

**NOTICE AND REQUEST FOR COMMENT****Consequential Amendments Arising from the  
Proposed Repeal and Replacement of  
National Instrument 44-101 *Short Form Prospectus Distributions*****Proposed Amendments to National Instrument 44-102 *Shelf Distributions*,  
National Instrument 44-103 *Post-Receipt Pricing*,  
National Policy 43-201 *Mutual Reliance Review System for Prospectuses  
and Annual Information Forms* and  
National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*****January 7, 2005****Overview**

We, the Canadian Securities Administrators (CSA), are publishing this notice in conjunction with the Notice and Request for Comment on the proposed repeal and replacement of National Instrument 44-101 *Short Form Prospectus Distributions*, Form 44-101F3 *Short Form Prospectus* and Companion Policy 44-101CP (collectively, the “Proposed Short Form Rule”). The Proposed Short Form Rule is intended to replace the current short form prospectus distribution rule and related forms and companion policy (collectively, the “Current Short Form Rule”) that came into effect in all CSA jurisdictions on December 31, 2000. It will more fully integrate the disclosure regimes for the primary and secondary securities markets, and will address deficiencies or ambiguities in the Current Short Form Rule that we have identified over the past four years. Finally, we have proposed revisions to the qualification criteria that would broaden issuer access to the short form system.

A number of other national instruments build on the foundation of the Current Short Form Rule, or make reference to some of its requirements. As a consequence of the proposed repeal of the Current Short Form Rule and its replacement with the Proposed Short Form Rule, the CSA also propose to amend the following national instruments:

- National Instrument 44-102 *Shelf Distributions* (“NI 44-102”) and the related Companion Policy 44-102CP;
- National Instrument 44-103 *Post-Receipt Pricing* (“NI 44-103”) and the related Companion Policy 44-103CP;
- National Policy 43-201 *Mutual Reliance Review System for Prospectuses and Annual Information Forms* (“NP 43-201”); and
- National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (“NI 51-101”).

The proposed consequential amendments are summarized below. With this notice, we are publishing a version of each of NI 44-102, NI 44-103 and NP 43-201, marked to indicate the proposed consequential amendments. These documents can be obtained from websites of CSA members, including the following:

[www.albertasecurities.com](http://www.albertasecurities.com)  
[www.bsc.bc.ca](http://www.bsc.bc.ca)  
[www.msc.gov.mb.ca](http://www.msc.gov.mb.ca)  
[www.gov.ns.ca/nssc/](http://www.gov.ns.ca/nssc/)  
[www.osc.gov.on.ca](http://www.osc.gov.on.ca)  
[www.lautorite.qc.ca](http://www.lautorite.qc.ca)  
[www.sfsc.gov.sk.ca](http://www.sfsc.gov.sk.ca)

## **Summary of Proposed Consequential Amendments**

### ***NI 44-102***

We propose to amend NI 44-102 to update cross-references and definitions to be consistent with the Proposed Short Form Rule and to make a few other minor changes. The more significant proposed amendments to NI 44-102 are as follows:

- Amending the eligibility criteria contained in Part 2 to clarify that an issuer must be eligible to use the short form prospectus system established under the Proposed Short Form Rule in order to file and use a shelf prospectus.
- Amending subsection 6.4(1) to require that a shelf prospectus supplement be filed only in the jurisdictions in which securities are being distributed under the supplement.
- Deleting section 7.3, which addresses the filing of auditors' comfort letters, consistent with the elimination from the Proposed Short Form Rule of any requirement for auditors' comfort letters.
- Deleting Part 10 *Transitional Shelf Procedures* as it is no longer necessary to address transitional issues concerning NI 44-102's predecessor, National Policy 44.

We also propose to make corresponding changes to the related Companion Policy, including:

- Amending section 2.4 to provide additional guidance to issuers who propose to use the shelf procedures to distribute novel derivatives or asset-backed securities.
- Adding a new section 2.7 to provide additional guidance with respect to when an expert's consent must be filed under NI 44-102.
- Adding subsection (4) to section 3.1 to provide guidance as to how an issuer can increase the amount of securities that can be distributed under a previously filed shelf prospectus.

### ***NI 44-103***

We propose to amend NI 44-103 to update cross-references and definitions to be consistent with the Proposed Short Form Rule, to make other minor changes and to remove outdated transitional provisions. We also propose to make corresponding changes to the related companion policy.

### ***NP 43-201***

We propose to amend NP 43-201 to remove the provisions relating to the review and acceptance of annual information forms, and to make other minor changes to the policy. Annual information

forms filed under National Instrument 51-102 *Continuous Disclosure Obligations* (“NI 51-102”) will be subject to the national continuous disclosure review program.

### ***NI 51-101***

We propose to amend the definition of “annual information form” in NI 51-101 so that it refers to the definition of “annual information form” in NI 51-102. We also propose to make corresponding changes to the guidance given in the related companion policy about annual information forms.

### ***Local Instruments***

In addition to the amendments to the national instruments discussed above, consequential amendments may also be required for local instruments in some jurisdictions. Securities regulatory authorities in those jurisdictions will publish amendments to local instruments separately.

### **Anticipated Costs and Benefits**

We expect that the adoption of the Proposed Short Form Rule and the related consequential amendments will further enhance the efficiency of accessing capital for short form eligible reporting issuers. Harmonizing the short form system and related systems with the continuous disclosure rules will reduce costs of public securities offerings. There will be greater clarity regarding the application of the Proposed Short Form Rule and related instruments, including NI 44-102, and reduced circumstances requiring exemptive relief. To the extent that the amendments require additional disclosure, this disclosure will benefit investors to an extent that the benefit will outweigh the costs of these new requirements.

### **Alternatives Considered**

No other alternatives were considered.

### **Unpublished Materials**

No unpublished study, report or other written materials were relied on in proposing these amendments to existing national instruments.

### **Request for Comment**

We request your comments on the proposed amendments to NI 44-102, NI 44-103, NP 43-201 and NI 51-101.

### **How to Provide Your Comments**

Please provide your comments by April 8, 2005 by addressing your submission to the securities regulatory authorities listed below:

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers

Nova Scotia Securities Commission

You do not need to deliver your comments to all of the CSA member commissions. Please deliver your comments to the three addresses that follow, and they will be distributed to all other jurisdictions by CSA staff.

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e-mail: [consultation-en-cours@autorite.qc.ca](mailto:consultation-en-cours@autorite.qc.ca)

If you are not sending your comments by e-mail, please send a diskette containing your comments (in DOS or Windows format, preferably Word).

We cannot keep submissions confidential because securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

**Questions**

Please refer your questions to any of:

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