

CSA Staff Notice 11-334

Notice of Local Amendments and Changes in Certain Jurisdictions

January 19, 2017

From time to time, a local jurisdiction may amend a national or multilateral instrument or change a policy or companion policy that affects activity only in that jurisdiction. The CSA recognize that such a local amendment or change may nonetheless be of interest or importance beyond the local jurisdiction and CSA staff are issuing this Notice to identify amendments and changes implemented in Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and Yukon. For public convenience, CSA members in other jurisdictions will update the text of the applicable material on their websites to reflect these local amendments and changes.

The local amendments and changes referred to in this notice include:

- Ontario changes to National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*, National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions*, National Policy 11-205 *Process for Designation of Credit Rating Organizations in Multiple Jurisdictions* and an Ontario amendment to Form 45-106F1 *Report of Exempt Distribution*.
- Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Northwest Territories, Nunavut, Prince Edward Island, Québec, Saskatchewan and Yukon amendments to National Instrument 13-101 *System for Electronic Data Analysis and Retrieval (SEDAR)*.
- Alberta amendments to National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*, National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, National Instrument 45-102 *Resale of Securities*, Multilateral Instrument 45-108 *Crowdfunding* and National Instrument 58-101 *Disclosure of Corporate Governance Practices* and Alberta changes to Companion Policy 45-108 *Crowdfunding*.
- New Brunswick amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and National Instrument 45-106 *Prospectus Exemptions* and New Brunswick changes to Companion Policy 45-106 *Prospectus Exemptions*.

The local amendments and changes are summarized in Annexes A, B, C and D. The text of rule and policy consolidations on the websites of CSA members will be updated, as necessary, to reflect these local amendments and changes.

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Annex A

Local amendments and changes - Ontario

1. Section 8.1 of National Policy 11-202 Process for Prospectus Reviews in Multiple Jurisdictions is changed by adding the following after subsection 8.1(1):

(1.1) Despite subsection (1), in Ontario prefilings and waiver applications are submitted in accordance with Ontario Securities Commission Rule 11-501 *Electronic Delivery of Documents to the Ontario Securities Commission*.

2. Section 5.5 of National Policy 11-203 Process for Exemptive Relieve Applications in Multiple Jurisdictions is changed by replacing "applications@osc.gov.on.ca" with "https://www.osc.gov.on.ca/filings".

3. Section 13 of National Policy 11-205 Process for Designation of Credit Rating Organizations in Multiple Jurisdictions is changed by replacing "applications@osc.gov.on.ca" with "https://www.osc.gov.on.ca/filings".

4. Schedule 1 of Form 45-106F1 is amended by adding the following below the heading "f) Other information" and before "1. Is the purchaser a registrant? (Y/N)":

In Ontario, clauses (f)1. and (f)2. do not apply if one or more of the following apply:

(a) the issuer is a foreign public issuer;

(b) the issuer is a wholly owned subsidiary of a foreign public issuer;

(c) the issuer is distributing eligible foreign securities only to permitted clients..

The changes in items 1, 2 and 3 all became effective on February 19, 2014 and the amendment in item 4 became effective on July 29, 2016.

Blanket orders issued in all other CSA jurisdictions, except for Québec, have the same effect as the Ontario amendments noted in item 4. In Québec, no blanket order is required and this amendment has been made administratively and is reflected in the current Québec version of the form.¹

¹ BC Instrument 45-537 (BC), Blanket Order 45-518 (AB), General Order 45-502 (SK), Blanket Order 45-504 (MB), Blanket Order No. 45-527 (NS), Blanket Order 45-510 (NB), Blanket Order Number 100 (NL), Blanket Order 45-512 (PE), Blanket Order 45-503 (NT), Superintendent order 2016/02 Y.S.A. (YK), Blanket Order 45-503 (NU).

Annex B

Local amendments - Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Northwest Territories, Nunavut, Prince Edward Island, Québec, Saskatchewan and Yukon

1. Appendix A – Mandated Electronic Filings of National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by adding the following:

(a) to section I Mutual Fund Issuers:

D. Exempt Market Offerings and Disclosure

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|----|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| 1. | Form 45-106F1 <i>Report of Exempt Distribution</i> | Alta, Sask, Man, Que, NB, PEI, NS, Nfld, YK, NWT, NU |
| 2. | Material required to be filed or delivered under section 2.9 of National Instrument 45-106 <i>Prospectus Exemptions</i> | Alta, Sask, Man, Que, NB, PEI, NS, Nfld, YK, NWT, NU |
| 3. | Disclosure document delivered to subscribers under section 37.2 of the <i>Securities Regulation</i> (Québec) | Que |

(b) to section II Other Issuers (Reporting/Non-reporting):

E. Exempt Market Offerings and Disclosure

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|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| 1. | Form 45-106F1 <i>Report of Exempt Distribution</i> | Alta, Sask, Man, Que, NB, PEI, NS, Nfld, YK, NWT, NU |
| 2. | Material required to be filed or delivered under section 2.9 of National Instrument 45-106 <i>Prospectus Exemptions</i> | Alta, Sask, Man, Que, NB, PEI, NS, Nfld, YK, NWT, NU |
| 3. | Disclosure document delivered to subscribers under section 37.2 of the <i>Securities Regulation</i> (Québec) | Que |
| 4. | Form 5 – <i>Start-up Crowdfunding – Report of Exempt Distribution</i> and offering document required to be filed or delivered under the start-up crowdfunding prospectus and registration exemptions | Sask, Man, Que, NB, NS |

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|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| 5. | Offering document, distribution materials,
financial statements and notices required to be
filed or delivered by an issuer under Multilateral
Instrument 45-108 <i>Crowdfunding</i> | Sask, Man, Que,
NB, NS |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|

The amendments became effective in New Brunswick on May 23, 2016, in Saskatchewan on May 26, 2016 and in the other enumerated jurisdictions on May 24, 2016. Further amendments to section II.E are reflected in Annex C, below.

Annex C

Local amendments and changes - Alberta

1. *Appendix A – Mandated Electronic Filings, section II Other Issuers (Reporting/Non-reporting), under E. Exempt Market Offerings and Disclosure of National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by replacing section 5. with the following:*

5. Offering document, distribution materials, financial statements and notices required to be filed or delivered by an issuer under Multilateral Instrument 45-108 *Crowdfunding* Alta, Sask, Man, Que, NB, NS

2. *Appendix A – Mandated Electronic Filings, section II Other Issuers (Reporting/Non-reporting), under E. Exempt Market Offerings and Disclosure of National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by adding the following:*

6. Offering document required to be filed or delivered under ASC Rule 45-517 *Prospectus Exemption for Start-up Businesses* Alta

3. *Section 10.1(1)(a) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations is amended by replacing "2.1 of the Schedule - Fees in Alta. Reg.115/95 – Securities Regulation" with "5 of ASC Rule 13-501 Fees".*

4. *Appendix D of National Instrument 45-102 Resale of Securities is amended*

- (a) *by adding "1." before "Except in Manitoba"; and*
(b) *by adding before "Transitional and other Provisions" the following:*

2. In Alberta, Ontario, Québec, New Brunswick, and Nova Scotia, the exemption from the prospectus requirement in section 5 [*Crowdfunding prospectus exemption*] of Multilateral Instrument 45-108 *Crowdfunding*.

The amendment in item 2 became effective on July 19, 2016, the amendments in items 1 and 4 became effective on October 31, 2016, and the amendments in item 3 became effective on December 1, 2016.

Related to items 1 and 4, Multilateral Instrument 45-108 *Crowdfunding* was adopted (along with all related Forms) as of October 31, 2016 in Alberta. The Alberta version of that Instrument includes the following amendments:

(a) the words "in Ontario" are replaced, wherever they occur, by the words "in Alberta and Ontario" in:

- (i) the definition of "restricted dealer funding portal" in section 1,
- (ii) paragraphs 5(1)(c) and (d),
- (iii) subparagraphs 6(d)(iii) and (iv),
- (iv) paragraphs 20(c) and (d),
- (v) paragraph 26(e),
- (vi) paragraphs 34(b) and (c),
- (vii) paragraphs 36(c) and (d) and
- (viii) subsection 44(3);

(b) section 41 is amended by:

- (i) deleting the word "and" at the end of paragraph 41(a),
- (ii) replacing the "." at the end of paragraph 41(b) with ", and", and
- (iii) adding the following after paragraph 41(b):

(c) in Alberta, a distribution of securities made in reliance on Alberta Securities Commission Rule 45-517 *Prospectus Exemption for Start-up Businesses*, provided that the restricted dealer funding portal and a registered individual of the restricted dealer funding portal are in compliance with the terms, conditions, restrictions and requirements in this Instrument."

In addition, Companion Policy 45-108 *Crowdfunding* was adopted in Alberta, also as of October 31, 2016. (It had previously been adopted in SK, MB, ON, QC, NB and NS). The Alberta version of this Companion Policy includes the following changes:

(a) the words "in Ontario" are replaced, wherever they occur, by the words "in Alberta and Ontario" in:

- (i) the second paragraph under the heading "(a) Restricted dealer funding portal" in Part 1,
- (ii) subsection 5(1) under the heading "Investment Limits",
- (iii) section 6 under the heading "Confirmation of investment limits", and
- (iv) section 34;

(b) adding the following at the end of section 9:

In Alberta, a crowdfunding offering document has been designated as an offering memorandum and the rights available under the Securities Act (Alberta) apply.

Refer to Alberta Securities Commission Designation Order Designation of a Crowdfunding Offering Document under Multilateral Instrument 45-108 Crowdfunding as an Offering Memorandum.

- (c) adding the following immediately after the first sentence of the first paragraph of section 41:

In addition, in Alberta, a restricted dealer funding portal and a registered individual of the restricted dealer funding portal may act as an intermediary in connection with a distribution of securities under ASC Rule 45-517 Prospectus Exemption for Start-up Businesses.

- (d) adding the following immediately after the first sentence of the second paragraph of section 41:

In Alberta, it also applies a distribution of securities under ASC Rule 45-517 Prospectus Exemption for Start-up Businesses.

Finally, effective December 31, 2016, Alberta implemented amendments to NI 58-101 *Disclosure of Corporate Governance Practices* (which had previously been implemented in MB, NB, NL, NWT, NS, NU, ON, QC, SK and YT). The amendments established, in Alberta, the disclosure requirements in Form 58-101F1 *Corporate Governance Disclosure* (captured in items 10 to 15 of that Form) with respect to the representation of women on the boards of directors and in executive officer positions of Alberta's non-venture issuers as well as with respect to the term or other mechanisms of board renewal for board directors. Further, to the extent that an issuer has not adopted the related mechanisms, policies, or targets, or does not consider the representation of women, it is required to disclose its reasons for not doing so.

Annex D

Local amendments – New Brunswick

- 1. Subsection 8.12(3) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations is amended by adding "New Brunswick," after "Manitoba,".*
- 2. Subsection 2.36(3) of National Instrument 45-106 Prospectus Exemptions is amended by adding "New Brunswick," after "Manitoba,".*
- 3. Section 4.7 of Companion Policy 45-106 Prospectus Exemptions is amended by adding "New Brunswick," after "Manitoba,".*

These amendments became effective on October 5, 2016.