own issue] if the security acquired in the circumstances referred to in clause (a) of subsection 2.42(1) was acquired in accordance with the terms and conditions of a previously issued security under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to September 14, 2005 that the first trade was subject to section 2.6 of this Instrument

- subsection 2.42(3) [Conversion, exchange or exercise - security of a reporting issuer] for a security being traded in the circumstances referred to in clause (b) of subsection 2.42(1)

as well as the following local exemptions from the prospectus requirement:

- Alberta Securities Commission Rule 45-502 *Trade with RESP*, if not included in Appendix D
- Nova Scotia Securities Commission Blanket Order No. 46
- Prince Edward Island Local Rule 45-510 - Exempt Distributions - Exemptions for Trades Pursuant to Take-over Bids and Issuer Bids.
- An exemption from the prospectus requirement in a jurisdiction of Canada that specifies that the first trade is subject to section 2.6 of NI 45-102

Transitional Provisions

1. General:

An exemption from the prospectus requirement listed in Appendix E of MI 45-102 *Resale of Securities* in effect on March 30, 2004 or an exemption from the prospectus requirement that specified prior to September 14, 2005 that the first trade was subject to section 2.6 of MI 45-102. The exemptions listed in Appendix E of MI 45-102 on March 30, 2004 were:

- Section 131(1)(f) if not included in Appendix D of this Instrument, sections 131(1)(h), (i), (j), (k), and (y) of the *Securities Act (Alberta)* and sections 107(1) (j.1) and (k.1) prior to their repeal by section 5 of the *Securities Amendment Act, 1989 (Alberta)*, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- Section 74(2)(11)(iii) if not included in Appendix D or F and sections 74(2)(7), (8) if not included in Appendix F, (9) to (11), (13), (22) and (24) of the *Securities Act (British Columbia)*
- Section 128(g) of the *Securities Rules (British Columbia)*, section 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- Section 74(2)(12) of the *Securities Act (British Columbia)*, if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act (British Columbia)*, the *Securities Rules (British Columbia)* or a multilateral instrument referred to in this Appendix or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- Clauses 54(3) and 73(1)(f) if not included in Appendix D or F of this Instrument, (i) if not included in Appendix F, (j), (k) and (n) of the *Securities Act (Newfoundland and Labrador)*, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- Paragraphs 3(e), (f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**), except for a trade made under subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) that is included in Appendix D or F of this Instrument or a trade made under paragraph 3(g) that is included in Appendix F of this Instrument, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- Clause 77(1)(f) of the *Securities Act (Nova Scotia)* if not included in Appendix D or F of this Instrument, and clauses 77(1)(h), (i) if not included in Appendix F, (j), (k), (n), (v), (va), (ac), (ae) and (af) of the *Securities Act (Nova Scotia)*, and clause 78(1)(a) of the *Securities Act (Nova Scotia)* as it relates to clause 41(2)(j) of the *Securities Act (Nova Scotia)* and Blanket Order No. 37, 38 if not included in Appendix F, 46 and 45-503 if not included in Appendix F, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

- Paragraphs 3(e), (f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (**Nunavut**), except for a trade made under subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Nunavut) that is included in Appendix D or F of this Instrument or a trade made under paragraph 3(g) that is included in Appendix F of this Instrument, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- Clauses 13(1)(e) if not included in Appendix D or F of this Instrument, (f) if not included in Appendix F, (h) and (k) of the *Securities Act* (**Prince Edward Island**) or section 3.1 or 3.2 of Rule 45-501, section 1.1 of Prince Edward Island Rule 45-502, section 2.1 or 2.2 of Prince Edward Island Rule 45-506 or section 2.1 or 2.2 of Prince Edward Island Rule 45-510, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- Clauses 81(1)(a.1), (e) if not included in Appendix D of this Instrument, (f) if not included in Appendix D or F of this Instrument, (f.1), (g), (h), (i) if not included in Appendix F, (i.1), (j), (k), (o), (cc) and (dd) of *The Securities Act, 1988* (**Saskatchewan**), subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

2. Québec Provisions

- Sections 50 and 52 of the *Securities Act* (Québec) as they read prior to their repeal by section 8 of *An Act to amend the Securities Act and other legislative provisions*
- Prospectus and registration exemptions granted pursuant to section 263 of the *Securities Act* (Québec) before March 30, 2004 if the exemption included as a condition a seasoning period of 12 months

3. Ontario provisions

Definitions

In this Appendix

“**1998 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on December 22, 1998;

“**2001 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on November 30, 2001;

“**2004 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

“**2005 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions* that came into force on September 14, 2005;

“**convertible security**” means, in Ontario, a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;

“**exchangeable security**” means, in Ontario, a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or the right of the issuer to cause the purchase of, a security of another issuer;

“**exchange issuer**” means, in Ontario, an issuer that distributes securities of a reporting issuer held by it in accordance with the terms of an exchangeable security of its own issue;

“**multiple convertible security**” means, in Ontario, a security of an issuer that is convertible into or exchangeable for, or carries the right of the holder to purchase, or of the issuer or exchange issuer to cause the purchase of, a convertible security, an exchangeable security or another multiple convertible security;

“**OSC Rule 45-502**” means Ontario Securities Commission Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans*;

“**OSC Rule 45-503**” means Ontario Securities Commission Rule 45-503 *Trades to Employees, Executives and Consultants*;

“**Type 1 trade**” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the *Securities Act* (Ontario);
- (b) section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501;
- (c) section 2.3, 2.12, 2.13 or 2.14 of the 2001 OSC Rule 45-501; or
- (d) section 2.3, 2.12, 2.13, 2.14 or 2.16 of the 2004 OSC Rule 45-501; and

“**Type 2 trade**” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(f) of the *Securities Act* (Ontario) other than a distribution to an associated consultant or investor consultant as defined in OSC Rule 45-503 or a distribution to an associated consultant or investor relations person as defined in MI 45-105;
- (b) clause 72(1)(h), (i), (j), (k) or (n) of the *Securities Act* (Ontario); or
- (c) section 2.5, 2.8 or 2.15 of the 2001 OSC Rule 45-501; or
- (d) section 2.5, 2.8 or 2.15 of the 2004 OSC Rule 45-501; and

“**underlying security**” means, in Ontario, a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.

(a) Securities Act (Ontario)

Clauses 72(1)(f), (i) if not included in Appendix F, (j), (k) and (n) of the *Securities Act* (Ontario), except for a trade made under 72(1)(f)(iii) of the *Securities Act* (Ontario) that is:

- (i) included in Appendix D or F of this Instrument, or
- (ii) contemplated by section 6.5 of Ontario Securities Commission Rule 45-501 *Exempt Distributions*; and
- (iii) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

Clause 72(1)(h) of the *Securities Act* (Ontario) except for a distribution under clause 72(1)(h) of the *Securities Act* (Ontario) of an underlying security that was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade

(b) 2001 OSC Rule 45-501 and 2004 OSC Rule 45-501

Section 2.1 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.5 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501.

Section 2.6 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if an underlying security was distributed under section 2.6 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired:

- (a) in a Type 2 trade;
- (b) under section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1 of OSC Rule 45-503, other than a trade by an associated consultant or investor consultant as defined in OSC Rule 45-503; or
- (c) under a provision in Part 2 of MI 45-105.

Section 2.7 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if an underlying security was distributed under section 2.7 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired:

- (a) in a Type 2 trade;

- (b) under section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1 of OSC Rule 45-503, other than a trade by an associated consultant or investor consultant as defined in OSC Rule 45-503; or
- (c) under a provision in Part 2 of MI 45-105.

Section 2.8 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501.

Section 2.11 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if section 2.6 of MI 45-102 would have been applicable to a first trade in that security by the person making the exempt distribution under section 2.11 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501.

Section 2.15 of the 2004 OSC Rule 45-501

(c) 1998 OSC Rule 45-501

Section 2.7 of the 1998 OSC Rule 45-501

Section 2.8 of the 1998 OSC Rule 45-501

Section 2.9 of the 1998 OSC Rule 45-501 if an underlying security was distributed under section 2.9 of the 1998 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade

Section 2.10 of the 1998 OSC Rule 45-501 if an underlying security was distributed under section 2.10 of the 1998 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade

Section 2.17 of the 1998 OSC Rule 45-501

Subsection 2.18(1) of the 1998 OSC Rule 45-501 after the issuer had ceased to be a private issuer for the purposes of the *Securities Act* (British Columbia)

(d) Other

Sections 2.1 and 3.1 of Ontario Securities Commission Rule 45-502.

**APPENDIX F
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**UNDERWRITERS
(Section 2.13)**

Subsection 2.33(2) [*Acting as underwriter*] of NI 45-106 and subsection 2.11(2) [*Business combination and reorganization*] or 2.42(3) [*Conversion, exchange or exercise*] of NI 45-106, if the original security was acquired under subsection 2.33(2) of NI 45-106 or one of the underwriter exemptions in the transitional provisions listed below

Transitional Provisions:

An exemption from the prospectus requirement listed in Appendix F of MI 45-102 as Appendix F read on March 30, 2004. Exemptions listed in Appendix F of MI 45-102 on March 30, 2004 were:

- Section 74(2)(15) of the *Securities Act (British Columbia)* and section 74(2)(8) or 74(2)(11)(iii) of the *Securities Act (British Columbia)* if the original security was acquired under section 74(2)(15) of the *Securities Act (British Columbia)*
- Clause 73(1)(r) of the *Securities Act (Newfoundland and Labrador)* and section 73(1)(i) or 73(1)(f)(iii) of the *Securities Act (Newfoundland and Labrador)* if the original security was acquired under section 73(1)(r) of the *Securities Act (Newfoundland and Labrador)*
- Paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**) and paragraph 3(g) or subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) if the original security was acquired under paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories)
- Clause 77(1)(r) of the *Securities Act (Nova Scotia)* and clause 77(1)(i) or 77(1)(f)(iii) of the *Securities Act (Nova Scotia)* or Blanket Order No. 38 or 45-503 if the original security was acquired under clause 77(1)(r) of the *Securities Act (Nova Scotia)*
- Paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (**Nunavut**) and paragraph 3(g) or subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Nunavut) if the original security was acquired under paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (Nunavut)
- Clause 72(1)(f)(iii) of the *Securities Act (Ontario)* if the original security was acquired under clause 72(1)(r) of the *Securities Act (Ontario)*
- Clause 72(1)(i) of the *Securities Act (Ontario)* if the original security was acquired under clause 72(1)(r) of the *Securities Act (Ontario)*
- Clause 72(1)(r) of the *Securities Act (Ontario)*
- Section 2.1 of Prince Edward Island Rule 45-509 and subclause 13(1)(e)(iii) or clause 13(1)(f) of the *Securities Act (Prince Edward Island)* or section 1.1 of Prince Edward Island Rule 45-502 if the original security was acquired under section 2.1 of Prince Edward Island Rule 45-509
- Section 55 of the *Securities Act (Québec)* as it read prior to its repeal by section 8 of *An Act to amend the Securities Act and other legislative provisions*
- Clause 81(1)(u) of *The Securities Act, 1988 (Saskatchewan)* and clause 81(1)(i) or subclause 81(1)(f)(iii) of *The Securities Act, 1988 (Saskatchewan)* if the original security was acquired under clause 81(1)(u) of *The Securities Act, 1988 (Saskatchewan)*

**AMENDMENTS TO COMPANION POLICY 45-102CP TO
MULTILATERAL INSTRUMENT 45-102 RESALE OF SECURITIES**

PART 1 AMENDMENTS TO COMPANION POLICY 45-102CP

1.1 Amendment - Companion Policy 45-102CP to Multilateral Instrument 45-102 *Resale of Securities* (the Companion Policy) is amended by:

- (a) in the Companion Policy, striking “Multilateral Instrument 45-102” and substituting “National Instrument 45-102” as follows:
 - (i) in the title of the Companion Policy, and
 - (ii) in subsection 1.1(1) of the Companion Policy;
- (b) amending section 1.1 by
 - (i) striking “MI 45-102” wherever it appears and substituting “NI 45-102”,
 - (ii) in subsection (1), striking “except Québec”, and
 - (iii) in subsection (2); striking “Manitoba, New Brunswick and the Yukon Territory” and substituting “Manitoba and Yukon”,
- (c) amending section 1.2 by
 - (i) in subsections (1) and (3), striking “MI 45-102” wherever it appears and substituting “NI 45-102”,
 - (ii) repealing and replacing subsection (2) with:

(1) Appendices D and E to NI 45-102 list the new harmonized exemptions in National Instrument 45-106 *Registration and Prospectus Exemptions* (NI 45-106) and local exemptions that are subject to the resale restrictions under section 2.5 or 2.6 of NI 45-102, while Appendix F lists the new harmonized exemptions in NI 45-106 applicable to underwriters. Each of these appendices also contains transitional provisions applicable to securities acquired under exemptions listed in the Appendices to MI 45-102 as Appendices D, E and F read on March 30, 2004. For all local exemptions that come into effect after September 14, 2004, you should look to the local instrument itself to see if it specifies that the securities acquired are subject to section 2.5 or 2.6 of NI 45-102 as well as to Appendix D and E to NI 45-102. You may also wish to consult the CSA Notice listing local registration and prospectus exemptions in place in each jurisdiction of Canada, which the CSA will update periodically.
- (d) repealing and replacing section 1.3 with:

1.3 Transition

- (1) When Multilateral Instrument 45-102 *Resale of Securities* (“former MI 45-102”) came into force on November 30, 2001, that instrument imposed harmonized resale restrictions on the first trade of securities made on or after that date, even if the securities were distributed, or acquired by the selling security holder in the case of a trade that is a control distribution, prior to November 30, 2001. These securities were subject to prescribed restricted periods and seasoning periods of either four or twelve months. When MI 45-102 was implemented on March 30, 2004, the securities of all reporting issuers became subject to four month restricted and seasoning periods under section 2.5 and 2.8 or four month seasoning periods under section 2.6 of MI 45-102. This meant that any existing restricted period or seasoning period imposed under Part 2 of former MI 45-102 that exceeded four months was reduced to four months under MI 45-102. Under NI 45-102, securities of all reporting issuers continue to be subject to a four month restricted period under subsection 2.5(2) or 2.8(2) of the Instrument.
- (2) Item 3. of subsection 2.5(2) of MI 45-102 required that the certificate or the ownership statement evidencing a security that is the subject of the first trade carry either a legend or a legend restriction notation disclosing the resale restrictions. This legend requirement applied

only to securities distributed on or after MI 45-102 comes into effect on March 30, 2004 in all jurisdictions except Québec. We have added language to Item 3. of subsection 2.5(2) of NI 45-102 to clarify that the legend requirement in NI 45-106 will only apply to securities distributed in Québec on or after NI 45-106 comes into effect on September 14, 2005.

- (3) Issuers may continue to replace those certificates that are legended in accordance with former MI 45-102 with a certificate (or an acceptable electronic alternative) carrying the legend (or legend restriction notation) specified in item 3. of subsection 2.5(2) of NI 45-102. As was the case under former MI 45-102, certificates representing securities distributed prior to November 30, 2001 do not have to be legended.
- (e) amending section 1.4 by
- (i) striking “MI 45-102” and substituting “NI 45-102”, and
 - (ii) striking “Manitoba, New Brunswick and the Yukon Territory” and substituting “Manitoba and Yukon”;
- (f) amending sections 1.5 and 1.6 by striking “MI 45-102” wherever it appears and substituting “NI 45-102”;
- (g) repealing and replacing section 1.7 with:
- 1.7 Legending of Securities** - Item 3. of subsection 2.5(2) of NI 45-102 imposes a legend requirement for securities distributed under any of the provisions listed in Appendix D to NI 45-102 or another prospectus exemption of any jurisdiction subject to the resale restrictions in subsection 2.5(2) of NI 45-102. Beneficial security holders must receive either a paper certificate representing their security or an electronic alternative such as an ownership statement under a direct registration system, scheduled to be phased into operation during 2005. If a paper certificate is issued, the certificate must carry the legend specified in item 3 that notifies the beneficial security holder of the applicable resale restrictions. Similarly, an ownership statement must carry a restricted legend notation that notifies the beneficial security holder of the applicable resale restrictions. Issuers may add additional wording to that found in item 3. of subsection 2.5(2) of NI 45-102. If you supplement the specified text of the legend on the certificate or the restricted legend notation on the ownership statement, that additional wording cannot alter the meaning of the specified wording. You should also look to section 1.10 for further guidance on the legending of convertible and underlying securities.
- (h) amending section 1.8 by:
- (i) in subsection (1) striking “MI 45-102” and substituting “NI 45-102”, and
 - (ii) repealing subsection (2);
- (i) amending sections 1.9, 1.11, 1.12, 1.13, 1.14 and 1.15 by striking “MI 45-102” wherever it appears and substituting “NI 45-102”;
- (j) amending section 1.16 by:
- (i) striking “MI 45-102” wherever it appears and substituting “NI 45-102”, and
 - (ii) striking the last sentence.

PART 2 EFFECTIVE DATE

- 2.1 **Effective Date** - These amendments are effective September 14, 2005.

**ONTARIO SECURITIES COMMISSION
RULE 45-802
IMPLEMENTING NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS
AND
ONTARIO SECURITIES COMMISSION RULE 45-501
ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS**

- 1.1 **OSC Rule 32-502** – Ontario Securities Commission Rule 32-502 – *Registration Exemption for Certain Trades by Financial Intermediaries* is revoked.
- 1.2 **OSC Rule 32-503** – Ontario Securities Commission Rule 32-503 – *Registration and Prospectus Exemption for Trades by Financial Intermediaries in Mutual Fund Securities to Corporate Sponsored Plans* is revoked.
- 1.3 **OSC Rule 45-502** - Ontario Securities Commission Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans* is revoked.
- 1.4 **OSC Rule 46-501** – Ontario Securities Commission Rule 46-501 – *Self-Directed Registered Education Savings Plans* is revoked.
- 1.5 **OSC Rule 81-501** - Ontario Securities Commission Rule 81-501 *Mutual Fund Reinvestment Plans* is revoked.
- 1.6 **Effective Date** - This Rule comes into force on September 14, 2005.

**ONTARIO SECURITIES COMMISSION RULE 13-502
FEES
AMENDMENT INSTRUMENT**

12. Ontario Securities Commission Rule 13-502 *Fees* is amended by this Instrument.
13. Subsection 2.8(5) is revoked and the following substituted:
- This section does not apply to a reporting issuer formed from a statutory amalgamation or arrangement, or a person or company continuing from a transaction to which paragraph 2.11(1)(a) or (b) of National Instrument 45-106 *Prospectus and Registration Exemptions* applies.
14. Appendix C is amended by
- (i) revoking the title "Fees relating to Rule 45-501 Exempt Distributions" to item B and substituting the following:
Fees relating to exempt distributions under Rule 45-501 *Ontario Prospectus and Registration Exemptions* and National Instrument 45-106 *Prospectus and Registration Exemptions*
 - (ii) adding "or Form 45-106F1" after "Form 45-501F1" in item B(2);
 - (iii) revoking the title "Provision of Notice under section 72(1)(h)(ii) of the Act" to item D and substituting the following:
Provision of Notice under paragraph 2.42(2)(a) of National Instrument 45-106 *Prospectus and Registration Exemptions*
 - (iv) striking out "clause 72(1)(m)", "Rule 45-502", "Rule 45-503" and "National Instrument 62-101" in item F(1);
 - (v) adding "National Instrument 45-106," before "Rule 45-501" in item F(1); and
 - (vi) adding "or Form 45-106F1" after "Form 45-501F1" in item N(1)(c).
15. This Instrument comes into force on September 14, 2005.

**ONTARIO SECURITIES COMMISSION RULE 31-503
LIMITED MARKET DEALERS
AMENDMENT INSTRUMENT**

1. Ontario Securities Commission Rule 31-503 *Limited Market Dealers* is amended by this Instrument.
2. Section 1.1 is revoked.
3. Section 2.1 is revoked and the following substituted:
 - 2.1 Restricted trading activities – A limited market dealer is registered for the purpose of the following trades:
 - (a) trades for which the exemptions from the dealer registration requirement are not available to a market intermediary because of subsections 2.43(1) and 3.9(1) of National Instrument 45-106 *Prospectus and Registration Exemptions*, and
 - (b) trades for which the exemptions from the dealer registration requirement are not available to a market intermediary because of subsection 5.2(1) of Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions*.
4. Section 2.2 is revoked and the following substituted:
 - 2.2 Financial intermediary and Schedule III bank – Neither a financial intermediary nor an authorized foreign bank named in Schedule III of the *Bank Act* (Canada) shall be registered as a limited market dealer.
5. This Instrument comes into force on September 14, 2005.

**ONTARIO SECURITIES COMMISSION RULE 91-501
STRIP BONDS
AMENDMENT INSTRUMENT**

1. Ontario Securities Commission Rule 91-501 *Strip Bonds* is amended by this Instrument.
2. The definition of “qualified market intermediary” in section 1.1 is revoked and the following substituted:

“qualified market intermediary” means, for a trade of a strip bond, a market intermediary that, absent this Rule, would be permitted under Ontario securities legislation to make the trade if the strip bond is a security described in paragraphs 2.34(2)(a) or (b) of National Instrument 45-106 *Prospectus and Registration Exemptions*;
3. Section 2.1 is revoked and the following substituted:

2.1 Removal of Exemptions - The exemptions in paragraphs 2.34(2)(a) and (b) and subsection 2.34(3) of National Instrument 45-106 *Prospectus and Registration Exemptions* are not available for a trade in a strip bond.
4. This Instrument comes into force on September 14, 2005.

**ONTARIO SECURITIES COMMISSION RULE 91-502
TRADES IN RECOGNIZED OPTIONS
AMENDMENT INSTRUMENT**

1. Ontario Securities Commission Rule 91-502 *Trades in Recognized Options* is amended by this Instrument.
2. Subsection 2.2(1) is revoked and the following substituted:
 - (1) The exemption from the dealer registration requirement in section 3.1 of National Instrument 45-106 *Prospectus and Registration Exemptions* is not available for a trade in a recognized option that is a non-equity accepted option.
3. This Instrument comes into force on September 14, 2005.

ONTARIO SECURITIES COMMISSION RULE 32-504
(Under the Commodity Futures Act)
ADVISER REGISTRATION EXEMPTION

PART 1: DEFINITION

- 1.1 **Definition** - In this Rule "Schedule III bank" means an authorized foreign bank named in Schedule III of the *Bank Act* (Canada).

PART 2: ADVISER REGISTRATION EXEMPTION

- 2.1 **Exemption for Schedule III bank** – Registration as an adviser under the Act is not required to be obtained by a Schedule III bank where the performance of the services as an adviser is solely incidental to its principal business.

PART 3: EFFECTIVE DATE

- 3.1 **Effective date** - This Rule comes into force on September 14, 2005.

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