

CSA Staff Notice 45-320
Exemptions for Certain Foreign Issuers from the Requirement to Identify Purchasers as Registrants or Insiders in Reports of Exempt Distribution

July 7, 2016

Introduction

On April 7, 2016, the Canadian Securities Administrators (the **CSA** or **we**) published amendments to National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**), which came into force in all CSA jurisdictions on June 30, 2016.¹ The amendments to NI 45-106 introduced a new harmonized report of exempt distribution, Form 45-106F1 *Report of Exempt Distribution* (**Form 45-106F1**).

This Notice addresses the granting of an exemption for certain foreign issuers from the requirement in Schedule 1 of Form 45-106F1 to identify whether a purchaser is a registrant or an insider of the issuer.

Substance and Purpose

In Schedule 1 of Form 45-106F1, issuers and underwriters are required to identify whether a purchaser is a registrant or an insider of the issuer. This requirement is found in clauses (f)1 and (f)2² of Schedule 1, respectively. In general, this information is necessary for securities regulators to identify connections between purchasers and issuers, which facilitates our oversight of the exempt market and supports our compliance programs.

Since publication of Form 45-106F1 on April 7, 2016, the CSA has been advised of concerns expressed by foreign issuers and dealers conducting offerings into Canada about the requirement to determine whether a purchaser is a registrant or an insider of the issuer, as those terms are defined under Canadian securities law.

In light of these concerns, relief is being provided from the requirement to disclose whether a purchaser is a registrant or an insider of the issuer if one or more of the following apply:

- (a) the issuer is a foreign public issuer;³
- (b) the issuer is a wholly owned subsidiary of a foreign public issuer;⁴
- (c) the issuer is distributing eligible foreign securities only to permitted clients.⁵

This relief aligns with the exemptions already provided to certain foreign issuers in Item 9 and Schedule 2 of Form 45-106F1.

¹ It is expected the amendments to NI 45-106 will come into force in Saskatchewan but not on June 30, 2016.

² Clause (f)2 is not applicable if the issuer is an investment fund.

³ “Foreign public issuer” is defined in Part B1 of Form 45-106F1.

⁴ Guidance on what is a wholly owned subsidiary of a foreign public issuer is provided in Item 9 of Form 45-106F1.

⁵ “Eligible foreign security” and “permitted client” are defined in Part B1 of Form 45-106F1.

All CSA members, except Ontario, are issuing blanket orders effective June 30, 2016.⁶ The blanket orders are available on the websites of the applicable CSA members and a list of the blanket orders is contained in Annex A of this Notice.

As blanket orders are not authorized under Ontario securities law, the Ontario Securities Commission (the **OSC**) has approved an amendment instrument (the **Ontario Amendment**) providing the same relief that will amend NI 45-106 in Ontario only. If the Ontario Minister of Finance approves the Ontario Amendment within 60 days of delivery of the Ontario Amendment, it will come into force 15 days after the Ontario Amendment is approved. More detail of the Ontario Amendment is provided in Chapter 5 of the July 7, 2016 OSC Bulletin, and is also available on the OSC website at <http://www.osc.gov.on.ca>.

Annex to Notice

Annex A – List of Blanket Orders

Questions

If you have any questions about this Notice, please contact any of the following:

Jo-Anne Matear

Manager, Corporate Finance Branch
Ontario Securities Commission
416-593-2323
jmatear@osc.gov.on.ca

Daphne Wong

Legal Counsel, Corporate Finance Branch
Ontario Securities Commission
416-593-8125
dwong@osc.gov.on.ca

Kevin Yang

Senior Research Analyst, Strategy and Operations
Ontario Securities Commission
416-204-8983
kyang@osc.gov.on.ca

Frederick Gerra

Legal Counsel, Investment Funds and Structured
Products
Ontario Securities Commission
416-204-4956
fgerra@osc.gov.on.ca

Lina Creta

Senior Accountant, Compliance and Registrant
Regulation Branch
Ontario Securities Commission
416-593-8963
lcreta@osc.gov.on.ca

Victoria Steeves

Senior Legal Counsel, Corporate Finance
British Columbia Securities Commission
604-899-6791
vsteeves@bcsc.bc.ca

Jody-Ann Edman

Assistant Manager, Financial Reporting
British Columbia Securities Commission
604-899-6698
jedman@bcsc.bc.ca

⁶As Saskatchewan's amendments to NI 45-106 will come into force after June 30, 2016, Saskatchewan will issue the blanket order when the amendments are effective.

Christopher Peng

Legal Counsel, Corporate Finance
Alberta Securities Commission
403-297-4230
christopher.peng@asc.ca

Tony Herdzik

Deputy Director, Corporate Finance
Financial and Consumer Affairs Authority of
Saskatchewan
306-787-5849
tony.herdzik@gov.sk.ca

Georgia Koutrikas

Analyst, Corporate Finance
Autorité des marchés financiers
514-395-0337 ext: 4393
georgia.koutrikas@lautorite.qc.ca

Ella-Jane Loomis

Senior Legal Counsel, Securities
Financial and Consumer Services Commission
(New Brunswick)
506-658-2602
ella-jane.loomis@fcnb.ca

Jack Jiang

Securities Analyst, Corporate Finance
Nova Scotia Securities Commission
902-424-7059
jack.jiang@novascotia.ca

John O'Brien

Superintendent of Securities
Office of the Superintendent of Securities
Government of Newfoundland and Labrador
709-729-4909
JohnOBrien@gov.nl.ca

Thomas W. Hall

Superintendent of Securities
Department of Justice
Government of the Northwest Territories
867-767-9305
tom_hall@gov.nt.ca

Steven Weimer

Team Lead, Compliance, Data & Risk
Alberta Securities Commission
403-355-9035
steven.weimer@asc.ca

Wayne Bridgeman

Deputy Director, Corporate Finance
Manitoba Securities Commission
204-945-4905
wayne.bridgeman@gov.mb.ca

Suzanne Boucher

Senior Analyst, Investment Funds
Autorité des marchés financiers
514-395-0337 ext: 4477
suzanne.boucher@lautorite.qc.ca

Kevin G. Redden

Director, Corporate Finance
Nova Scotia Securities Commission
902-424-5343
kevin.redden@novascotia.ca

Steven D. Dowling

Acting Director
Consumer, Labour and Financial Services Division
Department of Justice and Public Safety
Government of Prince Edward Island
902-368-4551
sddowling@gov.pe.ca

Rhonda Horte

Securities Officer
Office of the Yukon Superintendent of Securities
Government of Yukon
867-667-5466
rhonda.horte@gov.yk.ca

Jeff Mason

Superintendent of Securities
Department of Justice
Government of Nunavut
867-975-6591
jmason@gov.nu.ca

Annex A

List of Blanket Orders

Alberta Securities Commission

Alberta Securities Commission Blanket Order 45-518 *Exemption regarding certain purchaser information*

British Columbia Securities Commission

BC Instrument 45-537 *Exemptions from certain requirements in Form 45-106F1 Report of Exempt Distribution*

The Manitoba Securities Commission

Blanket Order 45-504 *Exemptions from certain requirements in Form 45-106F1 Report of Exempt Distribution*

Financial and Consumer Services Commission (New Brunswick)

Blanket Order No. 45-510 *In the matter of exemptions from certain requirements in Form 45-106F1 Report of Exempt Distributions*

Government of Newfoundland and Labrador, Office of the Superintendent of Securities

Blanket Order Number 100

Government of the Northwest Territories, Office of the Superintendent of Securities

Blanket Order 45-503 *Exemptions from certain requirements in Form 45-106F1 Report of Exempt Distribution*

Nova Scotia Securities Commission

Blanket Order No. 45-527

Government of Nunavut, Department of Justice

Blanket Order 45-503 *Exemptions from certain requirements in Form 45-106F1 Report of Exempt Distribution*

Prince Edward Island Superintendent of Securities

Blanket Order 45-512 *Exemptions from certain requirements in Form 45-106F1 Report of Exempt Distribution*

Autorité des marchés financiers

Décision n° 2016-PDG-0099 Décision générale relative à la dispense pour certains émetteurs étrangers de fournir certains renseignements exigés dans la déclaration de placement avec dispense établie en la forme prévue à l'Annexe 45-106A1 du *Règlement 45-106 sur les dispenses de prospectus*

Financial and Consumer Affairs Authority of Saskatchewan

General Order 45-502 Exemptions from certain requirements in Form 45-106F1 Report of Exempt Distribution

Office of the Yukon Superintendent of Securities

Superintendent Order 2016/02 Exemptions from certain requirements in Form 45-106F1 Report of Exempt Distribution