

**Notice****Consequential Amendments Arising from  
National Instrument 45-106 *Prospectus and Registration Exemptions*****and****Repeal of National Instrument 32-101 *Small Securityholder Selling and Purchase Arrangements*, Multilateral Instrument 45-103 *Capital Raising Exemptions*, Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* and National Instrument 62-101 *Control Block Distribution Issues*****and****Amendments to National Instrument 33-105 *Underwriting Conflicts*, National Instrument 45-101 *Rights Offerings*, National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues* and Multilateral Instrument 45-102 *Resale of Securities*****July 8, 2005****Implementation of NI 45-106 - Related Consequential Amendments**

Effective September 14, 2005, the members of the Canadian Securities Administrators (CSA or we) are, in conjunction with the implementation of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106),

## 1. repealing

- National Instrument 32-101 *Small Securityholder Selling and Purchase Arrangements*,
- Multilateral Instrument 45-103 *Capital Raising Exemptions*,
- Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants*, and
- National Instrument 62-101 *Control Block Distribution Issues*,

## 2. amending

- National Instrument 33-105 *Underwriting Conflicts* (NI 33-105),
- National Instrument 45-101 *Rights Offerings* (NI 45-101), and

- National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues* (NI 62-103), and
3. amending and renaming Multilateral Instrument 45-102 *Resale of Securities* (New NI 45-102).

The September 14, 2005 implementation date will permit securities regulatory authorities in British Columbia, Ontario, Nova Scotia and Saskatchewan to obtain the ministerial approvals required under their rule-making procedures before NI 45-106 and related repeals and consequential amendments to these national and multilateral instruments can come into effect.

NI 45-106 and related repeals and consequential amendments to national and multilateral instruments will be implemented as

- rules in Alberta, Manitoba, Ontario, Prince Edward Island, Nova Scotia, New Brunswick and Newfoundland and Labrador,
- blanket orders or rules in British Columbia,
- regulations in Québec,
- commission regulations in Saskatchewan, and
- policies or codes in the Northwest Territories, Nunavut and Yukon.

The text of the repeals and consequential amendments are being published concurrently with this notice and will be available on websites of CSA members, including the following:

- [www.albertasecurities.com](http://www.albertasecurities.com)
- [www.bcsc.bc.ca](http://www.bcsc.bc.ca)
- [www.osc.gov.on.ca](http://www.osc.gov.on.ca)
- [www.lautorite.qc.ca](http://www.lautorite.qc.ca)

Notice of amendments to local securities legislation together with a notice that identifies remaining local exemptions for each jurisdiction will be published separately in each jurisdiction.

### **Background**

The CSA published NI 45-106 together with proposed consequential repeals and amendments to certain national and multilateral instruments on December 17, 2004. The comment period ended March 17, 2005. We received 30 written submissions in response to our request for comments, most of which related to NI 45-106. The majority of comments were favourable. See “Summary of Changes” below for a description of changes made to the national and multilateral instruments listed above as a result of comments received.

NI 45-106 consolidates and harmonizes the prospectus and registration exemptions contained in various provincial statutes and national, multilateral and local instruments into a single national instrument, while related consequential amendments and repeals will facilitate the consolidation and harmonization of existing exemptions and the associated resale, disclosure and filing requirements.

At present, most jurisdictions have a similar but not identical set of exemptions. Market participants that wish to effect a multi-jurisdictional exempt distribution must familiarize themselves with the various exempt distribution regimes of the relevant jurisdictions. This typically necessitates culling through the various acts, regulations and rules of the different jurisdictions. On implementation of NI 45-106, market participants will generally have to look no further than NI 45-106 for available exemptions.

### **Summary of Written Comments Received by the CSA**

We received submissions from 19 commenters during the 90 day comment period and additional submissions from 11 commenters after the comment period ended. We have considered the comments received and thank all of the commenters. The names of commenters and a summary of their comments relating to the proposed repeals and consequential amendments, together with our responses, are contained in Appendices A and B to this notice.

After considering the comments received, we have made a number of changes to both NI 45-106 and to New NI 45-102. As these changes are not material, we are not republishing NI 45-106 or New NI 45-102 for a further comment period.

### **Summary of Changes to Proposed Consequential Amendments**

This section describes changes made to the proposed consequential amendments to various national and multilateral instruments published for comment on December 17, 2004 concurrently with NI 45-106. While the consequential amendments to NI 33-101 remain unchanged from those published previously, the CSA has made changes to New NI 45-102 in response to comments received as well as several minor drafting changes to NI 45-101 and NI 62-103.

#### *Amendments to New NI 45-102*

1. We have added wording to the Ontario-prong of the definition of *private issuer* to clarify that this prong is necessary to facilitate the resale of securities acquired under the “private issuer” exemption as it existed in 1998 OSC Rule 45-501 (as defined in the Ontario provisions of Appendix D of New NI 45-102).
2. We have eliminated proposed section 2.15 [Resale by Promoters in Ontario] and Appendix G [Promoters] as Ontario intends to remove the separate resale treatment for promoters that is currently contained in section 6.1 of OSC Rule 45-501.

3. We have revised the list of exemptions in Appendices D, E and F to reflect numbering and other changes (such as the elimination of the incorporation exemption) to the exemptions contained in NI 45-106.

#### *Amendments to NI 45-101*

1. We have repealed and replaced the definition of *acceptance date* in Part 1 to remove the Québec-prong of the definition to reflect recent amendments to the Securities Act (Québec) that brought the notice requirement into conformity with the 10-day notice period in all other jurisdictions.

#### *Amendments to NI 62-103*

1. We are repealing clause (f) in the definition of *applicable provisions* in Part 1 referring to section 2.1 of NI 62-101 as that instrument is being repealed concurrently with the implementation of NI 45-106.
2. We are repealing clause (b) in section 6.1(1) and (2) referring to transactions effected under NI 32-101 as that instrument is being repealed concurrently with the implementation of NI 45-106.

#### **Adoption of NI 33-105 in Saskatchewan**

National Instrument 33-105 *Underwriting Conflicts* (NI 33-105) is not currently in effect in Saskatchewan. The Saskatchewan Financial Services Commission concurrently published a local notice seeking comment on NI 33-105 with proposed amendments when the CSA published NI 45-106 and related proposed repeals and consequential amendments to various national and multilateral instruments on December 17, 2004. As the Saskatchewan Financial Services Commission received no comments, NI 33-105 will come into effect in Saskatchewan concurrently with NI 45-106.

#### **Text of Repeals and Consequential Amendments to National and Multilateral Instruments**

The text of the repeals and consequential amendments to the national and multilateral instruments referred to above are found following the Appendices in Schedules 1 to 6.

#### **Questions**

Questions relating to the repeals and consequential amendments outlined in this notice may be referred to:

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