

**Summary of Changes made to Amended MI 45-103
since Publication for Comment in September 2002**

1. MI 45-103, the rule

Change	Reason for Change
s.1.1 - accredited investor definition, (c) - we added central cooperative credit societies for which an order has been made under the <i>Cooperative Credit Associations Act (Canada)</i> .	Two commentators requested this addition because these associations are not included under the definition of "Canadian financial institution" in NI 14-101 due to a technicality in the wording under the <i>Cooperative Credit Associations Act (Canada)</i> .
s.1.1 - accredited investor definition, (p) and (q) - we extended these categories to include trust companies and portfolio managers registered or authorized to carry on business in foreign jurisdictions.	We had expressly asked industry to comment on whether we should extend this definition to include foreign trust companies and portfolio managers and received support to do so.
s.1.1 - accredited investor definition, (r) - we re-inserted registered charities with the condition that they have obtained advice from an eligibility adviser or registered adviser.	We requested comment on whether registered charities should be included as accredited investors. A number of commentators recommended that they be included. Many charities may meet another category in the definition, for example, persons or companies having \$5 million in net assets. However, we are concerned that not all charities are sufficiently sophisticated. We believe that the change will allow registered charities to make investments while ensuring that they have the necessary advice.
s.1.1 - accredited investor definition, (t) - this section has been broadened to include corporations that would be wholly-owned by accredited investors, except that corporate legislation requires a certain number of shares to be held by the directors of the corporation.	We made this change to address concerns that the section was too restrictive because some corporate law requires that shares be held by directors.
s.1.1- definitions of control person and reporting issuer have been amended to clarify which jurisdictions require the definitions.	The definitions are necessary because not all jurisdictions have these definitions in their legislation. However, BC legislative counsel asked that the provisions be clarified to indicate which jurisdictions needed the definitions.

Change	Reason for Change
s.1.1 - definition of founder amended to add the words “acting in concert with” and to change “continues to be” to “is”.	BC legislative counsel requested the change. The B.C. Act uses the term “acting in concert” instead of “in conjunction with”. B.C. Legislative Counsel is concerned that the change in terminology will affect the meaning in the B.C. Act. Also, B.C. legislative counsel pointed out that the wording “continues to be” caused a temporal defect that could be corrected by using “is”.
Section 1.2 - The heading of the section was changed from “Interpretation” to “Persons or companies deemed to be purchasing as principal”.	BC legislative counsel found the heading confusing.
Sections 2.2 & 2.3 - we have deleted the additional restrictions against the payment of commissions in SK.	As a result of comments received, the SFSC reconsidered its prohibitions against commissions being paid under the private issuer exemption.
Section 4.1(3), (4) and (5) - Saskatchewan, Northwest Territories and Nunavut originally proposed to impose a \$1 million cap on the amount that could be raised under the offering memorandum exemption. The cap has been removed. In addition, a number of jurisdictions originally proposed to require all investors to be eligible investors. This restriction has been removed so that only investors purchasing in excess of \$10,000 are required to be eligible investors.	As a result of comments received, the applicable securities regulatory authorities determined to remove these restrictions to create a more harmonized instrument.
Section 6.4 - we have slightly amended the Manitoba resale restrictions.	MI 45-102 only applies in part in MB because MB is an open jurisdiction. Accordingly, we thought it appropriate to include in the rule the resale restrictions that apply in Manitoba rather than requiring readers to refer to a separate Manitoba instrument. We have amended the wording to better reflect the current regime in Manitoba.
Section 7.1(3) - we have added a provision allowing a mutual fund or non-redeemable investment fund to file their report of exempt distribution reporting their use of certain exemptions within 30 days of their financial year end rather than 10 days after the distribution.	We generally give exemptive relief in these circumstances. By providing it in MI 45-103, it will reduce the regulatory burden for these types of issuers.
Part 8 - required forms. We have added a section indicating that in BC the required forms are designated by the BC regulator.	All jurisdictions will require the same forms. However, B.C. was not referenced in Part 8 because they did not want to prescribe the forms as rules. They intend to have their

Change	Reason for Change
	Executive Director prescribe the forms. The section now indicates this.
Part 9 - we have added an exemption provision so that either the securities regulatory authority or regulator can grant an exemption from the instrument.	Certain of the jurisdictions were concerned that their existing exemptive relief provisions were not broad enough to grant relief from all of the requirements of MI 45-103.

2. 45-103CP Companion Policy

Rule	Reason for Change
General - to the extent that the rule has been changed and the policy described the contents of the rule, the policy has been amended to reflect the revised rule.	To ensure consistency.
Section 1.6 - The provision regarding advising was amended to clarify that the exemption from registration does not relieve a foreign portfolio manager from the requirement to be registered to provide advice or to resell securities acquired.	Concern was expressed about foreign portfolio managers misunderstanding the extent of the exemption.
Section 1.8 - A new provision has been added alerting issuers that syndicating, i.e., creating persons or companies solely or primarily to use exemptions when one is not otherwise available is inappropriate.	Concern was expressed that distributions may occur that contravened securities legislation. The provision is intended to alert issuers to the potential issue. AB staff indicated that a number of calls had been received regarding investor forming limited partnerships and using these to invest in other issuers, typically under the \$97,000 exemption.
Section 2.2 - In the discussion of who is a close personal friend, a statement was added to indicate that family members may also fit within this definition if they have a relationship with a director, senior officer, founder or control person sufficient to enable them to evaluate the capabilities and trustworthiness of that individual.	A number of commentators requested that additional categories of family members be added to the list of permitted placees. The Committee recognized that they could not identify every possible family relationship that should properly be included and the Committee did not think that it was always appropriate for some family members to be permitted placees. The statement in the companion policy permits other categories of family members to invest if they have the necessary relationship.
Section 4.1 - A statement was added to clarify that the \$10,000 limit under the offering memorandum exemption on non-eligible investors is calculated per distribution. A statement was also added to indicate that it is inappropriate to conduct multiple concurrent offerings in order to avoid the maximum \$10,000 limit per	Concern was expressed that issuers may try to avoid the \$10,000 maximum purchase by a non-eligible investor by splitting the offering into pieces. The section clarifies that if this was done, the various offerings would be considered to be one.

distribution.	
Section 7.1 - A statement was added to clarify that one report of exempt distribution can be completed and then filed in all provinces and territories participating in MI 45-103 in which the distribution occurred.	To clarify that multiple copies of the form are not necessary.
Section 7.2 - The policy now clarifies that BC will require the same form of report of exempt distribution as the other jurisdictions. Furthermore, the policy indicates that BC will only require the phone numbers and e-mail addresses of non-reporting issuers.	To provide consistency between the policy and the revised requirements of Form 45-103F4.

3. Form 45-103F1 Offering Memorandum for Non-Qualifying Issuers

- The form has been amended to reflect the change to Manitoba’s resale restrictions referred to in the rule.
- Instruction 6 to the form has been amended to clarify who signs the offering memorandum when the issuer is a limited partnership or trust.

4. Form 45-103F2 Offering Memorandum for Qualifying Issuers

- Instruction 8 to the form has been amended to clarify who signs the offering memorandum when the issuer is a limited partnership or trust.

5. Form 45-103F3

The form previously indicated told investors “you will not receive ongoing information”. The form has been amended to indicate they “may not” receive the information.

6. Form 45-103F4 Report of Exempt Distribution

Change	Reason for Change
Section 5 and 6 - The order of the new sections in the form have been inverted so that issuers first provide full details of the distribution on the schedule and then summarize the distribution in the main body of the form.	BC requested this change because they are proposing to make the form electronic. Under their electronic form, once the issuer completes the information on the schedule, the summary information will automatically be calculated for them. The reordering should make it easier for issuers to complete the form.
Section 6 (former s.5) - The instructions have been amended to indicate that securities issued for payment of commissions and finder’s fees should not be included in the table.	The change is for clarification and to avoid duplication. Securities issued for commissions and finder’s fees are already required to be disclosed in the table under section 7.
Section 6 (former s.5) - The table has been amended to clarify that in tabulating amounts per jurisdiction, the amounts raised from	Some jurisdictions, such as BC and AB, consider distributions outside the jurisdiction by issuers within the jurisdiction to also be

<p>residents in the jurisdiction are added, not the amounts raised from distributions in the jurisdiction.</p>	<p>distributions in the jurisdiction. With the original language, this could make completing the form confusing for issuers. For example if a BC issuer conducted an offering in BC, AB and SK, they would have indicated in the BC category all purchasers in all jurisdictions and in the AB and SK categories, only the purchasers in those jurisdictions. The revised form clarifies that in the BC category, they would only list purchasers resident in BC.</p>
<p>Schedule A has been deleted.</p>	<p>Originally, BC wanted to publish information concerning purchases by insiders and registrants and required a separate schedule to do that. However, BC has determined not to do that and Schedule A is no longer necessary.</p>
<p>Schedule B has been amended to</p> <ul style="list-style-type: none"> - indicate BC only requires non-reporting issuers using the offering memorandum exemption to identify the phone numbers and e-mail addresses of purchasers - provide an instruction clarifying that securities issued as commissions and finder's fees not be included in the schedule - remove the reference to BC publishing Schedule A - update SK's name and address - update NWT's address 	<ul style="list-style-type: none"> - BC has determined that is no longer necessary as part of their exempt market study to collect the phone numbers and e-mail addresses from purchasers in reporting issuers. - Securities issued as commissions and finder's fees appear under section 7 so the instruction clarifies it is not necessary to duplicate the information - As mentioned above, BC is no longer intending to publish the names of insiders and registrants purchasing. - The SK office moved and the SSC changed its name to the SFSC. - NWT office contained typographical errors

6. Form 45-103F5 Saskatchewan Risk Acknowledgement

- The Saskatchewan risk acknowledgement form was amended to require the purchaser to identify the director, senior officer, founder or control person with whom the purchaser has the necessary relationship. It was also amended to refer to the new name and website address.