

Chapter 5

Rules and Policies

5.1.1 Amendments to Ontario Securities Commission Rule 72-503 Distributions Outside Canada

AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 72-503 *DISTRIBUTIONS OUTSIDE CANADA*

1. ***Ontario Securities Commission Rule 72-503 Distributions Outside Canada is amended by this Instrument.***
2. ***Section 1.1 is amended***
 - (a) ***by deleting “and”, and***
 - (b) ***by adding the following definitions:***

“convertible security” has the same meaning as in National Instrument 45-102 *Resale of Securities*;

“exchangeable security” has the same meaning as in National Instrument 45-102 *Resale of Securities*;

“multiple convertible security” has the same meaning as in National Instrument 45-102 *Resale of Securities*;

and

“underlying security” has the same meaning as in National Instrument 45-102 *Resale of Securities*..
3. ***Part 2 is amended by adding the following sections:***
 - 2.7 ***First Trades in Securities of a Non-Reporting Issuer Distributed under a Prospectus Exemption***
 - (1) The prospectus requirement does not apply to the first trade of a security distributed under an exemption from the prospectus requirement if
 - (a) the issuer of the security
 - (i) was not a reporting issuer in any jurisdiction of Canada on the distribution date, or
 - (ii) is not a reporting issuer in any jurisdiction of Canada on the date of the trade;
 - (b) at the distribution date, after giving effect to the issue of the security and any other securities of the same class or series that were issued at the same time as or as part of the same distribution as the security, residents of Canada
 - (i) did not own directly or indirectly more than 10 percent of the outstanding securities of the class or series, and
 - (ii) did not represent in number more than 10 percent of the total number of owners directly or indirectly of securities of the class or series; and
 - (c) the trade is made
 - (i) through an exchange, or a market, outside of Canada, or
 - (ii) to a person or company outside of Canada;
 - (2) The prospectus requirement does not apply to the first trade of an underlying security if
 - (a) the convertible security, exchangeable security or multiple convertible security that, directly or indirectly, entitled or required the holder to acquire the underlying security was distributed under an exemption from the prospectus requirement;

- (b) the issuer of the underlying security
 - (i) was not a reporting issuer in any jurisdiction of Canada on the distribution date of the convertible security, exchangeable security or multiple convertible security, or
 - (ii) is not a reporting issuer in any jurisdiction of Canada on the date of the trade;
- (c) the conditions in paragraph (1)(b) would have been satisfied for the underlying security at the time of the initial distribution of the convertible security, exchangeable security or multiple convertible security; and
- (d) the condition in paragraph (1)(c) is satisfied.

2.8 First Trades in Securities of a Non-Reporting Foreign Issuer Distributed under a Prospectus Exemption

- (1) In this section

"executive officer" means, for an issuer, an individual who is

- (a) a chair, vice-chair or president,
- (b) a chief executive officer or a chief financial officer, or
- (c) in charge of a principal business unit, division or function including sales, finance or production and that fact is disclosed in any of the following documents:
 - (i) the issuer's most recent disclosure document containing that information that is publicly available in a foreign jurisdiction where its securities are listed or quoted;
 - (ii) the offering document provided by the issuer in connection with the distribution of the security that is the subject of the trade;

"foreign issuer" means an issuer that is not incorporated or organized under the laws of Canada, or a jurisdiction of Canada, unless any of the following applies:

- (a) the issuer has its head office in Canada;
- (b) the majority of the executive officers or directors of the issuer ordinarily reside in Canada.

- (2) The prospectus requirement does not apply to the first trade of a security distributed under an exemption from the prospectus requirement if all of the following apply:

- (a) the issuer of the security was a foreign issuer on the distribution date;
- (b) the issuer of the security
 - (i) was not a reporting issuer in any jurisdiction of Canada on the distribution date, or
 - (ii) is not a reporting issuer in any jurisdiction of Canada on the date of the trade;
- (c) the trade is made
 - (i) through an exchange, or a market, outside of Canada, or
 - (ii) to a person or company outside of Canada.

- (3) The prospectus requirement does not apply to the first trade of an underlying security if all of the following apply:

- (a) the convertible security, exchangeable security or multiple convertible security that, directly or indirectly, entitled or required the holder to acquire the underlying security was distributed under an exemption from the prospectus requirement;

- (b) the issuer of the underlying security was a foreign issuer on the distribution date;
- (c) the issuer of the underlying security
 - (i) was not a reporting issuer in any jurisdiction of Canada on the distribution date, or
 - (ii) is not a reporting issuer in any jurisdiction of Canada on the date of trade;
- (d) the trade is made
 - (i) through an exchange, or a market, outside of Canada, or
 - (ii) to a person or company outside of Canada.

2.9 Anti-avoidance

The prospectus exemptions in subsections 2.7(1) and (2) and 2.8(2) and (3) are not available with respect to any transaction or series of transactions that is part of a plan or scheme to avoid the prospectus requirements in connection with a trade to a person or company in Canada..

- 3. This Instrument comes into force on June 12, 2018.