

CORPORATE FINANCE PROSPECTUS PRACTICE DIRECTIVE #2
Exemption from certain prospectus requirements to be evidenced by a receipt

OSC Staff Notice 41-703

April 1, 2011

The purpose of this practice directive is to alert issuers (other than investment funds) and their advisors of the procedural steps an issuer should follow when making an application for an exemption from certain requirements, as described below, where the exemption will be evidenced by the issuance of a receipt for a final prospectus (or an amendment to a final prospectus).

This practice directive is intended to assist issuers and their advisors. It has been prepared by staff of the Corporate Finance Branch and the views it expresses do not necessarily reflect the views of the Commission or the Canadian Securities Administrators.

Exemption sought

The issuance of a receipt for a final prospectus in connection with a proposed offering can evidence the granting of an exemption from the requirements of the following rules (referred to as the applicable prospectus requirements):

- National Instrument 41-101 *General Prospectus Requirements* (NI 41-101). Note that an exemption from subsection 2.2(2) of NI 41-101 cannot be evidenced by a final receipt. See Part 19 of NI 41-101.
- National Instrument 44-101 *Short Form Prospectus Distributions* (NI 44-101). Note that an exemption from Part 2 of NI 44-101 cannot be evidenced by a final receipt. See Part 8 of NI 44-101.
- National Instrument 44-102 *Shelf Distributions* (NI 44-102). Note that an exemption from Part 2 of NI 44-102 cannot be evidenced by a final receipt. See Part 11 of NI 44-102.
- National Instrument 44-103 *Post-Receipt Pricing* (NI 44-103). See Part 6 of NI 44-103.
- National Instrument 71-101 *The Multijurisdictional Disclosure System* (NI 71-101). See Part 21 of NI 71-101.
- National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107). See Part 5 of NI 52-107.

Procedural matters when making an application for an exemption to be evidenced by a receipt

We continue to see certain deficiencies that can cause unnecessary delays when reviewing an application for an exemption from the applicable prospectus requirements where the exemption will be evidenced by a receipt for the final prospectus. These deficiencies often result in additional communication among us, issuers and/or their advisors.

Accordingly, issuers and their advisors should note the following when submitting an application for an exemption from the applicable prospectus requirements to be evidenced by the prospectus receipt:

Content of application	<p>An application must be made to the regulator for the exemption. The application should be set out in a separate cover letter and contain:</p> <ul style="list-style-type: none"> • the exemption sought, • an explanation for why the exemption is needed (e.g., if there is a provision the issuer would like to rely on but cannot, explain why the issuer cannot rely on it), • the issuer’s submissions on why the exemption should be granted, and in particular, why, in the issuer’s view, granting the exemption would not be prejudicial to the public interest, • how the key facts support granting the exemption, and • any past exemptions that are relevant to the application.
Application to be filed on SEDAR	<p>The application should be filed through SEDAR under the same project number as the prospectus to which the application relates (so that the application is transparent to other regulators). If known at the time, the issuer should reference the application in the cover letter to the preliminary prospectus and file a copy of the application through SEDAR at the time of filing the materials for the preliminary prospectus to which the application relates.</p>
Application to be made public	<p>Please note that staff will generally place on the public file a copy of the application and the written acknowledgement from the regulator that the issuance of a receipt for the final prospectus will evidence the granting of the exemption (unless confidentiality has been requested in which case, they will be made public once confidentiality has been lifted). As a result, these documents will be made available to members of the public on request. They will not be made public under the issuer’s profile on the SEDAR website (www.sedar.com).</p>
Prospectus disclosure	<p>Where the exemption is granted, the issuer must describe the application and the resolution in the final prospectus to ensure transparency to investors and to the marketplace.</p>

Please note that an issuer seeking a pre-filing interpretation or a waiver application exemption before the issuance of a receipt may submit the pre-filing or waiver application sufficiently in advance of the filing of the related materials to avoid delays in issuance of the receipt. Please refer to Part 8 of National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*.

Questions

Questions may be referred to:

Jo-Anne Matear, Assistant Manager Tel: 416.593.2323 Email: jmatear@osc.gov.on.ca	Diana Escobar Bold, Legal Counsel Tel: 416.593.8229 Email: dbold@osc.gov.on.ca
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