

THE MANITOBA SECURITIES COMMISSION
MSC Rule No. 2015-4
(Section 149.1, *The Securities Act*)

AMENDMENTS TO
NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS

1. *National Instrument 45-106 Prospectus and Registration Exemptions is amended by this Instrument.*
2. *The title of the Instrument is amended by replacing Prospectus and Registration Exemptions with Prospectus Exemptions.*
3. *The definition of accredited investor in Section 1.1 is amended*

(a) by replacing paragraphs (a) to (i) with the following:

- (a) except in Ontario, a Canadian financial institution, or a Schedule III bank,
- (b) except in Ontario, the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada),
- (c) except in Ontario, a subsidiary of any person referred to in paragraphs (a) or (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary,
- (d) except in Ontario, a person registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer,
- (e) an individual registered under the securities legislation of a jurisdiction of Canada as a representative of a person referred to in paragraph (d),
- (e.1) an individual formerly registered under the securities legislation of a jurisdiction of Canada, other than an individual formerly registered solely as a representative of a limited market dealer under one or both of the *Securities Act* (Ontario) or the *Securities Act* (Newfoundland and Labrador),
- (f) except in Ontario, the Government of Canada or a jurisdiction of Canada, or any crown corporation, agency or wholly owned entity of the Government of Canada or a jurisdiction of Canada,
- (g) except in Ontario, a municipality, public board or commission in Canada and a metropolitan community, school board, the Comité de gestion de la taxe scolaire de l'île de Montréal or an intermunicipal management board in Québec,
- (h) except in Ontario, any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any agency of that government,
- (i) except in Ontario, a pension fund that is regulated by the Office of the Superintendent of Financial Institutions (Canada), a pension commission or similar regulatory authority of a jurisdiction of Canada,,

(b) in paragraph (j), by replacing that before taxes, with that, before taxes,

(c) by adding the following paragraph:

(j.1) an individual who beneficially owns financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$5 000 000,,

(d) by replacing paragraph (q) with the following:

(q) a person acting on behalf of a fully managed account managed by that person, if that person is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or a foreign jurisdiction,, **and**

(e) by deleting or at the end of paragraph (u), by adding or at the end of paragraph (v) and by adding the following paragraph:

(w) a trust established by an accredited investor for the benefit of the accredited investor's family members of which a majority of the trustees are accredited investors and all of the beneficiaries are the accredited investor's spouse, a former spouse of the accredited investor or a parent, grandparent, brother, sister, child or grandchild of that accredited investor, of that accredited investor's spouse or of that accredited investor's former spouse;.

4. Section 1.5 is amended

(a) in subsection (1), by deleting from the dealer registration requirement, or from the prospectus requirement,, and

(b) by repealing subsection (2).

5. Subsection 2.2(5) is amended by replacing Subject to section 8.3.1, if with If.

6. Section 2.3 is amended

(a) by adding the following subsection:

2.3(0.1) In this section, accredited investor exemption means

(a) in a jurisdiction other than Ontario, the prospectus exemption under subsection (1), and

(b) in Ontario, the prospectus exemption under subsection 73.3(2) of the *Securities Act* (Ontario).

(b) in each of subsections (2) and (4), by replacing this section with the accredited investor exemption,

(c) in subsection (5), by replacing This section with The accredited investor exemption, and

(d) by adding the following subsections:

2.3(6) The accredited investor exemption does not apply to a distribution of a security to an individual described in paragraphs (j), (k) or (l) of the definition of accredited investor in section 1.1 [Definitions] unless the person distributing the security obtains from the individual a signed risk acknowledgement in the required form at the same time or before that individual signs the agreement to purchase the security.

2.3(7) A person relying on the accredited investor exemption to distribute a security to an individual described in paragraphs (j), (k) or (l) of the definition of accredited investor in section 1.1

[Definitions] must retain the signed risk acknowledgement required in subsection (6) of this section for 8 years after the distribution.

2.3(8) Subsection (1) does not apply in Ontario..

7. Section 2.4 is amended

(a) by inserting the following subsection:

2.4(2.1) The following persons are prescribed for purposes of subsection 73.4(2) of the *Securities Act* (Ontario):

- (a) a director, officer, employee, founder or control person of the issuer,
- (b) a director, officer or employee of an affiliate of the issuer,
- (c) a spouse, parent, grandparent, brother, sister, child or grandchild of a director, executive officer, founder or control person of the issuer,
- (d) a parent, grandparent, brother, sister, child or grandchild of the spouse of a director, executive officer, founder or control person of the issuer,
- (e) a close personal friend of a director, executive officer, founder or control person of the issuer,
- (f) a close business associate of a director, executive officer, founder or control person of the issuer,
- (g) a spouse, parent, grandparent, brother, sister, child or grandchild of the selling security holder or of the selling security holder's spouse,
- (h) a security holder of the issuer,
- (i) an accredited investor,
- (j) a person of which a majority of the voting securities are beneficially owned by, or a majority of the directors are, persons described in paragraphs (a) to (i),
- (k) a trust or estate of which all of the beneficiaries or a majority of the trustees or executors are persons described in paragraphs (a) to (i), or
- (l) a person that is not the public.,

(b) in subsection 2.4(3), by adding or, in Ontario, a distribution under subsection 73.4(2) of the *Securities Act* (Ontario) after a distribution under subsection (2), and

(c) by adding the following subsection:

2.4(5) Subsection (2) does not apply in Ontario..

8. *Subsection 2.10(1) is replaced with the following:*

2.10(1) The prospectus requirement does not apply to a distribution of a security to a person if all of the following apply:

- (a) that person is not an individual;
- (b) that person purchases as principal;
- (c) the security has an acquisition cost to that person of not less than \$150 000 paid in cash at the time of the distribution;
- (d) the distribution is of a security of a single issuer..

9. *Section 2.22 is amended by deleting and in Division 4 of Part 3 of this Instrument, after In this Division.*

10. *Part 3 is repealed.*

11. *Paragraph 6.1(1)(a) is amended by adding or, in Ontario, section 73.3 of the Securities Act (Ontario) [Accredited investor] after section 2.3 [Accredited Investor].*

12. *Subsection 6.2(2) is amended by replacing section 2.10 [Minimum amount] or section 2.19 [Additional investment in investment funds] with section 2.10 [Minimum amount investment] or section 2.19 [Additional investment in investment funds], or section 73.3 of the Securities Act (Ontario) [Accredited investor],.*

13. *Subsection 6.4(1) is amended by deleting or section 3.9.*

14. *Section 6.5 is amended*

(a) by adding the following subsection:

(0.1) The required form of risk acknowledgement under subsection 2.3(6) [Accredited investor] is Form 45-106F9, and

(b) in subsection (2), by replacing or section 3.6 [Family, friends and business associates] with [Family, friends and business associates – Saskatchewan].

15. *The title of section 6.6 is replaced with Use of information in Form 45-106F6 Schedule I – British Columbia.*

16. *Section 8.1.1 is repealed.*

17. *Section 8.3.1 is repealed.*

18. *Section 8.4 is amended by deleting or 3.2(5).*

19. *Section 8.5 is repealed.*

20. *The title to Appendix A is amended by deleting and Registration.*

21. *The title to Appendix B is amended by deleting and Registration.*

22. *The Instrument is amended by adding the following form after Form 45-106F6:*

Form 45-106F9

Form for Individual Accredited Investors

WARNING!

This investment is risky. Don't invest unless you can afford to lose all the money you pay for this investment.

SECTION 1 TO BE COMPLETED BY THE ISSUER OR SELLING SECURITY HOLDER	
1. About your investment	
Type of securities: <i>[Instruction: Include a short description, e.g., common shares.]</i>	Issuer:
Purchased from: <i>[Instruction: Indicate whether securities are purchased from the issuer or a selling security holder.]</i>	
SECTIONS 2 TO 4 TO BE COMPLETED BY THE PURCHASER	
2. Risk acknowledgement	
This investment is risky. Initial that you understand that:	Your initials
Risk of loss – You could lose your entire investment of \$_____. <i>[Instruction: Insert the total dollar amount of the investment.]</i>	
Liquidity risk – You may not be able to sell your investment quickly – or at all.	
Lack of information – You may receive little or no information about your investment.	
Lack of advice – You will not receive advice from the salesperson about whether this investment is suitable for you unless the salesperson is registered. The salesperson is the person who meets with, or provides information to, you about making this investment. To check whether the salesperson is registered, go to www.aretheyregistered.ca .	
3. Accredited investor status	
You must meet at least one of the following criteria to be able to make this investment. Initial the statement that applies to you. (You may initial more than one statement.) The person identified in section 6 is responsible for ensuring that you meet the definition of accredited investor. That person, or the salesperson identified in section 5, can help you if you have questions about whether you meet these criteria.	Your initials
<ul style="list-style-type: none"> Your net income before taxes was more than \$200,000 in each of the 2 most recent calendar years, and you expect it to be more than \$200,000 in the current calendar year. (You can find your net income before taxes on your personal income tax return.) 	
<ul style="list-style-type: none"> Your net income before taxes combined with your spouse's was more than \$300,000 in each of the 2 most recent calendar years, and you expect your combined net income before taxes to be more than 	

\$300,000 in the current calendar year.		
<ul style="list-style-type: none"> • Either alone or with your spouse, you own more than \$1 million in cash and securities, after subtracting any debt related to the cash and securities. 		
<ul style="list-style-type: none"> • Either alone or with your spouse, you have net assets worth more than \$5 million. (Your net assets are your total assets (including real estate) minus your total debt.) 		
4. Your name and signature		
By signing this form, you confirm that you have read this form and you understand the risks of making this investment as identified in this form.		
First and last name (please print):		
Signature:		Date:
SECTION 5 TO BE COMPLETED BY THE SALESPERSON		
5. Salesperson information		
<i>[Instruction: The salesperson is the person who meets with, or provides information to, the purchaser with respect to making this investment. That could include a representative of the issuer or selling security holder, a registrant or a person who is exempt from the registration requirement.]</i>		
First and last name of salesperson (please print):		
Telephone:		Email:
Name of firm (if registered):		
SECTION 6 TO BE COMPLETED BY THE ISSUER OR SELLING SECURITY HOLDER		
6. For more information about this investment		
<p>For investment in a non-investment fund <i>[Insert name of issuer/selling security holder]</i> <i>[Insert address of issuer/selling security holder]</i> <i>[Insert contact person name, if applicable]</i> <i>[Insert telephone number]</i> <i>[Insert email address]</i> <i>[Insert website address, if applicable]</i></p> <p>For investment in an investment fund <i>[Insert name of investment fund]</i> <i>[Insert name of investment fund manager]</i> <i>[Insert address of investment fund manager]</i> <i>[Insert telephone number of investment fund manager]</i> <i>[Insert email address of investment fund manager]</i> <i>[If investment is purchased from a selling security holder, also insert name, address, telephone number and email address of selling security holder here]</i></p> <p>For more information about prospectus exemptions, contact your local securities regulator. You can find contact information at www.securities-administrators.ca.</p>		

Form instructions:

1. *This form does not mandate the use of a specific font size or style but the font must be legible.*
2. *The information in sections 1, 5 and 6 must be completed before the purchaser completes and signs the form.*
3. *The purchaser must sign this form. Each of the purchaser and the issuer or selling security holder must receive a copy of this form signed by the purchaser. The issuer or selling security holder is required to keep a copy of this form for 8 years after the distribution.*

23. Except in Ontario, this Instrument comes into force on May 5, 2015. In Ontario, this Instrument comes into force on the later of the following:

(a) May 5, 2015 and

(b) the day on which subsection 12(2) of Schedule 26 of the *Budget Measures Act, 2009* is proclaimed in force.

24. This Instrument may be cited as MSC Rule 2015-4.