

**British Columbia Securities Commission**

**BC Instrument 72-503**

*Distribution of Securities outside British Columbia*

The British Columbia Securities Commission, considering that to do so would not be prejudicial to the public interest, orders effective October 31, 2017 that BC Instrument 72-503 *Distribution of Securities outside British Columbia* is revoked and replaced, so that the instrument reads as attached.

October 31, 2017

Brenda M. Leong  
Chair

---

*(This part is for administrative purposes only and is not part of the Order)*

**Authority under which Order is made:**

Act and section: *Securities Act*, sections 76, 171 and 172

**British Columbia Securities Commission**

**BC Instrument 72-503**

*Distribution of Securities outside British Columbia*

**Definitions**

1. Terms defined in the *Securities Act* or National Instrument 14-101 *Definitions* have the same meaning in this Instrument.

2. In this Instrument,

“MI 45-108” means Multilateral Instrument 45-108 *Crowdfunding* adopted in Ontario, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia; and

“NI 45-102” means National Instrument 45-102 *Resale of Securities*.

**Exemption for private placements outside of British Columbia**

3. The Commission, considering that to do so would not be prejudicial to the public interest, orders that the prospectus requirement does not apply to a distribution by an issuer of a security of its own issue if all of the following conditions are met:

(a) the distribution is made to a purchaser that is not resident in British Columbia;

(b) the purchaser purchases the security as principal;

(c) the issuer complies with the securities law requirements in the jurisdiction where the purchaser is resident; and

(d) the issuer is not relying on MI 45-108 in the jurisdiction where the purchaser is resident.

**Exemption for public offerings outside of Canada**

4. The Commission, considering that to do so would not be prejudicial to the public interest, orders that the prospectus requirement does not apply to a distribution of a security of an issuer if all of the following conditions are met:

(a) the distribution is made either

(i) to a purchaser that is not resident in Canada, or

(ii) on or through the facilities of an exchange or market outside Canada and the issuer or selling security holder has no reason to believe that the purchaser is resident in Canada;

- (b) the issuer has either
  - (i) filed a registration statement in accordance with U.S. federal securities laws registering the securities in connection with the distribution, and that registration statement has become effective, or
  - (ii) filed a document similar to a final prospectus for which a receipt or similar acknowledgement of approval has been obtained in accordance with the securities laws of a foreign jurisdiction registering the securities in connection with the distribution or qualifying the securities for distribution;
- (c) if the issuer is a reporting issuer in British Columbia, the issuer files with the Commission:
  - (i) the document referred to in paragraph (b), as soon as practicable after it becomes effective or receives a receipt or similar acknowledgement of approval;
  - (ii) any supplement to the document referred to in paragraph (b), as soon as practicable after the supplement is filed in the foreign jurisdiction.

**Exemption for “testing of the waters” under the 1933 Act**

5. The Commission, considering that to do so would not be prejudicial to the public interest, orders that the prospectus requirement does not apply to any oral or written communications by an issuer, or any person authorized to act on behalf of an issuer, with a potential purchaser in a potential U.S. public offering if all of the following conditions are met:
- (a) the oral or written communications are
    - (i) made with a person that is not resident in Canada;
    - (ii) permitted under section 5(d) of the 1933 Act;
  - (b) the issuer complies with the securities law requirements in the jurisdiction where the purchaser is resident.

**Resale restrictions**

6. The first trade of a security acquired under section 3 is subject to section 2.5 of NI 45-102.

**Reporting requirements**

7. An issuer that distributes a security under section 3 must, no later than 10 days after the distribution,
- (a) file with the Commission a report of exempt distribution in Form 45-106F1 *Report of Exempt Distribution*, and

- (b) deliver to the Commission a copy of any offering material that the issuer is required to file with, or deliver to, the securities regulatory authority in the jurisdiction where the purchaser is resident.
8. If the issuer of the security distributed under section 4 is not a reporting issuer in British Columbia, the issuer must, no later than 10 days after the distribution,
- (a) file with the Commission a report of exempt distribution in Form 45-106F1 *Report of Exempt Distribution*, and
  - (b) deliver to the Commission a copy of the document referred to in paragraph 4(b) and any supplement to that document.
9. Despite paragraph 8(a), the report of exempt distribution required in section 8 is not required to contain Schedule 1 to Form 45-106F1 (*Confidential Purchaser Information*).