

MSC NOTICE 2004-56**Consequential Amendments Arising from
Proposed National Instrument 45-106 *Prospectus and Registration Exemptions*****Proposed Repeal of National Instrument 32-101 *Small Securityholder Selling and Purchase Arrangements*, Multilateral Instrument 45-103 *Capital Raising Exemptions*, Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* and National Instrument 62-101 *Control Block Distribution Issues***

and

Proposed Amendments to National Instrument 33-105 *Underwriting Conflicts*, National Instrument 45-101 *Rights Offerings*, National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues* and Multilateral Instrument 45-102 *Resale of Securities***December 17, 2004****Overview**

We, the Canadian Securities Administrators (CSA), are publishing this notice in conjunction with the notice/request for comment on proposed National Instrument 45-106 *Prospectus and Registration Exemptions* (the Instrument). The Instrument consolidates and harmonizes the prospectus and registration exemptions contained in various provincial statutes and national, multilateral and local instruments into a single national instrument.

The CSA intend to repeal or make consequential amendments to a number of national and multilateral instruments. The text of the proposed repeals and consequential amendments is attached as schedules to this notice and is being published for a 90-day comment period.

The Instrument and related amendments to national and multilateral instruments will be implemented as

- rules in Alberta, Manitoba, Ontario, Prince Edward Island, Nova Scotia, New Brunswick and Newfoundland and Labrador,
- blanket orders or rules in British Columbia,
- regulations in Quebec,
- commission regulations in Saskatchewan, and
- policies or codes in, the Northwest Territories, Nunavut and Yukon.

The text of the proposed repeals and consequential amendments will also be available on websites of CSA members, including the following:

- www.albertasecurities.com
- www.bcsc.bc.ca
- www.osc.gov.on.ca
- www.lautorite.qc.ca

Notice of the proposed amendments to local securities legislation will be published separately in each jurisdiction.

Upon final publication of the Instrument and related repeals and consequential amendments, we will publish a third CSA Staff Notice that will cite remaining local exemptions for each jurisdiction.

Purpose and Benefits

We believe that the Instrument and related consequential amendments and repeals will yield substantial benefits and reduce costs to market participants by harmonizing both the majority of prospectus and registration exemptions currently available across Canada, and the resale, disclosure and filing requirements associated with those exemptions.

At present, most jurisdictions have a similar but not identical set of exemptions and market participants that wish to effect a multi-jurisdictional exempt distribution must familiarize themselves with the various exempt distribution regimes of the relevant jurisdictions. This typically necessitates culling through the various acts, regulations and rules of the different jurisdictions. On implementation of the Instrument, market participants will generally have to look no further than the Instrument to view the landscape of exemptions.

Where possible, we have consolidated many of the existing exemptions to make them more straightforward and user friendly. Moreover, the scope of certain exemptions has been modified and new exemptions have been added in response to a number of relatively routine exemptive relief applications. These changes should yield additional benefits to market participants.

The proposed amendments and repeals will facilitate the consolidation and harmonization of existing exemptions within the Instrument. This should

- (i) result in reduced transaction costs because market participants will no longer need to expend time and money dealing with a collection of exempt distribution regimes and their associated resale, disclosure and filing requirements, and
- (ii) facilitate capital formation for issuers.

Repeals

We will repeal the following national and multilateral instruments as the exemptions contained in these instruments are being carried forward in the Instrument:

- National Instrument 32-101 *Small Securityholder Selling and Purchase Arrangements*, which will be replaced by section 3.6 of the Instrument
- Multilateral Instrument 45-103 *Capital Raising Exemptions*, which will be replaced by sections 2.3, 2.4, 2.5, 2.6 and 2.9 of the Instrument

- Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants*, which will be replaced by sections 2.24, 2.26, 2.27, 2.28 and 2.29 of the Instrument
- National Instrument 62-101 *Control Block Distribution Issues*, which will be replaced by section 4.1 of the Instrument

The text of the proposed repeals is set out in **Schedule 1** to this Notice.

Amendments

NI 33-105

We will amend National Instrument 33-105 *Underwriting Conflicts* (NI 33-105) to update the securities legislative references in section 3.1(b) and Appendix A and repeal Appendix B to the instrument. The text of the proposed amendments to NI 33-105 is set out in **Schedule 2** to this Notice.

NI 33-105 is not currently in effect in Manitoba and Saskatchewan. Saskatchewan will, concurrently with this Notice, publish a local Notice which will have the effect of publishing for comment in Saskatchewan NI 33-105 as it is proposed to be amended by this Notice. We anticipate that NI 33-105 will become effective in Saskatchewan at the same time as the proposed amendments to NI 33-105 described in this Notice become effective.

NI 45-101

We will amend National Instrument 45-101 *Rights Offerings* (NI 45-101) by updating the definition of “rights offering” found in Part 1 of the instrument to remove the exercise of a right. This is necessary as the new rights offering exemption in the Instrument does not provide an exemption for the exercise of a right issued under a rights offering. Instead a person wishing to exercise a right issued under a rights offering will look to the general exemption in the Instrument which facilitates conversions, exchanges or the exercise of rights pursuant to previously issued securities. The text of the proposed amendment to NI 45-101 is set out in **Schedule 3** to this Notice.

NI 62-103

We will amend National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues* (NI 62-103) to update the securities legislation references in various jurisdictions listed in Appendices A and B to the Instrument. The text of the proposed amendments to NI 62-103 is set out in **Schedule 4** to this Notice.

MI 45-102 and Companion Policy 45-102CP

As Quebec has expressed interest in participating in Multilateral Instrument 45-102 *Resale of Securities* (MI 45-102), we will expand MI 45-102 to include Quebec. This will result in MI 45-102 becoming a national instrument. We will also add transitional language to the legend requirement in section 2.5 of MI 45-102 for distributions of securities in Quebec prior to the implementation of NI 45-102. Other revisions to MI 45-102 include updating definitions, removing obsolete transitional provisions and revising a number of the appendices to incorporate the exemptions contained in the Instrument and transitional provisions for current exemptions. Companion Policy 45-102CP (the Companion Policy) will be updated to reflect the proposed changes to MI 45-102. The text of the proposed amendments to MI 45-102 is set out in **Schedule 5** to this Notice. The text of the proposed amendments to the Companion Policy is set out in **Schedule 6** to this Notice.

Alternatives Considered

No other alternatives were considered.

Unpublished Materials

No unpublished study, report, or other written materials were relied on in proposing these repeals and amendments to existing national and multilateral instruments.

Request for Comment

We request your comments on the proposed amendments to NI 33-105, NI 45-101, NI 62-103 and MI 45-102 and the proposed repeal of NI 32-101, MI 45-103, MI 45-105 and NI 62-101.

How to Provide Your Comments

Please provide your comments by March 17, 2005.

Please e-mail your submission as indicated below, but address your submission to all of the CSA member commissions, as follows:

Alberta Securities Commission
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Nova Scotia Securities Commission
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut
Ontario Securities Commission
Prince Edward Island Securities Office
Autorité des marchés financiers
Saskatchewan Financial Services Commission
Registrar of Securities, Government of Yukon

You do not need to deliver your comments to all of the CSA member commissions. Please deliver your comments to the two addresses that follow, and they will be distributed to all other jurisdictions by CSA staff.

Blaine Young
Alberta Securities Commission
400 - 300 - 5th Avenue S.W.
Calgary, Alberta
T2P 3C4
Fax: (403) 297-3679
e-mail: blaine.young@seccom.ab.ca

Anne-Marie Beaudoin
Directrice du secrétariat
Autorité des marchés financiers
Tour de la Bourse
800 square Victoria
C.P. 246, 22e étage
Montréal, Québec

H4Z 1G3
Fax:(514) 864-6381
e-mail: consultation-en-cours@lautorite.qc.ca

If you are not able to send your comments by e-mail, please send a diskette containing your comments in Word.

We cannot keep submissions confidential because securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

Questions

Questions relating to the proposed repeals and consequential amendments outlined in this notice may be referred to:

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Government of Nunavut, Justice Department
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gcrowe@gov.nu.ca

Richard Roberts, Registrar of Securities
Government of Yukon
(867) 667-5225
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SCHEDULE 1

**REPEAL OF
NATIONAL INSTRUMENT 32-101 *Small Securityholder Selling and Purchase
Arrangements*
and
NATIONAL INSTRUMENT 62-101 *Control Block Distribution Issues*
and
MULTILATERAL INSTRUMENT 45-103 *Capital Raising Exemptions*
and
MULTILATERAL INSTRUMENT 45-105 *Trades to Employees,
Senior Officers, Directors, and Consultants***

PART 1 REPEAL OF NATIONAL INSTRUMENT 32-101

1.1 Repeal - National Instrument 32-101 *Small Securityholder Selling and Purchase Arrangements* is repealed.

PART 2 REPEAL OF NATIONAL INSTRUMENT 62-101

2.1 Repeal - National Instrument 62-101 *Control Block Distribution Issues* is repealed.

PART 3 REPEAL OF MULTILATERAL INSTRUMENT 45-103

3.1 Repeal - Multilateral Instrument 45-103 *Capital Raising Exemptions* is repealed.

PART 4 REPEAL OF MULTILATERAL INSTRUMENT 45-105

4.1 Repeal - Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants* is repealed.

PART 5 EFFECTIVE DATE

5.1 Effective Date - These repeals are effective ●.

SCHEDULE 2

AMENDMENTS TO NATIONAL INSTRUMENT 33-105 *Underwriting Conflicts*

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 33-105

1.1 **Amendments** - National Instrument 33-105 *Underwriting Conflicts* (NI 33-105) is amended by:

(a) in clause (b) of section 3.1, striking and replacing “a provision listed in Appendix B” with:

“section 2.8 of National Instrument 45-102 Resale of Securities”;

(b) repealing and replacing Appendix A with:

Appendix A - Exempt Securities

Jurisdiction	Securities Legislation Reference
All	Sections 2.20, 2.21 and 2.35 to 2.40 of National Instrument 45-106 Prospectus and Registration Exemptions
Alberta	Section 87(h), (h.1) and (h.2) of the <i>Securities Act</i> (Alberta)
Manitoba	Subsection 19(2)(g) and (h) of the <i>Securities Act</i> (Manitoba)
Newfoundland and Labrador	Subsections 36(2)(h) and (i) of the <i>Securities Act</i> (Newfoundland and Labrador)
Nova Scotia	Clause 41(2)(i) of the <i>Securities Act</i> (Nova Scotia)
Ontario	Section 2.5 of OSC Rule 45-501
Prince Edward Island	Subsection 2(4)(f) and (g) of the <i>Securities Act</i> (Prince Edward Island)
Quebec	Section 41 of the <i>Securities Act</i> (Quebec)
Saskatchewan	Subsection 39(2)(i) and (j) of <i>The Securities Act, 1988</i> (Saskatchewan)

(c) repealing Appendix B.

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - This amendment is effective ●.

SCHEDULE 3

AMENDMENTS TO NATIONAL INSTRUMENT 45-101 *Rights Offerings*

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 45-101

- 1.1 **Amendment** - National Instrument 45-101 *Rights Offerings* is amended by repealing the definition of “rights offering” in Part 1 and substituting the following:

“rights offering” means the issuance by an issuer to existing security holders of a right to purchase additional securities of the issuer’s own issue.

PART 2 EFFECTIVE DATE

- 2.1 **Effective Date** - This amendment is effective ●.

SCHEDULE 4

AMENDMENTS TO NATIONAL INSTRUMENT 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues*

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 62-103

1.1 Amendment - National Instrument 62-103 *The Early Warning System and Related Take-over Bid and Insider Reporting Issues* is amended by:

- (a) in Appendix A
 - (i) under the Alberta securities legislative reference, striking and replacing “Clause 1(f)(iii) of the *Securities Act* (Alberta)” with:
“Clause 1(p)(iii) of the *Securities Act* (Alberta)”
 - (ii) under the British Columbia securities legislative reference, striking out and replacing “Paragraph (c) of the definition of “distribution” contained in subsection 1(1) of the *Securities Act* (British Columbia)” with:
“Paragraph (c) of the definition of “offering” contained in subsection 1(1) of the *Securities Act* (British Columbia)”
 - (iii) under the New Brunswick securities legislative reference, striking and replacing “Paragraph (b) of the definition of “primary distribution to the public” contained in section 1 of the *Securities Frauds Prevention Act* (New Brunswick)” with:
“Paragraph (c) of the definition of “distribution” contained in section 1(1) of the *Securities Act* (New Brunswick)” and
 - (iv) adding the following jurisdiction and securities legislative reference after Ontario:
“Quebec Subparagraph 9 of the definition of “distribution” contained in section 5 of the *Securities Act* (Quebec)”
- (b) in Appendix B
 - (i) under the Alberta securities legislative reference, striking and replacing “Subsections 141(1), 141(2) and 141(3) of the *Securities Act* (Alberta)” with:
“Subsections 176(1), 176(2) and 176(3) of the *Securities Act* (Alberta)”
 - (ii) under the British Columbia securities legislative reference, striking out and replacing “Subsections 111(1) and 111(2) of the *Securities Act* (British Columbia)” with:

“BC Instrument 62-502 *Take Over Bids and Issuer Bids*, subsections 26 and 27”

- (iii) adding the following jurisdiction and securities legislative reference after Manitoba:

“New Brunswick Subsection 126(1) and (2) of the *Securities Act* (New Brunswick)”

- (c) in Appendix C

- (i) under the British Columbia securities legislative reference, striking out and replacing “Subsections 111(3) of the *Securities Act* (British Columbia)”with:

“BC Instrument 62-502 *Take Over Bids and Issuer Bids*, subsection 26(3)”

- (d) in Appendix D

- (i) under the British Columbia securities legislative reference, striking out and replacing “Subsection 1(4) and sections 95 and 96 of the *Securities Act* (British Columbia)”with:

“Section 4 of the *Securities Act* (British Columbia) and sections (4) and (5) of BC Instrument 62-502 *Take Over Bids and Issuer Bids*, subsection 26(3)”

PART 2 EFFECTIVE DATE

2.1 Effective Date - These amendments are effective [*]

SCHEDULE 5

Amendments to Multilateral Instrument 45-102 *Resale of Securities*

PART 1 AMENDMENTS TO MULTILATERAL INSTRUMENT 45-102

1.1 **Amendment** - Multilateral Instrument 45-102 *Resale of Securities* (MI 45-102) is amended by:

- (a) in MI 45-102, striking “Multilateral Instrument 45-102” and substituting “National Instrument 45-102” as follows:
 - (i) in the title of the instrument, and
 - (ii) in the title of Appendix B and C;
- (b) in section 1.1,
 - (i) repealing the definition of “former MI 45-102”,
 - (ii) repealing and replacing the definition of “MI 45-102” with:

“MI 45-102” means Multilateral Instrument 45-102 *Resale of Securities* that came into force on March 30, 2004;
 - (iii) repealing and replacing the definition of “MI 45-103” with:

“MI 45-103” means Multilateral Instrument 45-103 *Capital Raising Exemptions* that came into force on June 6, 2003;
 - (iv) repealing and replacing the definition of “MI 45-105” with the following:

“MI 45-105” means Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* that came into force on August 15, 2003;
 - (v) adding the following after the definition of “multiple convertible security”:

“NI 45-106” means National Instrument 45-106 *Prospectus and Registration Exemptions*;
 - (vi) repealing and replacing the definition of “private company” with the following:

“private company” has the same meaning as in securities legislation;
 - (vii) repealing and replacing the definition of “private issuer” with:

“private issuer” means, as the context requires,

 - (a) a private issuer as defined in securities legislation,

- (b) a private issuer as defined in NI 45-106, or
- (c) in Ontario, a person that
 - (i) is not a reporting issuer or a mutual fund,
 - (ii) is an issuer all of whose issued and outstanding shares
 - (A) are subject to restrictions on transfer contained in the constating documents of the issuer or one or more agreements among the issuer and the holders of its securities; and
 - (B) are beneficially owned, directly or indirectly, by not more than 50 persons or companies counting any two or more joint registered holders as one beneficial owner, exclusive of persons
 - (I) that are employed by the issuer or an affiliated entity of the issuer, or
 - (II) that beneficially owned, directly or indirectly, shares of the issuer while employed by it or an affiliated entity of it and at all times since ceasing to be so employed have continued to beneficially own, directly or indirectly, at least one share of the issuer, and
 - (iii) has not distributed any securities to the public;
- (viii) repealing and replacing the definition of “SEDAR” with:

“SEDAR” has the same meaning as in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;
- (ix) adding the following after the definition of “SEDAR”:

“trade”, in Quebec, has the same meaning as in NI 45-106; and
- (c) amending section 2.1 by striking “New Brunswick and the Yukon Territory” and substituting “and Yukon”;
- (d) amending item 3. of section 2.5 (2) by adding “ or on or after [insert effective date of NI 45-106] in Quebec,” after “ March 30, 2004,”
- (e) repealing and replacing section 2.7 with:

2.7 Exemption for a Trade if the Issuer Becomes a Reporting Issuer After the Distribution Date - Item 1 of subsection 2.5(2), 2.6(3) or 2.8(2) does not apply if the issuer became a reporting issuer after the distribution

date by filing a prospectus in a jurisdiction listed in Appendix B and is a reporting issuer in a jurisdiction of Canada at the time of the trade.

- (f) amending section 2.8 by repealing subsection (5);
- (g) amending section 2.9 by repealing and replacing subsection (1) with:
 - (1) In determining the period of time that an issuer was a reporting issuer in a jurisdiction of Canada for the purposes of section 2.5, 2.6 or 2.8, if the issuer was a party to an amalgamation, merger, continuation or arrangement, the selling security holder may include the period of time that one of the parties to the amalgamation, merger, continuation or arrangement was a reporting issuer in a jurisdiction of Canada immediately before the amalgamation, merger, continuation or arrangement.
- (h) adding the following provision after section 2.14:
 - 2. 15 Resale of a security distributed to a promoter under certain exemptions - Ontario** - In Ontario, if a security of an issuer is distributed to a promoter of the issuer under any of the provisions listed in Appendix G, the first trade of that security by that promoter is a distribution unless the conditions in subsection (2) of section 2.8 of MI 45-102 are satisfied.
- (i) in Form 45-102F1,
 - (A) striking “MI 45-102” and substituting “NI 45-102” in the title and in the Notice to selling security holders - collection and use of personal information, and
 - (B) adding the following Quebec contact information to the Notice to selling security holders - collection and use of personal information:
 - Autorité des marchés financiers
 - Tour de la Bourse
 - 800 square Victoria
 - C.P. 246, 22e étage
 - Montréal, Québec H4Z 1G3
 - Attention: Responsable de l'accès à l'information
- (j) repealing Appendices A, D, E and F and replacing them with the appendices (new Appendices A, D, E, F and G) in the attached Schedule 4.

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - These amendments are effective ●.

**APPENDIX A
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

CONTROL DISTRIBUTIONS

JURISDICTION	SECURITIES LEGISLATION REFERENCE
Alberta	Definition of "control person" in section 1(l) and subclause (iii) of the definition of "distribution" contained in section 1(p) of the <i>Securities Act</i> (Alberta)
British Columbia	Paragraph (c) of the definition of "offering" contained in section 1(1) of the <i>Securities Act</i> (British Columbia)
Manitoba	Paragraph (b) of the definition of "primary distribution to the public" contained in subsection 1(1) of the <i>Securities Act</i> (Manitoba)
Newfoundland and Labrador	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Newfoundland and Labrador)
New Brunswick	Definition of "control person" and clause (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (New Brunswick)
Northwest Territories	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Nova Scotia	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Nova Scotia)
Nunavut	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Ontario	Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (Ontario)
Prince Edward Island	Clause (iii) of the definition of "distribution" in section 1 of the <i>Securities Act</i> (Prince Edward Island)
Quebec	Subparagraph 9 of the definition of "distribution" contained in section 5 of the <i>Securities Act</i> (Quebec)
Saskatchewan	Subclauses 2(1)(r)(iii), (iv) and (v) of <i>The Securities Act, 1988</i> (Saskatchewan)

**APPENDIX D
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**RESTRICTED PERIOD TRADES
(Section 2.3)**

Except in Manitoba and the Yukon, the following exemptions from the prospectus requirement in NI 45-106:

- subsection 2.3(2) [Accredited investor]
- subsection 2.5(2) [Family, friends and business associates] (except in Ontario)
- subsection 2.7(2) [Family, founder and control person] (Ontario)
- subsection 2.8(2) [Affiliates]
- subsection 2.9(3) [Offering memorandum] (in British Columbia, New Brunswick, Nova Scotia, and Newfoundland and Labrador)
- subsection 2.9(5) [Offering memorandum] (in Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Quebec and Saskatchewan)
- subsection 2.10(2) [Minimum amount investment]
- subsection 2.12(2) [Asset acquisition]
- subsection 2.13(2) [Petroleum, natural gas and mining properties]
- subsection 2.14(2) [Securities for debt]
- subsection 2.19(2) [Additional investment in investment funds]
- subsection 2.31(2) [Isolated trade by issuer]
- subsection 2.41(2) [RRSP/RRIF], if the security acquired under section 2.41 was initially acquired by an individual or an associate of the individual or an RRSP or RRIF established for or by that individual or under which that individual is a beneficiary under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.5 of MI 45-102
- subsection 2.43(3) [Conversion, exchange or exercise] if the security acquired in the circumstances referred to in clause (a) of subsection 2.43(1) was acquired in accordance with the terms and conditions of a previously issued security under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.5 of MI 45-102
- section 5.2 [TSX Venture exchange offering], if the security acquired under section 5.2 was acquired by
 - (a) a purchaser that, at the time the security was acquired, was an insider or promoter of the issuer of the security, the issuer's underwriter, or a member of the underwriter's "professional group" (as defined in National Instrument 33-105 *Underwriting Conflicts*), or
 - (b) any other purchaser who purchases securities in excess of \$40,000.

as well as the following local exemptions from the prospectus requirement:

- section 3.1 of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta*
- clauses 77(1)(u) and (w) and subclauses 77(1)(ab)(ii) and (iii) of the *Securities Act* (Nova Scotia)
- an exemption from the prospectus requirement in a jurisdiction of Canada that specifies that the first trade is subject to section 2.5 of NI 45-102

Transitional Provisions

1. General: An exemption from the prospectus requirement listed in Appendix D of MI 45-102 as Appendix D read on March 30, 2004 or an exemption from the prospectus requirement that specified prior to [*insert effective date of NI 45-106*] that the first trade was subject to section 2.5 of MI 45-102. The exemptions listed in Appendix D on March 30, 2004 were:

- ◆ Sections 131(1)(b), (c), (l), and (m) of the *Securities Act* (**Alberta**)
- ◆ Section 122(d) and 122.2 of the Alberta Securities Commission Rules, section 3.1 of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta*, subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Section 131(1)(f)(iii) of the *Securities Act* (**Alberta**), if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act* (Alberta), the Alberta Securities Commission Rules or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Sections 74(2)(1) to (6), (16), (18), (19), (23) and (25) of the *Securities Act* (**British Columbia**)
- ◆ Sections 128(a), (b), (c), (e), (f) and (h) of the *Securities Rules* (**British Columbia**) and subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Sections 74(2)(11)(ii), 74(2)(11)(iii) and 74(2)(13) of the *Securities Act* (**British Columbia**) if the security acquired by the selling security holder or the right to purchase, convert or exchange or otherwise acquire, was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or MI 45-103 referred to in this Appendix, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Section 74(2)(12) of the *Securities Act* (**British Columbia**) if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or MI 45-103 referred to in this Appendix, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102

- ◆ Clauses 54(3)(f) and (g) and 73(1)(a), (b), (c), (d), (h), (l), (m), (p) and (q) of the *Securities Act (Newfoundland and Labrador)*, subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103, or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclause 73(1)(f)(iii) of the *Securities Act (Newfoundland and Labrador)* if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act (Newfoundland and Labrador)* or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**), subsections 3.1(2), 4.1(2), 4.1(4), 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Clauses 77(1)(a), (b), (c), (d), (l), (m), (p), (q), (u), (w), (y), (ab) and (ad) of the *Securities Act (Nova Scotia)*, subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclause 77(1)(f)(iii) of the *Securities Act (Nova Scotia)* if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act (Nova Scotia)* or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z) of Blanket Order No.1 of the Registrar of Securities (**Nunavut**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subparagraph 3(e)(iii) of Blanket Order No.1 of the Registrar of Securities (**Nunavut**) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under Blanket Order No. 1 of the Registrar of Securities (Nunavut) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Clauses 72(1)(a), (b), (c), (d), (l), (m), (p) and (q) of the *Securities Act (Ontario)* and subclause 72(1)(f)(iii) of the *Securities Act (Ontario)* if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act (Ontario)*, or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102

- ◆ Clauses 13(1)(a), (b), (c), (g) and (i) of the *Securities Act (Prince Edward Island)*, subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclause 13(1)(e)(iii) of the *Securities Act (Prince Edward Island)* if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act (Prince Edward Island)* or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclauses 81(1)(f)(iii) and (iv) of *The Securities Act, 1988 (Saskatchewan)* if the convertible security, exchangeable security or multiple convertible security was acquired under one of the exemptions of *The Securities Act, 1988 (Saskatchewan)* or MI 45-103 referred to in this Appendix or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Clause 81(1)(e) of *The Securities Act, 1988 (Saskatchewan)* if the person or company from whom the securities were acquired obtained the securities under one of the exemptions of *The Securities Act, 1988 (Saskatchewan)* referred to in this Appendix

2. Quebec Provisions

- ◆ Sections 43, 47, 48 and 51 of the *Securities Act (Quebec)* as they read on [indicate the date before repeal].
- ◆ Prospectus and registration exemptions granted pursuant to section 263 of the *Securities Act (Quebec)* before March 30, 2004 if the exemption included as a condition a restricted period of 12 months.

3. Ontario Provisions

Definitions

In this Appendix

“**1998 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on December 22, 1998;

“**2001 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on November 30, 2001;

“**2004 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

“**2005 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions* that came into force on •, 2005;

“**convertible security**” means, in Ontario, a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;

“**exchangeable security**” means, in Ontario, a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or the right of the issuer to cause the purchase of, a security of another issuer;

“exchange issuer” means, in Ontario, an issuer that distributes securities of a reporting issuer held by it in accordance with the terms of an exchangeable security of its own issue;

“multiple convertible security” means, in Ontario, a security of an issuer that is convertible into or exchangeable for, or carries the right of the holder to purchase, or of the issuer or exchange issuer to cause the purchase of, a convertible security, an exchangeable security or another multiple convertible security;

“OSC Rule 45-502” means Ontario Securities Commission Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans*;

“Type 1 trade” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the *Securities Act* (Ontario);
- (b) section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501;
- (c) section 2.3, 2.12, 2.13 or 2.14 of the 2001 OSC Rule 45-501; or
- (d) section 2.3, 2.12, 2.13, 2.14 or 2.16 of the 2004 OSC Rule 45-501; and

“underlying security” means, in Ontario, a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.

(a) Securities Act (Ontario)

Clause 72(1)(a) of the *Securities Act* (Ontario)

Clause 72(1)(b) of the *Securities Act* (Ontario)

Clause 72(1)(c) of the *Securities Act* (Ontario)

Clause 72(1)(d) of the *Securities Act* (Ontario)

Subclause 72(1)(f)(iii) of the *Securities Act* (Ontario) if the security traded under subclause 72(1)(f)(iii) was acquired under subclause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) or under a provision that specifies that the first trade is subject to section 2.5 of MI 45-102

Clause 72(1)(l) of the *Securities Act* (Ontario)

Clause 72(1)(m) of the *Securities Act* (Ontario)

Clause 72(1)(p) of the *Securities Act* (Ontario)

Clause 72(1)(q) of the *Securities Act* (Ontario)

(b) 2005 OSC Rule 45-501

Section 2.1 of the 2005 OSC Rule 45-501

Section 2.2 of the 2005 OSC Rule 45-501

(c) 2001 OSC Rule 45-501 and 2004 OSC Rule 45-501

Section 2.3 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if the security distributed under section 2.3 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 was not traded to a promoter

Section 2.11 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if section 2.5 of MI 45-102 would have been applicable to a first trade in that security by the person making the exempt distribution under section 2.11 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501.

Section 2.12 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if the security distributed under section 2.12 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 was not traded to a promoter of the issuer

Section 2.13 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if the security distributed under section 2.13 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 was not traded to a promoter of the issuer

Section 2.16 of the 2004 OSC Rule 45-501 if the security distributed under section 2.16 of the 2004 OSC Rule 45-501 was not traded to a promoter of the issuer

(d) 1998 OSC Rule 45-501

Section 2.4 of the 1998 OSC Rule 45-501

Section 2.5 of the 1998 OSC Rule 45-501

Section 2.11 of the 1998 OSC Rule 45-501

(e) Other

Any provision under which an underlying security was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade or in a trade under section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501.

**APPENDIX E
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**SEASONING PERIOD TRADES
(Section 2.4)**

Except in Manitoba and the Yukon, the following exemptions from the prospectus requirement in NI 45-106:

- subsection 2.1(2) [Rights offering]
- subsection 2.2(4) [Reinvestment plan]
- subsection 2.4(2) [Private issuer]
- subsection 2.11(2) [Business combination and reorganization]
- subsection 2.16(2) [Take-over bid and issuer bid]
- subsection 2.17(2) [Offer to acquire to security holder outside local jurisdiction]
- subsection 2.18(6) [Investment fund reinvestment]
- subsection 2.20(2) [Private investment club]
- subsection 2.21(3) [Private investment fund - loan and trust pools]
- subsection 2.24(4) [Employee, executive officer, director and consultant]
- subsection 2.26(3) [Trades among current or former employees, executive officers, directors or consultants of non-reporting issuer]
- subsection 2.27(4) [Permitted transferees]
- subsection 2.30(3) [Incorporation or organization]
- subsection 2.32(3) [Dividends]
- subsection 2.41(2) [RRSP/RRIF], if the security acquired under section 2.41 was initially acquired by an individual or an associate of the individual or an RRSP or RRIF established for or by that individual or under which that individual is a beneficiary under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.6 of MI 45-102
- subsection 2.43(3) [Conversion, exchange or exercise - security of own issue] if the security acquired in the circumstances referred to in clause (a) of subsection 2.43(1) was acquired in accordance with the terms and conditions of a previously issued security under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.6 of this Instrument
- subsection 2.43(3) [Conversion, exchange or exercise - security of a reporting issuer] for a security being traded in the circumstances referred to in clause (b) of subsection 2.43(1)

as well as the following local exemptions from the prospectus requirement:

- Alberta Securities Commission Rule 45-502 *Trade with RESP*, if not included in Appendix D

- Nova Scotia Securities Commission Blanket Order No. 46
- Prince Edward Island Local Rule 45-510 - Exempt Distributions - Exemptions for Trades Pursuant to Take-over Bids and Issuer Bids.
- An exemption from the prospectus requirement in a jurisdiction of Canada that specifies that the first trade is subject to section 2.6 of NI 45-102

Transitional Provisions

1. General:

An exemption from the prospectus requirement listed in Appendix E of MI 45-102 *Resale of Securities* as Appendix E read on March 30, 2004 or an exemption from the prospectus requirement that specified prior to [insert effective date of NI 45-106] that the first trade was subject to section 2.6 of MI 45-102. The exemptions listed in Appendix E of MI 45-102 on March 30, 2004 were:

- ◆ Section 131(1)(f) if not included in Appendix D of this Instrument, sections 131(h), (i), (j), (k), and (y) of the *Securities Act* (**Alberta**) and sections 107(1) (j.1) and (k.1) prior to their repeal by section 5 of the *Securities Amendment Act, 1989* (Alberta), subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Section 74(2)(11)(iii) if not included in Appendix D or F and sections 74(2)(7), (8) if not included in Appendix F, (9) to (11), (13), (22) and (24) of the *Securities Act* (**British Columbia**)
- ◆ Section 128(g) of the *Securities Rules* (**British Columbia**), section 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Section 74(2)(12) of the *Securities Act* (**British Columbia**), if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or a multilateral instrument referred to in this Appendix or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Clauses 54(3) and 73(1)(f) if not included in Appendix D or F of this Instrument, (i) if not included in Appendix F, (j), (k) and (n) of the *Securities Act* (**Newfoundland and Labrador**), subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Paragraphs 3(e), (f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**), except for a trade made under subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) that is included in Appendix D or F of this Instrument or a trade made under paragraph 3(g) that is included in Appendix F of this Instrument, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

- ◆ Clause 77(1)(f) of the *Securities Act (Nova Scotia)* if not included in Appendix D or F of this Instrument, and clauses 77(1)(h), (i) if not included in Appendix F, (j), (k), (n), (v), (va), (ac), (ae) and (af) of the *Securities Act (Nova Scotia)*, and clause 78(1)(a) of the *Securities Act (Nova Scotia)* as it relates to clause 41(2)(j) of the *Securities Act (Nova Scotia)* and Blanket Order No. 37, 38 if not included in Appendix F, 46 and 45-503 if not included in Appendix F, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Paragraphs 3(e), (f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (**Nunavut**), except for a trade made under subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Nunavut) that is included in Appendix D or F of this Instrument or a trade made under paragraph 3(g) that is included in Appendix F of this Instrument, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Clauses 72(1)(f), (i) if not included in Appendix F, (j), (k) and (n) of the *Securities Act (Ontario)*, except for a trade made under 72(1)(f)(iii) of the *Securities Act (Ontario)* that is:
 - (i) included in Appendix D or F of this Instrument; or
 - (ii) contemplated by section 6.5 of Ontario Securities Commission Rule 45-501 *Exempt Distributions* and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Clauses 13(1)(e) if not included in Appendix D or F of this Instrument, (f) if not included in Appendix F, (h) and (k) of the *Securities Act (Prince Edward Island)* or section 3.1 or 3.2 of Rule 45-501, section 1.1 of Prince Edward Island Rule 45-502, section 2.1 or 2.2 of Prince Edward Island Rule 45-506 or section 2.1 or 2.2 of Prince Edward Island Rule 45-510, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Clauses 81(1)(a.1), (e) if not included in Appendix D of this Instrument, (f) if not included in Appendix D or F of this Instrument, (f.1), (g), (h), (i) if not included in Appendix F, (i.1), (j), (k), (o), (cc) and (dd) of *The Securities Act, 1988 (Saskatchewan)*, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

2. Quebec Provisions

- ◆ Sections 50 and 52 of the *Securities Act (Quebec)* as they read on [*indicate the date before repeal*]
- ◆ Prospectus and registration exemptions granted pursuant to section 263 of the *Securities Act (Quebec)* before March 30, 2004 if the exemption included as a condition a seasoning period of 12 months.

3. Ontario provisions

Definitions

In this Appendix

“**1998 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on December 22, 1998;

“**2001 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on November 30, 2001;

“**2004 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

“**2005 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions* that came into force on •, 2005;

“**convertible security**” means, in Ontario, a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;

“**exchangeable security**” means, in Ontario, a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or the right of the issuer to cause the purchase of, a security of another issuer;

“**exchange issuer**” means, in Ontario, an issuer that distributes securities of a reporting issuer held by it in accordance with the terms of an exchangeable security of its own issue;

“**multiple convertible security**” means, in Ontario, a security of an issuer that is convertible into or exchangeable for, or carries the right of the holder to purchase, or of the issuer or exchange issuer to cause the purchase of, a convertible security, an exchangeable security or another multiple convertible security;

“**OSC Rule 45-502**” means Ontario Securities Commission Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans*;

“**OSC Rule 45-503**” means Ontario Securities Commission Rule 45-503 *Trades to Employees, Executives and Consultants*;

“**Type 1 trade**” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the *Securities Act* (Ontario);
- (b) section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501;
- (c) section 2.3, 2.12, 2.13 or 2.14 of the 2001 OSC Rule 45-501; or
- (d) section 2.3, 2.12, 2.13, 2.14 or 2.16 of the 2004 OSC Rule 45-501; and

“**Type 2 trade**” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(f) of the *Securities Act* (Ontario) other than a distribution to an associated consultant or investor consultant as defined in OSC Rule 45-503 or a

distribution to an associated consultant or investor relations person as defined in MI 45-105;

- (b) clause 72(1)(h), (i), (j), (k) or (n) of the *Securities Act* (Ontario); or
- (c) section 2.5, 2.8 or 2.15 of the 2001 OSC Rule 45-501; or
- (d) section 2.5, 2.8 or 2.15 of the 2004 OSC Rule 45-501; and

“**underlying security**” means, in Ontario, a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.

(a) *Securities Act* (Ontario)

Clause 72(1)(f) of the *Securities Act* (Ontario) except for a distribution under subclause 72(1)(f)(iii) of the *Securities Act* (Ontario) that is included in Appendix D or F of MI 45-102.

Clause 72(1)(h) of the *Securities Act* (Ontario) except for a distribution under clause 72(1)(h) of the *Securities Act* (Ontario) of an underlying security that was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade

Clause 72(1)(i) of the *Securities Act* (Ontario) except for a distribution under clause 72(1)(i) of the *Securities Act* (Ontario) that is included in Appendix F

Clauses 72(1)(j), (k) and (n) of the *Securities Act* (Ontario)

(b) 2001 OSC Rule 45-501 and 2004 OSC Rule 45-501

Section 2.1 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if the security distributed under section 2.1 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 was not traded to a promoter of the issuer

Section 2.5 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501.

Section 2.6 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if an underlying security was distributed under section 2.6 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired:

- (a) in a Type 2 trade;
- (b) under section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1 of OSC Rule 45-503, other than a trade by an associated consultant or investor consultant as defined in OSC Rule 45-503; or
- (c) under a provision in Part 2 of MI 45-105.

Section 2.7 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if an underlying security was distributed under section 2.7 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired:

- (a) in a Type 2 trade;
- (b) under section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1 of OSC Rule 45-503, other than a trade by an associated consultant or investor consultant as defined in OSC Rule 45-503; or
- (c) under a provision in Part 2 of MI 45-105.

Section 2.8 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501.

Section 2.11 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if section 2.6 of MI 45-102 would have been applicable to a first trade in that security by the person making the exempt distribution under section 2.11 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501.

Section 2.15 of the 2004 OSC Rule 45-501 if the security distributed under section 2.15 of the 2004 OSC Rule 45-501 was not traded by a promoter of the issuer

(d) 1998 OSC Rule 45-501

Section 2.7 of the 1998 OSC Rule 45-501

Section 2.8 of the 1998 OSC Rule 45-501

Section 2.9 of the 1998 OSC Rule 45-501 if an underlying security was distributed under section 2.9 of the 1998 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade

Section 2.10 of the 1998 OSC Rule 45-501 if an underlying security was distributed under section 2.10 of the 1998 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade
Section 2.17 of the 1998 OSC Rule 45-501

Subsection 2.18(1) of the 1998 OSC Rule 45-501 after the issuer had ceased to be a private issuer for the purposes of the *Securities Act* (British Columbia)

(e) Other

Sections 2.1 and 3.1 of Ontario Securities Commission Rule 45-502.

**APPENDIX F
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

UNDERWRITERS

(Section 2.13)

Subsection 2.34(2) [Acting as underwriter] of NI 45-106 and subsection 2.11(2) [Business combination and reorganization] or 2.43(3) [Conversion, exchange or exercise] of NI 45-106, if the original security was acquired under subsection 2.34(2) of NI 45-106 or one of the underwriter exemptions in the transitional provisions listed below

Transitional Provisions:

An exemption from the prospectus requirement listed in Appendix F of MI 45-102 as Appendix F read on March 30, 2004. Exemptions listed in Appendix F of MI 45-102 on March 30, 2004 were:

- ◆ Section 74(2)(15) of the *Securities Act* (**British Columbia**) and section 74(2)(8) or 74(2)(11)(iii) of the *Securities Act* (British Columbia) if the original security was acquired under section 74(2)(15) of the *Securities Act* (British Columbia)
- ◆ Clause 73(1)(r) of the *Securities Act* (**Newfoundland and Labrador**) and section 73(1)(i) or 73(1)(f)(iii) of the *Securities Act* (Newfoundland and Labrador) if the original security was acquired under section 73(1)(r) of the *Securities Act* (Newfoundland and Labrador)
- ◆ Paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**) and paragraph 3(g) or subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) if the original security was acquired under paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories)
- ◆ Clause 77(1)(r) of the *Securities Act* (**Nova Scotia**) and clause 77(1)(i) or 77(1)(f)(iii) of the *Securities Act* (Nova Scotia) or Blanket Order No. 38 or 45-503 if the original security was acquired under clause 77(1)(r) of the *Securities Act* (Nova Scotia)
- ◆ Paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (**Nunavut**) and paragraph 3(g) or subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Nunavut) if the original security was acquired under paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (Nunavut)
- ◆ Clause 72(1)(f)(iii) of the *Securities Act* (**Ontario**) if the original security was acquired under clause 72(1)(r) of the *Securities Act* (Ontario)
- ◆ Clause 72(1)(i) of the *Securities Act* (**Ontario**) if the original security was acquired under clause 72(1)(r) of the *Securities Act* (Ontario)
- ◆ Clause 72(1)(r) of the *Securities Act* (Ontario)
- ◆ Section 2.1 of Prince Edward Island Rule 45-509 and subclause 13(1)(e) (iii) or clause 13(1)(f) of the *Securities Act* (**Prince Edward Island**) or section 1.1 of Prince Edward Island Rule 45-

502 if the original security was acquired under section 2.1 of Prince Edward Island Rule 45-509

- ◆ Clause 81(1)(u) of *The Securities Act, 1988* (**Saskatchewan**) and clause 81(1)(i) or subclause 81(1)(f)(iii) of *The Securities Act, 1988* (Saskatchewan) if the original security was acquired under clause 81(1)(u) of *The Securities Act, 1988* (Saskatchewan)

**APPENDIX G
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**PROMOTERS
(Section 2.15)**

Ontario Transitional Provisions:

Section 2.3 of the 1998 OSC Rule 45-501

Section 2.15 of the 1998 OSC Rule 45-501

Section 2.1 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.3 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.12 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.13 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.14 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.15 of the 2004 OSC Rule 45-501

Section 2.16 of the 2004 OSC Rule 45-501

SCHEDULE 6

Amendments to Companion Policy 45-102CP to Multilateral Instrument 45-102 *Resale of Securities*

PART 1 AMENDMENTS TO COMPANION POLICY 45-102CP

- 1.1 Amendment** - Companion Policy 45-102CP to Multilateral Instrument 45-102 *Resale of Securities* (the Companion Policy) is amended by:
- (a) in the Companion Policy, striking “Multilateral Instrument 45-102” and substituting “National Instrument 45-102” as follows:
 - (i) in the title of the Companion Policy, and
 - (ii) in subsection 1.1(1) of the Companion Policy;
 - (b) amending section 1.1 by
 - (i) striking “MI 45-102” wherever it appears and substituting “NI 45-102”,
 - (ii) in subsection (1), striking “except Quebec”, and
 - (iii) in subsection (2); striking “Manitoba, New Brunswick and the Yukon Territory” and substituting “Manitoba and Yukon”,
 - (c) amending section 1.2 by
 - (i) in subsections (1) and (3), striking “MI 45-102” wherever it appears and substituting “NI 45-102”,
 - (ii) repealing and replacing subsection (2) with:
 - (1) Appendices D and E to NI 45-102 list the new harmonized exemptions in National Instrument 45-106 *Registration and Prospectus Exemptions* (NI 45-106) and local exemptions that are subject to the resale restrictions under section 2.5 or 2.6 of NI 45-102, while Appendix F lists the new harmonized exemptions in NI 45-106 applicable to underwriters. Each of these appendices also contains transitional provisions applicable to securities acquired under exemptions listed in the Appendices to MI 45-102 as Appendices D, E and F read on March 30, 2004. Appendix G has been added to NI 45-106 specifying exemptions applicable to promoters in Ontario. For all local exemptions that come into effect after [insert effective date of NI 45-102], you should look to the local instrument itself to see if it specifies that the securities acquired are subject to section 2.5 or 2.6 of NI 45-102 as well as to Appendix D and E to NI 45-102. You may also wish to consult CSA Notice [insert number] listing local registration and prospectus exemptions in place in each jurisdiction of Canada, which the CSA will update periodically.
 - (d) repealing and replacing section 1.3 with:

1.3 Transition

- (1) When Multilateral Instrument 45-102 *Resale of Securities* (“former MI 45-102”) came into force on November 30, 2001, that instrument imposed harmonized resale restrictions on the first trade of securities made on or after that date, even if the securities were distributed, or acquired by the selling security holder in the case of a trade that is a control distribution, prior to November 30, 2001. These securities were subject to prescribed restricted periods and seasoning periods of either four or twelve months. When MI 45-102 was implemented on March 30, 2004, the securities of all reporting issuers became subject to four month restricted and seasoning periods under section 2.5 and 2.8 or four month seasoning periods under section 2.6 of MI 45-102. This meant that any existing restricted period or seasoning period imposed under Part 2 of former MI 45-102 that exceeded four months was reduced to four months under MI 45-102. Under NI 45-102, securities of all reporting issuers continue to be subject to a four month restricted period under subsection 2.5(2) or 2.8(2) of the Instrument.
 - (2) Item 3. of subsection 2.5(2) of MI 45-102 required that the certificate or the ownership statement evidencing a security that is the subject of the first trade carry either a legend or a legend restriction notation disclosing the resale restrictions. This legend requirement applied only to securities distributed on or after MI 45-102 comes into effect on March 30, 2004 in all jurisdictions except Quebec. We have added language to Item 3. of subsection 2.5(2) of NI 45-102 to clarify that the legend requirement in NI 45-106 will only apply to securities distributed in Quebec on or after NI 45-106 comes into effect on [*].
 - (3) Issuers may continue to replace those certificates that are legended in accordance with former MI 45-102 with a certificate (or an acceptable electronic alternative) carrying the legend (or legend restriction notation) specified in item 3. of subsection 2.5(2) of NI 45-102. As was the case under former MI 45-102, certificates representing securities distributed prior to November 30, 2001 do not have to be legended.
- (e) amending section 1.4 by
- (i) striking “MI 45-102” and substituting “NI 45-102”, and
 - (ii) striking “Manitoba, New Brunswick and the Yukon Territory” and substituting “Manitoba and Yukon”;
- (f) amending sections 1.5 and 1.6 by striking “MI 45-102” wherever it appears and substituting “NI 45-102”;
- (g) repealing and replacing section 1.7 with:
- 1.7 Legending of Securities** - Item 3. of subsection 2.5(2) of NI 45-102 imposes a legend requirement for securities distributed under any of the provisions listed in Appendix D to NI 45-102 or another prospectus exemption of any jurisdiction subject to the resale restrictions in

subsection 2.5(2) of NI 45-102. Beneficial security holders must receive either a paper certificate representing their security or an electronic alternative such as an ownership statement under a direct registration system, scheduled to be phased into operation during 2005. If a paper certificate is issued, the certificate must carry the legend specified in item 3 that notifies the beneficial security holder of the applicable resale restrictions. Similarly, an ownership statement must carry a restricted legend notation that notifies the beneficial security holder of the applicable resale restrictions. Issuers may add additional wording to that found in item 3. of subsection 2.5(2) of NI 45-102. If you supplement the specified text of the legend on the certificate or the restricted legend notation on the ownership statement, that additional wording cannot alter the meaning of the specified wording. You should also look to section 1.10 for further guidance on the legending of convertible and underlying securities.

- (h) amending section 1.8 by:
 - (i) in subsection (1) striking “MI 45-102” and substituting “NI 45-102”, and
 - (ii) repealing subsection (2);
- (i) amending sections 1.9, 1.11, 1.12, 1.13, 1.14 and 1.15 by striking “MI 45-102” wherever it appears and substituting “NI 45-102”;
- (j) amending section 1.16 by:
 - (i) striking “MI 45-102” wherever it appears and substituting “NI 45-102”, and
 - (ii) striking the last sentence;
- (k) adding the following after section 1.16:

1.17 Resale of Securities Distributed to a Promoter in Ontario - In Ontario, promoters should look to Appendix G of NI 45-102 to determine the resale conditions applicable to the exemptions listed in that appendix. Securities acquired by a promoter under an exemption listed in Appendix G are subject to the resale restrictions in subsection 2.8(2) of NI 45-102.

PART 2 EFFECTIVE DATE

- 2.1 **Effective Date** - These amendments are effective ●.