



## STAFF NOTICE 45-706

### VOLUNTARY PRE-OFFERING REVIEW OF OFFERING MEMORANDUMS UNDER

#### ***NI 45-106 Prospectus and Registration Exemptions***

The purpose of this Staff Notice is to inform issuers that they may pre-file a draft offering memorandum under National Instrument 45-106 *Prospectus and Registration Exemptions* on a voluntary basis before it is used. Staff will review the draft offering memorandum and provide comments.

#### **The Offering Memorandum Exemption**

National Instrument 45-106 *Prospectus and Registration Exemptions* (“NI 45-106”) came into force on September 14, 2005. It contains exemptions from the prospectus and registration requirements that issuers can use to raise capital. One of the exemptions, the “Offering Memorandum Exemption” permits issuers to sell their own securities to investors in Saskatchewan using an offering memorandum. Each investor must receive a copy of an offering memorandum (“OM”) prepared in accordance with NI 45-106. Issuers are not required to have Commission staff review the OM before they use it.

#### **Staff Review of OMs**

In Staff Notice 45-703 *Monitoring the Use of Exemptions under NI 45-106* we set out how we will monitor the use of exemptions under NI 45-106. We state that we will review offering memoranda filed by issuers who have their head office in Saskatchewan, to confirm that they contain the required disclosure.

We have selected a sample of OMs filed under the Offering Memorandum Exemption and reviewed them. For the majority of these issuers, this was their first significant offering of securities. Staff Notice 45-704 *Review of Offering Memorandums under NI 45-106* sets out details of the results of our review.

#### **Results of Reviews**

Staff have identified material disclosure deficiencies in all of the OMs reviewed. In general, the OMs were poorly prepared and did not provide the disclosure required. During the period that we reviewed the OMs, we observed no noticeable improvement in the quality of disclosure provided by first time users of the Offering Memorandum Exemption. We did observe significant improvement in subsequent OM’s filed by parties who have been subject to an OM review before.

In Staff Notice 45-704 we also set out the consequences of failing to comply with the OM disclosure requirements. These consequences include suspending the offering, providing remedial information to investors and refunding investors money. We have imposed these requirements on some issuers because of major deficiencies the OMs that they have filed.

**Voluntary pre-offering filings and reviews**

In order to avoid these post offering consequences, issuers who intend to use the Offering Memorandum Exemption may file a draft offering memorandum with staff of the Corporate Finance Branch of the Commission's Securities Division. Staff will review the draft document and provide comments.

Commission staff are otherwise available to answer questions from issuers or their professional advisers on the disclosure requirements under the Offering Memorandum Exemption.

Dated January 18, 2008

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