APPENDIX C

AMENDMENTS TO
COMPANION POLICY 45-103CP TO
MULTILATERAL INSTRUMENT 45-103
CAPITAL RAISING EXEMPTIONS

PART 1 AMENDMENTS

1.1. Amendments

(1) Companion Policy 45-103CP to Multilateral Instrument 45-103 *Capital Raising Exemptions* is amended by this Amendment.

(2) Section 4.1 is amended by:

(a) striking out “Newfoundland and Labrador,” after “Eligibility criteria in Alberta, Manitoba” in the section heading,

(b) striking out “except British Columbia and Nova Scotia” after “Each of the jurisdictions,” in the first paragraph and substituting “except British Columbia, Nova Scotia, and Newfoundland and Labrador”, and

(c) striking out “Newfoundland and Labrador” in the sixth sentence of the third paragraph.

(3) Section 4.3 is repealed and the following is substituted:

There are two forms of offering memorandum: Form 45-103F2, which may be used by qualifying issuers, and Form 45-103F1, which must be used by all other issuers. Form 45-103F2 permits qualifying issuers to incorporate by reference their annual information form (AIF), management's discussion and analysis (MD&A), annual financial statements and subsequent specified continuous disclosure documents required under National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102").

A qualifying issuer is a reporting issuer that has filed an AIF under NI 51-102 and has met all of its other continuous disclosure obligations, including those in NI 51-102, National Instrument 43-101 *Standards of Disclosure for Mineral Projects* and National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*. Under NI 51-102, venture issuers are not required to file AIFs. However, if a venture issuer wants to use Form 45-103F2, the venture issuer must voluntarily file an AIF under NI 51-102 in order that it can incorporate that annual information form into its offering memorandum.

PART 2 EFFECTIVE DATE

2.1 Effective Date

This Amendment comes into force on ?, 200?.

– BLACKLINE –

COMPANION POLICY 45-103CP

TO MULTILATERAL INSTRUMENT 45-103
CAPITAL RAISING EXEMPTIONS

Application
Multilateral Instrument 45-103 *Capital Raising Exemptions* ("MI 45-103") has been implemented in Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, and Saskatchewan.

New Brunswick does not yet have rule making authority under the current *Security Frauds Prevention* Act (New Brunswick) and the Yukon does not have rule making authority under the *Securities Act* (Yukon). Consequently, neither of these two jurisdictions is able to adopt MI 45-103. Until such time as the New Brunswick and Yukon securities regulatory authorities are able to adopt MI 45-103, the New Brunswick and Yukon regulators will consider applications for exemptions on a case-by-case basis. In exercising discretionary authority, each of the New Brunswick and Yukon regulators will consider the provisions of MI 45-103.

Background
Securities legislation applies to any trade of a security in the local jurisdiction, whether or not the issuer of the security is a reporting issuer in that jurisdiction. The dealer registration requirement prohibits a person or company from trading in a security unless the person or company is registered in the appropriate category. The prospectus requirement requires the use of a prospectus for any distribution of securities or, in some jurisdictions, for a primary distribution to the public.

Securities legislation provides exemptions from the dealer registration requirement and prospectus requirement in certain circumstances. In addition, the securities regulatory authority has the power to make discretionary orders to exempt trades, intended trades, securities and persons or companies from the dealer registration requirement and the prospectus requirement when it is not prejudicial to the public interest to do so.

Purpose
MI 45-103 provides four exemptions from the dealer registration requirement and prospectus requirement to assist issuers in raising capital. Issuers may also use other exemptions available to them under securities legislation to raise capital.

This Policy provides guidance on the use of the exemptions in MI 45-103.

Part 1 General

1.1 Definitions
MI 45-103 contains certain terms that are defined in National Instrument 14-101 *Definitions.*

1.2 Multijurisdictional trades
A trade can occur in more than one jurisdiction. If it does, the issuer must comply with the securities legislation of each jurisdiction in which the trade occurs.

1.3 Responsibility for compliance
The issuer or selling security holder trading securities under an exemption is responsible for determining whether the exemption is available. In doing so, the seller may rely on factual representations by the purchaser, provided that the seller has no reasonable

grounds to believe that those representations are false. However, the seller must still determine whether, given those facts, the exemption is available.

For example, an issuer distributing securities to a close personal friend of a director could require that the purchaser provide a signed statement describing the purchaser's relationship with the director. On the basis of that factual information, the issuer could determine whether the purchaser is a close personal friend of the director for the purposes of the exemption. The issuer should not rely merely on the representation: "I am a close personal friend of the director".

In another example, an issuer distributing securities to an individual under the accredited investor exemption can rely on a representation that the purchaser had net income before taxes in excess of $200,000 in each of the two most recent years and expects to have net income before taxes in excess of $200,000 in the current year. However, the issuer should not rely merely on the representation: "I am an accredited investor".

The person or company trading securities under an exemption is also responsible for retaining the documents necessary to show that the person or company properly relied upon the exemption.

1.4 Prohibited Activities

The definition of trade in securities legislation includes any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of a trade. A person or company who engages in such activities must comply with the securities legislation of each jurisdiction in which the trade occurs.

Securities legislation in certain of the jurisdictions prohibits any person or company from making certain representations to a purchaser, including an undertaking as to the future value or price of the securities. In certain of the jurisdictions, these provisions also prohibit a person or company from making any statement that the person or company knows, or ought reasonably to know, is a misrepresentation. Misrepresentation is defined in the securities legislation. The use of exaggeration, innuendo or ambiguity in an oral or written representation about a material fact, or other deceptive behaviour relating to a material fact, might be a misrepresentation.

1.5 Responsibilities of registrants

An exemption from the dealer registration requirement does not relieve a registrant from its responsibilities to purchasers under securities legislation. In particular, MI 45-103 does not provide an exemption from the know your client and suitability rules, the prohibitions against certain activities described in section 1.4 or the duty of a registrant to deal fairly, honestly and in good faith with clients. If the relationship between a registrant and its client is a fiduciary relationship, additional responsibilities may apply under common law.

1.6 Advising

MI 45-103 does not provide an exemption from the adviser registration requirement. Only advisers registered or exempted from registration under securities legislation may act as advisers in connection with a trade made under MI 45-103. For example, under the accredited investor exemption, foreign portfolio managers are permitted to purchase securities on behalf of fully managed accounts; however, this does not relieve the foreign portfolio manager from requirements under securities legislation to be registered either to trade securities or to provide advice or hold itself out as providing advice in relation to securities.

1.7 Advertising and soliciting purchasers

Advertising to solicit or find purchasers is not restricted under any of the exemptions in MI 45-103. However, issuers should review the securities legislation and securities directions for guidelines on advertising intended to promote interest in an issuer or its securities. For example, any advertising or marketing communications must not contain a misrepresentation and should be consistent with the issuer's public disclosure record.

MI 45-103 does not prohibit the use of registrants, finders, telemarketing or advertising in any form (for example, Internet, e-mail, direct mail, newspaper or magazine) to solicit or find purchasers under any of the exemptions. However, if any of these means are used to find purchasers (other than accredited investors) under the private issuer exemption or the family, friends and business associates exemption, it may create a presumption that the relationship required for use of these exemptions is not present. For example, if, an issuer advertises or pays a commission or finder's fee to a third party to find purchasers under the family, friends and business associates exemption, it suggests that the purchasers are not family, friends or business associates, and that the issuer cannot rely on this exemption. However, if a private issuer uses a finder to locate an accredited investor, this would not preclude the private issuer from relying on the private issuer exemption, provided the other conditions to the exemption are met.

Although MI 45-103 does not prohibit the use of registrants and finders, under the private issuer and family, friends and business associates exemptions, commissions and finder's fees are not permitted to be paid to directors, senior officers, founders and control persons except, under the private issuer exemption, in connection with a trade to an accredited investor. In Saskatchewan, no commissions or finder's fees may be paid to anyone in connection with a trade under the family, friends and business associates exemption. In addition, in Northwest Territories, Nunavut and Saskatchewan, only a registered dealer may be paid a commission or finder's fee in connection with a trade to a purchaser in one of those jurisdictions under the offering memorandum exemption.

1.8 Persons or companies created solely or primarily to use exemptions

A distribution of securities by an issuer to a person or company that had no pre-existing purpose and is created solely or primarily to purchase securities under exemptions (a "syndicate") may also be considered a distribution of securities by the issuer to the persons or companies beneficially owning or controlling the syndicate (the "owners"). It is an inappropriate use of the exemptions to use a syndicate to indirectly distribute securities to the owners where there is no exemption available to directly distribute securities to the owners. For example, if an issuer wishes to distribute securities to potential purchasers under the offering memorandum exemption but, for tax or other reasons, the potential purchasers form a limited partnership and the issuer distributes its securities to the limited partnership, the issuer may be considered to be distributing its securities not only to the limited partnership, but also to each of the individual limited partners. Consequently, both the issuer and the limited partnership may need to comply with the requirements of the offering memorandum exemption. In these circumstances, care should be taken to ensure that it is clear to the purchasers which issuer they will own securities in.

Part 2 Private issuer exemption

2.1 Meaning of "the public"

Section 2.1 of MI 45-103 provides exemptions from the dealer registration and prospectus requirements for trades in securities of a private issuer to those specific persons or companies listed in section 2.1(1)(a) to (k). For example, a trade in securities of a private issuer to an accredited investor is exempt from the dealer registration and prospectus requirements so long as the accredited investor purchases the securities as principal.

Because securities regulatory authorities cannot list all circumstances where a person or company, based on the tests that have developed in the common law, would not be a member of the public, section 2.1(1)(k) permits trades to any person or company that is not the public. However, the issuer, or other person or company relying on this subsection of the private issuer exemption, must satisfy itself that the purchaser is not a member of the public in the particular circumstances. The courts have interpreted "the public" very broadly in the context of securities trading.

Consult legal counsel if you need further guidance.

2.2 Meaning of "close personal friend"

A close personal friend is an individual who has known the director, senior officer, founder or control person well enough and for a sufficient period of time to be in a position to assess the capabilities and trustworthiness of the director, senior officer, founder or control person. The term close personal friend can include family members not already listed in the exemption if the family member is in a position to assess the capabilities and trustworthiness of the director, senior officer, founder or control person.

An individual is not a close personal friend solely because the individual is a relative or a member of the same organization, association or religious group.

An individual is not a close personal friend solely because the individual is a client, customer or former client or customer. For example, an individual is not a close personal friend of a registrant or former registrant simply because the individual is a client or former client of that registrant or former registrant.

The relationship between the purchaser and the director, senior officer, founder or control person must be direct. For example, the exemption is not available for a close personal friend of a close personal friend of the director, senior officer, founder or control person.

2.3 Meaning of "close business associate"

A close business associate is an individual who has had sufficient prior business dealings with the director, senior officer, founder or control person to be in a position to assess the capabilities and trustworthiness of the director, senior officer, founder or control person.

A casual business associate or a person introduced or solicited for the purpose of purchasing securities is not a close business associate.

An individual is not a close business associate solely because the individual is a client, customer or former client or customer. For example, an individual is not a close business associate of a registrant or former registrant solely because the individual is a client or former client of that registrant or former registrant.

The relationship between the purchaser and the director, senior officer, founder or control person must be direct. For example, the exemption is not available for a close business associate of a close business associate of a director, senior officer, founder or control person.

2.4 Distribution of debt securities

A private issuer may distribute any type of securities under the private issuer exemption as long as the sales are made only to the persons or companies listed in section 2.1(1) of MI 45-103. However, a private issuer may also distribute securities to the public under another exemption if the securities are not designated securities, such as debt securities, without losing its private issuer status.

2.5 Merger of private issuers

Securities distributed in an amalgamation, merger, reorganization, arrangement or other statutory procedure involving two private issuers to holders of securities of those private issuers is not a distribution to the public provided the resulting issuer is a private issuer. Securities distributed by a private issuer in a share exchange take over bid for another private issuer is not a distribution to the public provided the offeror remains a private issuer after completion of the bid.

2.6 Acquisition of a private issuer

Generally, if the owner of a private issuer sells the business of the private issuer by a sale of securities, rather than assets, to another party who acquires all of the securities, the distribution will not be considered to have been to the public. However, in each case, the person or company relying on the private issuer exemption in these circumstances must be satisfied that the purchaser is not the public.

2.7 Ceasing to be a private issuer

The meaning of private issuer is set out in section 1.1 of MI 45-103. A private issuer can distribute designated securities only to the persons or companies listed in section 2.1(1) of MI 45-103. If a private issuer distributes designated securities to a person or company not listed in section 2.1(1), even under another exemption, it will no longer be a private issuer and will no longer be able to use the private issuer exemption. For example, if a private issuer distributes designated securities under the offering memorandum exemption, it will no longer be a private issuer. That issuer may then be able to use the other exemptions provided under securities legislation, including the family, friends and business associates exemption, the accredited investor exemption and the offering memorandum exemption, but will be required to report the distributions to the securities regulatory authority in each jurisdiction in which the distribution took place.

2.8 Non-corporate issuers

The private issuer and the family, friends and business associates exemptions refer to directors and senior officers of the issuer. In the case of non-corporate issuers, such as limited partnerships and trusts, no one may have been elected or appointed to those positions. However, securities legislation defines the terms “directors” and “senior officers” to also include individuals acting in a capacity or performing functions similar to a director or senior officer. For example, if a seller intends to trade securities of a limited partnership under an exemption that is conditional on a relationship with a director or senior officer, the seller must conclude that the purchaser has the necessary relationship with an individual who is acting in a capacity with the limited partnership that is similar to that of a director or senior officer of an issuer.

Part 3 Family, friends and business associates exemption

3.1 Meaning of close personal friends and close business associates

For the purposes of the family, friends and business associates exemption, the meaning of close personal friend and close business associate is the same as in the private issuer exemption.

3.2 Number of purchasers

There is no restriction on the number of persons that the issuer may sell securities to under the family, friends and business associates exemption. However, if the issuer sells securities to a large number of persons under this exemption, this may create a presumption that not all of the purchasers are family, close personal friends or close business associates and that the exemption may not be available.

3.3 Required Saskatchewan Risk Acknowledgement

In Saskatchewan, any person or company trading securities under the family, friends and business associates exemption based on a close personal friendship or close business association must obtain from each Saskatchewan purchaser a Form 45-103F5 *Risk Acknowledgement - Saskatchewan Close Personal Friends and Close Business Associates*.

Part 4 Offering memorandum exemption

4.1 Eligibility criteria in Alberta, Manitoba~~, Newfoundland and Labrador~~, Northwest Territories, Nunavut, Prince Edward Island and Saskatchewan

Each of the jurisdictions, except British Columbia~~ and~~**,** Nova Scotia**, and Newfoundland and Labrador**, impose eligibility criteria on persons or companies investing under the offering memorandum exemption in MI 45-103. In these jurisdictions, anyone can purchase up to $10,000 worth of securities in an offering. However, if the purchaser's aggregate acquisition cost is more than $10,000, the purchaser must be an eligible investor.

In determining the aggregate acquisition cost to a purchaser who is not an eligible investor, include any future payments that the purchaser will be required to make. Proceeds which may be obtained on exercise of warrants or other rights, or on conversion of convertible securities, are not considered to be part of the aggregate acquisition cost unless the purchaser is legally obligated to exercise or convert the securities. The $10,000 maximum aggregate acquisition cost is calculated per distribution. Concurrent offerings to the same purchaser will usually constitute one distribution. Consequently, when calculating the aggregate acquisition cost, all concurrent offerings by or on behalf of the issuer to the same purchaser who is not an eligible investor would be included. It would be inappropriate for an issuer to try to circumvent the $10,000 threshold by dividing a subscription in excess of $10,000 by one purchaser into a number of smaller subscriptions of $10,000 or less that are made directly or indirectly beneficially on behalf of the same purchaser.

A purchaser can qualify as an eligible investor under various categories of the definition, including if the purchaser has and has had in prior years either $75,000 pre-tax net income or has $400,000 worth of net assets. In calculating a purchaser's net assets, subtract the purchaser's total liabilities from the purchaser's total assets. The value attributed to assets should reasonably reflect their estimated fair value. Income tax should be considered a liability if the obligation to pay it is owing at the time of the trade. Another way a purchaser can qualify as an eligible investor is to obtain advice from an eligibility adviser. In Alberta~~, Newfoundland and Labrador~~, Northwest Territories, Nunavut and Prince Edward Island, an eligibility adviser refers to a registered investment dealer (or some other category of unrestricted dealer in the purchaser's jurisdiction.) In Saskatchewan and Manitoba, certain lawyers and public accountants may also act as eligibility advisers. A registered investment dealer providing advice to a purchaser in these circumstances is expected to comply with the "know your client" and suitability requirements under securities legislation and SRO rules and policies. Some dealers have obtained exemptions from the "know your client" and suitability requirements because they do not provide advice. We do not consider an assessment of suitability by these dealers sufficient to qualify a purchaser as an eligible investor.

4.2 Use of offering memorandum exemption by mutual funds

Except in British Columbia and Nova Scotia, mutual fund issuers are precluded from using the offering memorandum exemption.

4.3 Form of offering memorandum

There are two forms of offering memorandum~~. Qualifying issuers under Multilateral Instrument 45-102 *Resale of Securities* ("MI 45-102") may use Form 45-103F2.~~**; Form 45-103F2, which may be used by qualifying issuers, and Form 45-103F1, which must be used by all other issuers.** Form 45-103F2 permits qualifying issuers to incorporate by reference their annual **information form (AIF), management's discussion and analysis (MD&A), annual** financial statements~~, annual information form~~ and subsequent specified continuous disclosure documents **required under National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102")**~~. All other issuers must use Form 45-103F1.~~

A qualifying issuer is a reporting issuer that has filed an AIF under NI 51-102 and has met all of its other continuous disclosure obligations, including those in NI 51-102, National Instrument 43-101 *Standards of Disclosure for Mineral Projects* and National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*. Under NI 51-102, venture issuers are not required to file AIFs. However, if a venture issuer wants to use Form 45-103F2, the venture issuer must voluntarily file an AIF under NI 51-102 in order that it can incorporate that annual information form into its offering memorandum.

4.4 Date of certificate and required signatories

The issuer must ensure that the information provided to the purchaser is current and does not contain a misrepresentation. For example, if a material change occurs in the business of the issuer after delivery of an offering memorandum to a potential purchaser, the issuer must give the potential purchaser an update to the offering memorandum before the issuer accepts the agreement to purchase the securities. The update to the offering memorandum may take the form of an amendment describing the material change, a new offering memorandum containing up-to-date disclosure or a material change report, whichever the issuer decides will most effectively inform purchasers. Whatever form of update the issuer uses, it must include a newly signed and dated certificate as required in section 4.4 of MI 45-103.

The chief executive officer, chief financial officer, two directors and all promoters of the issuer must sign the certificate. If the issuer has more than two directors, any two directors who are authorized to sign the certificate, other than the chief executive officer and chief financial officer, may sign on behalf of all of the directors. "Promoter" is defined in the securities legislation to be a person or company who has taken the initiative in founding, organizing or substantially reorganizing the business of the issuer or who has received consideration over a prescribed amount for services or property or both in connection with the founding, organization or substantial reorganization of the issuer. Under the securities legislation, persons or companies who receive consideration solely as underwriting commissions or in consideration of property who do not otherwise take part in the founding, organization or reorganization of the issuer are not promoters. Simply selling securities, or in some way facilitating sales in securities, does not make a person or company a promoter under this exemption.

In the case of an exempt distribution by a limited partnership where the general partner is a corporation, we expect the general partner to sign as promoter and the chief executive officer, chief financial officer and directors of the general partner to sign in those capacities on behalf of the issuer.

4.5 Consideration to be held in trust

The purchaser has the right to cancel the agreement to purchase the securities until midnight on the 2nd business day after signing the agreement. During this period, the issuer must arrange for the consideration to be held in trust on behalf of the purchaser.

It is up to the issuer to decide what arrangements are necessary to preserve the consideration received from the purchaser. The requirement to hold the consideration in trust may be satisfied if, for example, the issuer keeps the purchaser's cheque, without cashing or depositing it, until the expiration of the two business day cancellation period.

It is also the issuer's responsibility to ensure that whoever is holding the consideration promptly returns it to the purchaser if the purchaser cancels the agreement to purchase the securities.

4.6 Filing of offering memorandum

The issuer is required to file the offering memorandum with the securities regulatory authority in each of the jurisdictions in which the issuer distributes securities under this exemption. The issuer must file the offering memorandum on or before the 10th day after the distribution. If the issuer is conducting multiple closings, the offering memorandum must be filed on or before the 10th day after the first closing. Once the offering memorandum has been filed, there is no need to file it again after subsequent closings, unless it has been updated.

4.7 Purchasers' rights

Unless securities legislation in a purchaser's jurisdiction provides a purchaser with a comparable right of cancellation or revocation, an issuer must give each purchaser under an offering memorandum a contractual right to cancel the agreement to purchase the securities by delivering a notice to the issuer not later than midnight on the 2nd business day after the purchaser signs the agreement.

Unless the securities legislation in a purchaser's jurisdiction provides purchasers with statutory rights, the issuer must also give the purchaser a contractual right of action against the issuer in the event the offering memorandum contains a misrepresentation. This contractual right of action must be available to the purchaser regardless of whether the purchaser relied on the misrepresentation when deciding to purchase the securities. This right is similar to that given to a purchaser under a prospectus. The purchaser may claim damages or ask that the agreement be cancelled. If the purchaser wants to cancel the agreement, the purchaser must commence the action within 180 days after signing the agreement to purchase the securities. If the purchaser is seeking damages, the purchaser must commence the action within the earlier of 180 days after learning of the misrepresentation or 3 years after signing the agreement to purchase the securities.

The issuer is required to describe in the offering memorandum any rights available to the purchaser, whether they are provided by the issuer contractually as a condition to the use of the exemption or provided under securities legislation.

Part 5 Accredited investor exemption

5.1 Meaning of accredited investor

The meaning of accredited investor under MI 45-103 is intended to be very similar to the meaning under Ontario Securities Commission Rule 45-501 *Exempt Distributions.* However, OSC Rule 45-501 is drafted for use only in Ontario, while MI 45-103 is drafted as a multilateral instrument and therefore uses certain terms that are defined under National Instrument 14-101 *Definitions.* For example, a Canadian financial institution is defined under NI 14-101 to mean a bank, loan corporation, trust company, insurance company, treasury branch, credit union or caisse populaire authorized to carry on business in Canada or a jurisdiction.

5.2 Application to individuals

An individual is an accredited investor if the individual satisfies either the financial asset test in paragraph (k), the net asset test in paragraph (m) or the net income test in paragraph (l) of section 1.1. If the combined financial assets, net assets or net income of spouses exceeds the $1 million, $5 million or $300,000 thresholds, either spouse (or both spouses together) qualifies as an accredited investor. If the combined net income of the spouses does not exceed $300,000 but the net income of one of the spouses exceeds $200,000, only the spouse whose net income exceeds $200,000 qualifies as an accredited investor. In calculating a purchaser's net assets, subtract the purchaser's total liabilities from the purchaser's total assets. The value attributed to assets should reasonably reflect their estimated fair value. Income tax should be considered a liability if the obligation to pay it is owing at the time of the trade.

Part 6 Resale of securities

6.1 Resale of securities

Securities distributed under an exemption are usually subject to restrictions on their resale. The resale restrictions depend on the status of the issuer and the exemption that was relied on to distribute the securities. Part 6 of MI 45-103 sets out the applicable resale restrictions for securities distributed under the capital raising exemptions. The resale restrictions applicable in Alberta, British Columbia, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island and Saskatchewan refer to specific sections of MI 45-102. To calculate the length of resale restrictions under MI 45-102, you must consider the issuer's reporting issuer status. However, because the securities legislation of Northwest Territories, Nunavut and Prince Edward Island do not contain the concept of reporting issuer, when calculating the length of the resale restrictions in those jurisdictions, consider the issuer's reporting issuer status in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Quebec or Saskatchewan.

The resale restrictions in MI 45-102 are not generally applicable in Manitoba as Manitoba is an 'open jurisdiction'. The Manitoba resale restrictions are described in Part 6 of MI 45-103.

Sellers of securities may also rely on other exemptions from the prospectus requirement to sell their securities.

Part 7 Reporting requirements

7.1 Report of exempt distribution

MI 45-103 requires an issuer relying on the family, friends and business associates exemption, the offering memorandum exemption or the accredited investor exemption to file a Form 45-103F4 report of exempt distribution within 10 days of the distribution. If the distribution is made in more than one jurisdiction, the issuer may complete one form identifying all purchasers and file that form in each of the jurisdictions in which the distribution is made. The required filing fee is not affected by identifying all purchasers in one form.

7.2 Additional disclosure in British Columbia

In British Columbia, if a non-reporting issuer files a Form 45-103F4 reporting an exempt distribution under the offering memorandum exemption, the issuer must provide the telephone number and e-mail address of each purchaser.

Part 8 Required forms

8.1 Required forms under the offering memorandum exemption

Subject to section 8.2, the required form of offering memorandum under section 4.2 of MI 45-103, in all jurisdictions that have adopted MI 45-103, is Form 45-103F1 unless the issuer is a qualifying issuer in which case the issuer may use Form 45-103F2. Similarly, in all jurisdictions that have adopted MI 45-103, the required form of risk acknowledgment under section 4.5 of MI 45-103 is Form 45-103F3. The British Columbia regulator has specified these required forms in a separate local instrument.

8.2 Real estate securities

Certain jurisdictions impose alternative or additional disclosure requirements in relation to the distribution of real estate securities by offering memorandum. Refer to the securities legislation in the jurisdictions where securities are being distributed.

8.3 Required form of Saskatchewan risk acknowledgement for close personal friends and close business associates

In Saskatchewan, a risk acknowledgement is also required under section 3.1 of MI 45-103 if the exempt distribution is based on close personal friendship or close business association. The required form of risk acknowledgement under this section is Form 45-103F5.

8.4 Required form of report of exempt distribution

Except in British Columbia, the required form of report of exemption distribution under section 7.2 of MI 45-103 is Form 45-103F4. The British Columbia regulator has specified the Form 45-103F4 as the required form of report of exempt distribution in a separate local instrument.

8.5 Use of Form 45-103F4 to report other exempt distributions

If an issuer or vendor is required to report a distribution made under an exemption from the prospectus requirement in securities legislation that is not contained in MI 45-103, the issuer or vendor may use Form 45-103F4 to report the exempt distribution instead of the report otherwise required in the local jurisdiction.

8.6 Fees payable on filing Form 45-103F4

Form 45-103F4 is a successor to or an alternative form of the required local report. Accordingly, when filing a Form 45-103F4 the issuer or vendor, if applicable, must pay the same fee as required on filing a local report.