

Appendix A

British Columbia Securities Commission

BC Instrument 45-5**

Exemption from prospectus requirement for certain trades to existing security holders

Order under Section 76 of the Securities Act

Definitions

1. Terms defined in the *Securities Act*, National Instrument 14-101 *Definitions* or National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) have the same meaning in this Instrument.

2. In this Instrument:

“announcement date” is the day that an issuer issues the offering news release;

“listed security” means a security of a class listed on the TSX Venture Exchange;

“offering news release” means the news release of an issuer announcing commencement of an offering under this Instrument;

“record date” is the ● day prior to the announcement date; and

“warrant” means a warrant of an issuer that entitles the holder to acquire a listed security or a portion of a listed security of the same issuer.

Exemption for sales to existing security holders

3. Subject to sections 4, 5, 6, and 7, the prospectus requirement does not apply to a distribution by an issuer of a security of its own issue to a security holder of the issuer if
 - (a) the issuer is a reporting issuer in at least one jurisdiction of Canada;
 - (b) the issuer’s equity securities are listed for trading on the TSX Venture Exchange;
 - (c) the issuer has filed in each jurisdiction of Canada in which it is a reporting issuer all periodic and timely disclosure documents that it is required to have filed in that jurisdiction
 - i. under applicable securities legislation,
 - ii. pursuant to an order issued by the regulator or securities regulatory authority, or
 - iii. pursuant to an undertaking to the regulator or securities regulatory authority;
 - (d) the issuer has issued and filed the offering news release;

- (e) the distribution is of a listed security or a unit consisting of a listed security and a warrant;
 - (f) the purchaser purchases the security as principal;
 - (g) the purchaser confirms in writing to the issuer that the purchaser
 - i. was a security holder as of the record date, and
 - ii. holds a listed security of the same class and series as the listed security that the purchaser is acquiring under this exemption;
 - (h) one of the following applies:
 - i. the purchaser is a person that has obtained advice regarding the suitability of the investment and, if the person is resident in a jurisdiction of Canada, that advice has been obtained from a person that is registered as an investment dealer,
 - ii. the acquisition cost to the purchaser, when combined with the acquisition cost to the purchaser for the purchase of any other security from the issuer under this Instrument in the last 12 months, does not exceed \$15,000; and
 - (i) the purchaser pays the acquisition cost in cash at the time of the distribution.
4. The offering news release must include reasonable detail of the proposed distribution and proposed use of net proceeds including:
- (a) the minimum and maximum number of securities proposed to be distributed and the minimum and maximum aggregate gross proceeds of the distribution; and
 - (b) a description of the principal purposes, with approximate amounts, for which the issuer will use the net proceeds, assuming both the minimum and maximum offering.
5. The subscription agreement between the issuer and purchaser must contain a contractual right of action against the issuer for rescission or damages that
- (a) is available to the purchaser if a document or core document, each as defined in section 140.1 of the Act, contains a misrepresentation which was not corrected before the purchaser acquires a security under this exemption, without regard to whether the purchaser relied on the misrepresentation;
 - (b) is enforceable by the purchaser delivering a notice to the issuer
 - i. in the case of an action for rescission, within 180 days after the purchaser signs the agreement to purchase the security, or
 - ii. in the case of an action for damages, before the earlier of
 - A. 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
 - B. 3 years after the date the purchaser signs the agreement to purchase the security;
 - (c) is subject to the defence that the purchaser had knowledge of the misrepresentation;
 - (d) in the case of an action for damages, provides that the amount recoverable
 - i. must not exceed the price at which the security was offered, and
 - ii. does not include all or any part of the damages that the issuer proves does not represent the depreciation in value of the security resulting from the misrepresentation; and
 - (e) is in addition to, and does not detract from, any other right of the purchaser.

6. The subscription agreement must contain a certificate that
 - (a) states the following: “The issuer’s documents and core documents, each as defined in section 140.1 of the Act, do not contain a misrepresentation. There is no material fact or material change related to the issuer which has not been generally disclosed.”, and
 - (b) is signed by the chief executive officer and chief financial officer of the issuer or, in the case of an issuer that does not have a chief executive officer or chief financial officer, each individual that performs similar functions to those of a chief executive officer or chief financial officer.
7. Other than the subscription agreement, any offering material provided to a purchaser in connection with a distribution under this Instrument must be filed no later than the day that the material was first provided to a purchaser.

Resale restrictions

8. The first trade of a security acquired under this Instrument is subject to section 2.5 of National instrument 45-102 *Resale of Securities*.

Report of exempt distribution

9. An issuer that distributes a security under this Instrument must file a report in British Columbia no later than the 10th day after the distribution.
10. The required form of report under section 9 is Form 45-106F6.
11. This order expires on December 31, 2015.