Annex A

Proposed Amendments to
National Instrument 45-106 *Prospectus Exemptions*

1. National Instrument 45-106 Prospectus Exemptions is amended by this Instrument.

2. Subsection 5A.1(1) is amended

(a) by replacing "the name of the local jurisdiction.***" with "***the name of the local jurisdiction;***" in the definition of "***secondary market liability provisions***", and***

(b) by adding the following definition:

"**successor issuer**" has the same meaning as in National Instrument 44-101 *Short Form Prospectus Distributions*.**.**

3. Section 5A.2 is amended

(a) by renumbering it as subsection 5A.2(1),

(b) by replacing paragraph (a) with the following:

(a) the issuer is a reporting issuer in a jurisdiction of Canada and either of the following applies:

(i) the issuer has been a reporting issuer in a jurisdiction of Canada for the 12 months immediately before the date that the issuer files the news release referred to in paragraph (k);

(ii) the issuer

(A) is a successor issuer, and

(B) acquired substantially all of its business from a person or company that was a reporting issuer in a jurisdiction of Canada for the 12 months immediately before the acquisition;**,**

(c) in paragraph (g)

(i)by replacing "by the issuer under this section***" with "***by the issuer under this Part***",***

(ii)by replacing subparagraph (i) with the following:

(i) $25 000 000;**,**

(iii)by replacing subparagraph (ii) with the following:

(ii) if the issuer

(A) has not made a distribution under this Part during the 12 months immediately before the date that the issuer issues and files the news release referred to in paragraph (k), 20% of the aggregate market value of the issuer's listed equity securities as of the date of the news release announcing the offering, to a maximum of $50 000 000;

(B) has made other distributions under this Part during the 12 months immediately before the date that the issuer issues and files the news release referred to in paragraph (k), 20% of the aggregate market value of the issuer's listed equity securities as of the date of the news release announcing the first of the other distributions under this Part during that 12-month period, to a maximum of $50 000 000;**,**

(d) by replacing paragraph (h) with the following:

(h) if the issuer has not made any other distribution under this Part during the 12 months immediately before the date that the issuer issues and files the news release referred to in paragraph (k), the distribution, including securities issuable on conversion of warrants that are convertible within 60 days after completion of the distribution, will not result in an increase of more than 50% of the issuer's outstanding listed equity securities as of the date of issuance of the news release;**,**

(e) by adding the following paragraph:

(h.1) if the issuer has made other distributions under this Part during the 12 months immediately before the date that the issuer issues and files the news release referred to in paragraph (k), the distribution, including securities issuable on conversion of warrants that are convertible within 60 days after completion of the distribution, combined with all other distributions under this Part during that 12-month period, will not result in an increase of more than 50% of the issuer's outstanding listed equity securities as of the date of issuance of the news release announcing the first of the other distributions during that 12-month period;**,**

(f) in paragraph (i) by replacing "business objectives and liquidity requirements for a period of 12 months following the distribution***" with "***short-term liquidity requirements***",***

(g) by adding the following paragraphs:

(j.1) as a result of the distribution, a person or company does not become a control person of the issuer;

(j.2) as a result of the distribution, a person or company does not have beneficial ownership of or exercise control or direction over the number of the issuer's listed equity securities carrying votes that, if voted or exercised, would entitle the person or company to elect a majority of the directors of the issuer;**,**

(h) in paragraph (m) by replacing **"**earlier of the date that is 12 months before the date of the document and the date that the issuer's most recent audited annual financial statements were filed**"** ***with*** **"**date that is 18 months before the date of the form**"** ***and*** **"**under this section**"** ***with*** **"**under this Part**"*****, and***

(i) by adding the following subsection:

(2) Despite subparagraph 5A.2(1)(k)(ii), if an offering price has not been determined before soliciting the offer to purchase referred to in paragraph 5A.2(k), the issuer may file an otherwise completed Form 45-106F19 *Listed Issuer Financing Document* that omits the offering price and other matters relating to the offering price, provided that the issuer

(a) includes in the news release referred to in paragraph 5A.2(1)(k)

(i) the expected range of the offering price, and

(ii) a statement that the form filed by the issuer is not complete and will be amended to include the offering price and other information before the distribution, and

(b) files an amendment to the form filed by the issuer that includes the omitted information on the earlier of

(i) the date that the purchaser enters into an agreement to purchase the security referred to in subsection (1), and

(ii) the 2nd business day after the date that the offering price is determined.**.**

4. Section 5A.3 is amended

(a) ***by replacing*** **“**a distribution under section 5A.2**”** ***with*** **“**a distribution under this Part**”*, and***

(b) ***by replacing*** **“**5A.2(k)**”** ***wherever it occurs with*** **“**5A.2(1)(k)**”*.***

5. Section 5A.4 is amended

(a) ***in subsection (1) by replacing*** **“**5A.2(k)**”** ***wherever it occurs with*** **“**5A.2(1)(k)**”*, and***

(b) ***in subsection (2)***

(i) ***by replacing*** **“**section 5A.2**”** ***with*** **“**this Part**”*,***

(ii) ***by replacing*** **“**the 45th day**”** ***with*** **“**the 60th day**”*, and***

(iii) ***by replacing*** **“**5A.2(k)**”** ***with*** **“**5A.2(1)(k)**”*.***

6. Section 5A.5 is amended in subsections (1) to (4) by replacing **“**section 5A.2**”** ***with*** **“**this Part**”*.***

7. Section 5A.6 is amended in subsections (1) and (2) by replacing **“**section 5A.2**”** ***with*** **“**this Part**”*.***

8. Form 45-106F19 Listed Issuer Financing Document is amended in Instruction 1 by replacing **“**section 5A.2**”** ***with*** **“**Part 5A**”*.***

9. Form 45-106F19 Listed Issuer Financing Document is amended in Item 3 of Part 1

(a) ***by replacing “you should seek the advice of a registered dealer” with “you should seek the advice of a registrant”,***

(b) ***by replacing*** **“**section 5A.2**”** ***with*** **“**Part 5A**”*,***

(c) ***in item 3 by replacing*** **“**financing exemption in the 12 months immediately before**”** ***with*** **“**financing exemption during the 12 months immediately before**”*,*** **“**$5 000 000**”** ***with*** **“**$25 000 000**”*,*** **“**10%**”** ***with*** **“**20%**”** ***and*** **“**$10 000 000**”** ***with*** **“**$50 000 000**”*, and***

(d) ***in item 4 by replacing*** **“business objectives and liquidity requirements for a period of 12 months following the distribution**.**”** ***with*** **“short-term liquidity requirements.”.**

10. Form 45-106F19 Listed Issuer Financing Document is amended in Item 5 of Part 2 by adding the following after **“**Provide a brief summary of key recent developments involving or affecting the issuer.**”*:***

“If a development is described in another document filed by the issuer, the issuer may meet the requirement in this item by including a cross-reference to the applicable document.**”.**

11. Form 45-106F19 Listed Issuer Financing Document is amended in Item 6 of Part 2 by replacing “since the date that is the earlier of the date that is 12 months before the date of this offering document and the date that the issuer’s most recent audited annual financial statements were filed***” with “***during the 18 months before the date of this offering document***”.***

12. Form 45-106F19 Listed Issuer Financing Document is amended by repealing Item 7 of Part 2.

13. Form 45-106F19 Listed Issuer Financing Document is amended in Item 8 of Part 3

(a) by replacing “decline***” wherever it occurs with “***change***”, and***

(b) by adding the following after the table:

Instruction
*For the purposes of this item, include, for a source of funding or sources of funding, only funding that a person or company has a contractual obligation to provide the issuer.***.***

14. Form 45-106F19 Listed Issuer Financing Document is amended in Item 9 of Part 3

(a) by adding the following above Instruction 9.1:

0.1 If the issuer’s most recently filed audited annual financial statements or interim financial report included disclosure of material uncertainties about going concern, or if there has been any decline regarding the issuer’s financial condition, since the date of the issuer’s most recently filed financial statements, that could result in the issuer including disclosure of material uncertainties about going concern in its next financial statements:

a. disclose that fact and explain how the offering is anticipated to address any of the material uncertainties that affect the decision on whether a going concern note is included in the issuer’s next annual financial statements or interim financial report,

b. provide an analysis of the issuer’s ability to generate sufficient funds to maintain operations on a going concern basis, including a description of the underlying factors and assumptions supporting this analysis as well as *any risks and uncertainties associated with the issuer's ability to generate sufficient funds,*

c. *state the sources of financing that the issuer has arranged but not yet used and describe the circumstances that could affect those sources and that are reasonably likely to occur, and*

d. *disclose risk factors about the issuer's financial condition including, as applicable,*

   i. *the impact of any working capital deficiency, negative cash flow from operating activities and debt levels on the issuer's ability to remain a going concern, and*

   ii. *any risks of defaulting on payments as they become due, and what effect the defaults would have on the issuer's operating activities.***,**

(b) ***in Instruction 9.3 by adding "****nature of****" before "****the relationship to the issuer****", and***

(c) ***by repealing Instruction 9.5.***

15. ***Form 45-106F19 Listed Issuer Financing Document is amended by adding the following Item:***

9.1 Business objectives and milestones

State the following in bold:

> "**What are the business objectives that we expect to accomplish using the available funds?**"

Provide the business objectives that the issuer expects to accomplish using the available funds disclosed under item 8. Describe each significant event and milestone that must occur for the business objectives provided to be accomplished and state the specific period in which each event and milestone is expected to occur and the cost related to each event and milestone.

If the available funds will not be sufficient for the issuer to accomplish each of the business objectives, provide an analysis of the issuer's ability to generate sufficient funds in the short term and the long term to accomplish each of those business objectives.**.**

16. ***Form 45-106F19 Listed Issuer Financing Document is amended***

(a) ***in Item 11 of Part 4 by replacing “***If any dealer, finder or other person has or will receive***” with “***If any dealer, finder or other person has been or will be engaged, or has or will receive,***”, and***

(b) ***in Item 12 of Part 4***

(i) ***by adding “***or finder***” after “***has engaged a dealer***”,***

(ii) ***by replacing*** **“[identify dealer(s)]”** ***with*** **“[identify dealer(s) or finder(s), as applicable]”,** ***and***

(iii)by adding the following after “If disclosure is required under National Instrument 33-105 *Underwriting Conflicts*, include that disclosure.***”:***

If any finder that has been or will be engaged, or that has or will receive compensation, in connection with the offering is a related party of the issuer, disclose the nature of the relationship to the issuer.**.**

17. ***Form 45-106F19 Listed Issuer Financing Document is amended in Part 7 by replacing*** **“[insert the date which is the earlier of the date that is 12 months before the date of this offering document and the date that the issuer’s most recent audited annual financial statements were filed]”** ***with*** **“the date that is 18 months before the date of this offering document”.**

18. (1) This Instrument comes into force on [•].

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after [•], this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.