

**MULTILATERAL INSTRUMENT 72-101
DISTRIBUTIONS OUTSIDE OF THE LOCAL JURISDICTION**

PART 1 DEFINITIONS ¹

1.1 Definitions

"AIF" means

- (a) an annual information form of an issuer prepared in accordance with Form 44-101F1, whether or not the issuer is permitted under NI 44-101 to file a short form prospectus, or
- (b) an alternative form of annual information form permitted under section 3.2 of MI 45-102;

"approved rating"² means, for a security, a rating at or above one of the following rating categories issued by an approved rating organization for the security or a rating category that replaces a category listed below:

Approved Rating Organization	Long Term Debt	Short Term Debt	Preferred Shares
CBRS Inc.	B++	A-2	P-3
Dominion Bond Rating Service Limited	BBB	R-2	Pfd-3
Duff & Phelps Credit Rating Co.	BBB-	D-3	BBB-
Fitch IBCA, Inc.	BBB	F3	BBB
Moody's Investors Service, Inc.	Baa	Prime-3	baa
Standard & Poor's Corporation	BBB	A-3	BBB
Thomson BankWatch, Inc.	BBB	TBW-3	BBB;

"approved rating organization"¹ means each of CBRS Inc., Dominion Bond Rating Service Limited, Duff & Phelps Credit Rating Co., Fitch IBCA, Inc., Moody's Investors Service, Inc., Standard & Poor's Corporation, Thomson BankWatch, Inc., and any of their successors;

"commencement date" means the later of

- (a) the date the issuer
 - (i) first became a reporting issuer or a reporting issuer equivalent in a jurisdiction² listed in Appendix A, if the issuer is an electronic filer under NI 13-101, or
 - (ii) became a reporting issuer or a reporting issuer equivalent in the local jurisdiction of the purchaser of the securities that are the subject of the trade, if the issuer is not an electronic filer under NI 13-101, and
- (b) the distribution date;

"Companion Policy 71-101CP The Multijurisdictional Disclosure System" means Companion Policy 71-101CP to National Instrument 71-101 The Multijurisdictional Disclosure System;

"control distribution" has the meaning ascribed to that term in MI 45-102 Resale of Securities;

"convertible security" means a security of an issuer that is convertible into, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of the same issuer;³

"CPC" means a capital pool company as defined in a CPC instrument and, in Manitoba, a keystone company;

"CPC information circular" means an information circular filed by an issuer

¹ National Instrument 14-101 Definitions may be amended to add the term "approved rating organization". If so amended, the "approved rating organization" definition would be deleted from this instrument.

² The term "jurisdiction" is defined in National Instrument 14-101 Definitions as meaning a province or territory of Canada except when used in the term foreign jurisdiction.

³ National Instrument 14-101 Definitions may be amended to add the terms "convertible security", "exchangeable security", "multiple convertible security" and "underlying security". If so amended, these definitions would be deleted from this instrument.

and accepted under the CPC instrument in connection with a qualifying transaction;

"CPC instrument" means a rule or regulation of a jurisdiction, or a rule, regulation or policy of an exchange in Canada, that applies only to CPCs;

"current AIF" means

- (a) an AIF that is a current AIF filed under NI 44-101, or
- (b) an AIF filed under section 3.1 of NI 45-102, if the AIF has been filed within the time periods prescribed by NI 44-101 for a current AIF;

"distribution date" means the date the securities that are the subject of the trade were initially distributed in reliance on an exemption from the prospectus requirement by the issuer, or by the seller in the case of a control distribution;

"distributor", for a distribution, means the underwriter of the distribution, its affiliates and any other person or company that participates in the distribution under a contractual arrangement;

"Eurobond Market" means the market for trading of securities regulated by the International Securities Market Association;

"exchangeable security" means a security of an issuer that is exchangeable for, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of another issuer;

"FSA" means the Financial Services Act, 1986 of the United Kingdom of Great Britain and Northern Ireland;

"MI 45-102" means Multilateral Instrument 45-102 Resale of Securities;

"MRRS" means the mutual reliance review system implemented by NP 43-201;

"multiple convertible security" means a security of an issuer that is convertible into, or exchangeable for, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or

acquisition of, a convertible security, an exchangeable security or another multiple convertible security;

"NI 13-101" means National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR);

"NI 43-101" means National Instrument 43-101 Standards of Disclosure for Mineral Products;

"NI 44-101" means National Instrument 44-101 Short Form Prospectus Distributions;

"NP 43-201" means National Policy 43-201 Mutual Reliance Review System for Prospectuses and AIFs;

"NPS 2-B" means the National Policy Statement entitled Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators;

"public offering document" means

- (a) a prospectus filed and receipted in any jurisdiction,
- (b) a U.K. prospectus, or
- (c) a U.S. prospectus;

"qualifying issuer" means an issuer

- (a) that is a reporting issuer or a reporting issuer equivalent in a jurisdiction listed in Appendix A,
- (b) that is an electronic filer under NI 13-101,
- (c) that has a current AIF,
- (d) that either
 - (i) has a class of equity securities⁴ listed or quoted on a qualifying market, meets the requirements to

⁴ The term "equity security" is defined in National Instrument 14-101 Definitions as having the meaning ascribed to that term in securities legislation.

maintain that listing or quotation and is not designated inactive, suspended or the equivalent, or

- (ii) has a class of securities outstanding that has received an approved rating,
- (e) if it is not qualified to file a short form prospectus under NI 44-101, and has oil and gas operations or exploration, development or production activities on a mineral property, has filed with its current AIF, as if the AIF were a prospectus, technical reports in accordance with, as applicable, NI 43-101 or the successor instrument to NPS 2-B, once in force, and until that time, a technical report or certificate on each material property prepared in accordance with NPS 2-B,
- (f) that, if it has received a notice in writing from any regulator that its AIF, including any technical reports, does not comply with the instrument prescribing the content of the AIF, has satisfied the regulator that its AIF is acceptable, and
- (g) that if it is a CPC, has filed a CPC information circular that has been accepted under a CPC instrument;

"qualifying market" means any of

- (a) The Toronto Stock Exchange,
- (b) Tier 1 or Tier 2 of the Canadian Venture Exchange,
- (c) The Montreal Exchange,
- (d) the American Stock Exchange,
- (e) the Nasdaq National Market System,
- (f) the Nasdaq Small Cap Market,
- (g) the New York Stock Exchange,
- (h) the London Stock Exchange Limited, and

- (i) any successor to any of the exchanges or markets referred to in paragraphs (a) through (h);

"reporting issuer equivalent" means an issuer that is subject to the continuous disclosure requirements of a jurisdiction listed in Appendix A under the heading "Reporting Issuer Equivalent";

"restricted period" means the period that begins on the commencement date and ends

- (a) 40 days after the commencement date if the securities are distributed in the Eurobond Market,
- (b) four months after the commencement date if the issuer of the securities is a qualifying issuer, and
- (c) 12 months after the commencement date if the issuer of the securities is not a qualifying issuer;

"underlying security" means 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;

"U.K. prospectus" means

- (a) a prospectus prepared and filed in accordance with the FSA, or
- (b) listing particulars within the meaning of section 144(2A) of the FSA; and

"U.S. prospectus" means a prospectus included in a registration statement prepared in accordance with the requirements of the 1933 Act that has been filed with the SEC and become effective.

PART 2 PROSPECTUS EXEMPTION FOR DISTRIBUTIONS TO PURCHASERS OUTSIDE OF THE LOCAL JURISDICTION

2.1 Distribution Under Public Offering Document - The prospectus requirement does not apply to a distribution if

- (a) a public offering document is filed in a jurisdiction, the United States of America or the United Kingdom in connection with the distribution;
- (b) the purchasers of the securities being distributed are outside of the local jurisdiction;
- (c) for securities being distributed by an underwriter, the agreement between the issuer, selling securityholder, if any, and the underwriter prohibits the distributors from distributing the securities to any person or company in the local jurisdiction; and
- (d) neither the issuer, the selling securityholder, if any, nor a distributor, takes any actions, for the purpose of, or that could reasonably be expected to have the effect of, preparing the market in the local jurisdiction, or creating a demand in the local jurisdiction, for the securities being distributed.

2.2 Distribution Using MRRS - Despite section 2.1, the exemption from the prospectus requirement provided by section 2.1 is unavailable in a local jurisdiction for a distribution of securities outside of the local jurisdiction if the issuer of the securities uses MRRS and the principal regulator of the issuer under NP 43-201 is in the local jurisdiction.

2.3 Distribution Under U.S. MJDS - Despite section 2.1, the exemption from the prospectus requirement provided by section 2.1 is unavailable in a local jurisdiction for a distribution of securities in the United States of America under the multijurisdictional disclosure system implemented by the SEC if the review jurisdiction of the issuer of the securities under section 4.2 of Companion Policy 71-101CP The Multijurisdictional Disclosure System is in the local jurisdiction.

2.4 Distribution Other than Under Public Offering Document - The prospectus requirement does not apply to a distribution if

- (a) the purchasers of the securities being distributed are outside of the local jurisdiction;
- (b) for securities being distributed by an underwriter, the agreement between the issuer, the selling securityholder, if any, and the underwriter prohibits a distributor from distributing the securities to any person or company in the local jurisdiction;
- (c) for equity securities that are being distributed by an underwriter, the agreement between the issuer, the selling securityholder, if any, and the underwriter prohibits a distributor from engaging in hedging transactions for equity securities of the issuer until any resale restrictions to which the securities being distributed are subject no longer apply;
- (d) neither the issuer, the selling securityholder, if any, nor a distributor, takes any actions for the purpose of, or that could reasonably be expected to have the effect of, preparing the market in the local jurisdiction, or creating a demand in the local jurisdiction, for the securities being distributed;
- (e) the certificate representing the securities carries a legend stating that, subject to securities legislation, the holder of the securities shall not trade the securities before the expiration of the restricted period; and
- (f) any document concerning the distribution provided to the purchaser contains a clear and prominent statement as to the resale restrictions to which the securities are subject.

2.5 Filing Report of Trade - An issuer, or the seller in the case of a control distribution, that relies on the exemption in section 2.4 shall, on or before the tenth day after the distribution date, file a report of trade prepared and executed in accordance with Form 72-101F1.

2.6 Resale of Securities Distributed Other than Under Public Offering Document - Any trade of securities distributed under section 2.4 is a distribution unless

- (a) the issuer of the securities is

- (i) a reporting issuer or a reporting issuer equivalent in a jurisdiction listed in Appendix A, if the issuer is an electronic filer under NI 13-101, or
- (ii) a reporting issuer or a reporting issuer equivalent in the local jurisdiction of the purchaser of the securities that are the subject of the trade, if the issuer is not an electronic filer under NI 13-101;
- (b) the restricted period has expired;
- (c) the trade is not a control distribution;
- (d) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade;
- (e) no extraordinary commission or consideration is paid to a person or company in respect of the trade; and
- (f) if the seller of the securities is an insider or officer of the issuer, the seller has reasonable grounds to believe that the issuer is not in default of any requirement of securities legislation.

2.7 **Application** - Section 2.6 does not apply in Manitoba, New Brunswick, Prince Edward Island and the Yukon Territory.

2.8 **Determining Time Periods**

- (1) In determining the period of time that the issuer has been a reporting issuer or a reporting issuer equivalent for the purposes of section 2.6, in the case of securities distributed under the exemptions from the prospectus requirement listed in Appendix F to MI 45-102, add the period of time that one of the amalgamating, merged or continuing corporations was a reporting issuer or a reporting issuer equivalent to the period of time that the issuer has been a reporting issuer or a reporting issuer equivalent.
- (2) In determining the period during which the seller has held a security for the purposes of section 2.6,

- (a) if the security was acquired by the seller from an affiliate of the seller, the period of time that the security had been held by the affiliate before the transfer to the seller shall be included; and
- (b) if the security is an underlying security, the period of time shall run from the date that the convertible security, exchangeable security or multiple convertible security was first acquired.

PART 3 EXEMPTION FROM THE REGISTRATION REQUIREMENT

3.1 Exemption from the Registration Requirement - The registration requirement does not apply to a distribution that is exempt from the prospectus requirement under section 2.1 or 2.4.

PART 4 EXEMPTION

4.1 Exemption

- (1) The regulator or the securities regulatory authority may grant an exemption from this Multilateral Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

PART 5 EFFECTIVE DATE

5.1 Effective Date - This Multilateral Instrument comes into force on , 2000.

**APPENDIX A
TO
MULTILATERAL INSTRUMENT 72-101
DISTRIBUTIONS OUTSIDE OF THE LOCAL JURISDICTION**

REPORTING ISSUER

REPORTING ISSUER EQUIVALENT

Alberta

Manitoba

British Columbia

Nova Scotia

Ontario

Quebec

Saskatchewan

FORM 72-101F1

Report of a trade under section 2.4 of Multilateral Instrument 72-101
Distributions Outside of the Local Jurisdiction

Note: This report is not required where a bank listed in Schedule I or II to the *Bank Act (Canada)* or a loan corporation or trust corporation registered under the *Loan and Trust Corporation Act* acquires from a customer an evidence of indebtedness of the customer or an equity investment in the customer acquired concurrently with an evidence of indebtedness.

1. Full name, address and telephone number of the Issuer/Selling Securityholder.
2. Describe the type of security, the aggregate number or amount distributed and the aggregate purchase price.
3. State whether or not the issuer of the security distributed is a qualifying issuer as defined in Multilateral Instrument 72-101.
4. Date of distribution(s).
5. State the name and address of each purchaser, the number or amount of securities purchased and the purchase price paid by each purchaser. Attach list if necessary.
6. State the name and address of any person acting as agent in connection with the distribution(s) of the securities and the compensation paid or to be paid to the agent and the name(s) of the purchaser(s) in respect of which the compensation was paid or is to be paid.
7. After exercising reasonable diligence in its enquiries, the issuer/selling securityholder believes that the issuer/selling securityholder is eligible to use section 2.4 of Multilateral Instrument 72-101.

Certificate of Issuer/Selling Securityholder

The undersigned hereby certifies that the statements made in this report are true.

DATED: _____, 20__

(Name of Issuer/Selling Securityholder)

(Signature of Authorized Signatory)

(Name and Office of Authorized Signatory)

Instruction:

1. In answer to question 6 compensation includes commissions, discounts or other fees or payments of a similar nature directly related to the distribution of the securities. It is not necessary to include payments for services incidental to the distribution such as clerical, printing, legal or accounting services.

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1.	A national instrument has been adopted as National Instrument 14-101 Definitions. It contains definitions of terms used in more than one national instrument or multilateral instrument. National Instrument 14-101 also provides that a term used in a national instrument or multilateral instrument and defined in the statute relating to securities of the applicable jurisdiction, the definition of which is not restricted to a specific portion of the statute, will have the meaning given to it in the statute relating to securities of that jurisdiction. National Instrument 14-101 also provides that a provision in a national instrument or multilateral instrument that specifically refers by name to a jurisdiction, other than the local jurisdiction, shall not have any effect in the local jurisdiction, unless otherwise stated in the provision.	
2.	National Instrument 14-101 Definitions may be amended to add the term "approved rating". If so amended, the "approved rating" definition would be deleted from this instrument.	