



THE MANITOBA
SECURITIES
COMMISSION

MSC NOTICE 2004-57

Supplemental Notice to MI 45-106 *Prospectus and Registration Exemptions* and Request for Comment on Local Rule 45-806 *Resale Restrictions Applicable to NI 45-106 Prospectus and Registration Exemptions*

Background

This notice deals with certain matters relevant to Manitoba in connection with proposed National Instrument 45-106 *Prospectus and Registration Exemptions* ("NI 45-106") and Companion Policy 45-016CP *Prospectus and Registration Exemptions* ("NI 45-106CP") and should be read in conjunction with the MSC Notice 2004-55 concerning NI 45-106 and NI 45-106CP which is being published at the same time.

Marketing Activities

In MSC Notice 2004-55 and in NI 45-106CP it is noted that, for certain of the exemptions, advertising and finding activities by issuers relying on Capital Raising Exemptions are permitted in certain circumstances. Such activities are still subject to the requirements of *The Securities Act*, R.S.M. 1988, c. S50 (the "Act"). In particular, staff reminds issuers that the prohibitions in sections 68 and 69 of the Act continue to apply.

Exemptions Retained

As noted in MSC Notice 2004-55*, Manitoba will be retaining a number of local exemptions. These exemptions are specific to Manitoba and not available elsewhere. If an issuer relying on a Manitoba exemption is approaching potential purchasers outside of the province, the issuer will need to comply with the applicable securities laws in the jurisdiction in addition to the requirements of the Manitoba local exemptions.

The Commission has, after consultation with the Securities Advisory Committee, decided to retain the exemptions contained in section 91 of *The Securities Regulation* which permit sales to related purchasers, informed purchasers and sophisticated purchasers.

The Commission will recommend the Government retain the provisions of 19(1)(c) of *The Securities Act* concerning sales to exempt purchasers which have been recognized by the Commission.

In addition, the Commission will recommend the exemptions contained in sections 19(2)(g) *Cooperatives* and 19(2)(h) *Credit Unions* will be retained.

Notice Requirement for Supernational Agencies.

The exemption contained in s. 2.35(2)(g)(ii) refers to filings which may be required to be filed with the regulator or securities regulatory agency with respect to the securities. Manitoba does not require any further filings to be made in connection with this exemption.

Exemptions for Repeal

Staff will recommend that the Commission request the Government of Manitoba repeal or amend the following provisions found in our securities legislation:

The Securities Act

- Repeal s. 19(1) of the Act subject to retaining the exemption relevant to exempt purchasers;
- Repeal s. 19(2) of the Act subject to retaining the exemptions contained in ss. 19(2)(g) and 19(2)(h);
- Repeal s. 19(3) of the Act;
- Amend s. 58(1)(a) to retain the exemption for exempt purchasers recognized by the Commission only;
- Repeal ss. 58(1)(b) and (c);
- Repeal s. 58(2)
- Repeal ss. 58(3)(a), (b), and (c).

Securities Regulation

- Amend s. 7 to apply only to exempt purchasers;
- Repeal s. 90.

Staff will also recommend that the Commission revoke the following rules, policies and blanket rulings

Rules

- Local Rule 44-501 *Keystone Companies*

Policies

- Local Policy 3.01 Parts I, III, IV, V, XIV
- Local Policy 3.13

Resale Restrictions

Consistent with the existing requirements under National Instrument 45-103 *Capital Raising Exemptions*, the Commission proposes to implement resale restrictions on shares issued under s. 2.3, 2.5 or 2.9 of proposed NI 45-106. The Commission has approved the publication for comment of proposed Local Rule 45-806 *Resale Restrictions Applicable to NI 45-106 Prospectus and Registration Exemptions*.

Request for Comment

We request your comments on the proposed Local Rule 45-806.

How to Provide Your Comments

Please provide your comments by March 17, 2005.

Please e-mail your submission to:

Chris Besko
Deputy Director – Legal
Manitoba Securities Commission
1130 – 405 Broadway
WINNIPEG MB R3C 3L6

December 17, 2004