



IN THE MATTER OF THE *SECURITIES ACT*,
S.N.W.T. 2008, c. 10, AS AMENDED

- and -

Exemption from Prospectus Requirement for Certain Trades to Existing Security Holders

BLANKET ORDER 45-502

WHEREAS section 94 of the *Securities Act* (Act) makes it an offence to distribute securities unless:

- (a) a preliminary prospectus and a prospectus relating to the security have been filed and the Superintendent has issued a receipt for the preliminary prospectus and the prospectus; or
- (b) the person or the distribution complies with a prescribed process;

AND WHEREAS, having regard to the interests of investors and the financing needs issuers, it is appropriate to provide exemptions from the requirements of Form 45-106F2 of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106), subject to the conditions of this Order, for issuers listed on the Toronto Stock Exchange, TSX Venture Exchange, and the Canadian Securities Exchange to raise money by distributing securities to their existing security holders;

AND WHEREAS the Superintendent has determined that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED THAT:

1. Unless the context otherwise requires, terms defined in the *Securities Act* or National Instrument 14-101 *Definitions* have the same meaning in this Order.
2. In this Order:

“announcement date” is the day that an issuer issues the offering news release;

“investment dealer” has the same meaning as in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“listed security” means a security of an issuer of a class of equity security listed on the TSX Venture Exchange, the Toronto Stock Exchange, or the Canadian Securities Exchange;

“offering material” means a document purporting to describe the business and affairs of an issuer that has been prepared primarily for delivery to and review by a prospective purchaser so as to assist the prospective purchaser to make an investment decision in respect of securities being sold in a distribution under this Instrument;

“offering news release” means the news release of an issuer announcing its intention to conduct a distribution under this Instrument;

“record date” is the date that is at least one day prior to the announcement date; and

“warrant” means a warrant issued by an issuer that entitles the holder to acquire a listed security or a fraction of a listed security of the same issuer.

Exemption for sales to existing security holders

3. The prospectus requirement does not apply to a distribution by an issuer of a security of its own issue to a security holder of the issuer if
 - (a) the issuer is a reporting issuer in at least one jurisdiction of Canada;
 - (b) the issuer’s equity securities are listed for trading on the TSX Venture Exchange, the Toronto Stock Exchange, or the Canadian Securities Exchange;
 - (c) the issuer has filed in each jurisdiction of Canada in which it is a reporting issuer all periodic and timely disclosure documents that it is required to have filed in that jurisdiction as required by each of the following:
 - (i) applicable securities legislation,
 - (ii) an order issued by the regulator or securities regulatory authority,
 - (iii) an undertaking to the regulator or securities regulatory authority;
 - (d) the issuer has issued and filed the offering news release;
 - (e) the distribution is of a listed security or a unit consisting of a listed security and a warrant;
 - (f) the issuer makes the offer available to all persons who, as of the record date, held a listed security of the issuer of the same class and series as the listed security to be distributed under this exemption;
 - (g) the purchaser purchases the security as principal;
 - (h) the purchaser represents in writing to the issuer that, on or before the record date, the purchaser acquired and continues to hold, a listed security of the issuer of the same class and series as the listed security to be distributed under this exemption;
 - (i) one of the following applies:
 - (i) the purchaser is a person that has obtained advice regarding the suitability of the investment and, if the person is resident in a jurisdiction of Canada, that advice has been obtained from a person that is registered as an investment dealer in the jurisdiction,
 - (ii) the aggregate acquisition cost to the purchaser for the securities purchased under this Instrument, when combined with the acquisition cost to the purchaser for the purchase of any other security from the issuer under this Instrument in the last 12 months, does not exceed \$15,000.
4. The offering news release must include reasonable detail of the proposed distribution and proposed use of gross proceeds including:

- (a) the minimum and maximum number of securities proposed to be distributed and the minimum and maximum aggregate gross proceeds of the distribution;
 - (b) a description of the principal purposes, with approximate amounts, for which the issuer will use the gross proceeds, assuming both the minimum and maximum offering; and
 - (c) is in addition to, and does not detract from, any other right of the purchaser. a description of how the issuer intends to allocate securities if aggregate subscriptions for securities under the proposed distribution exceed the maximum number of securities proposed to be distributed.
5. The subscription agreement between the issuer and purchaser must contain a contractual right of action against the issuer for rescission or damages that
- (a) is available to the purchaser if a document or core document, each as defined in section 122 of the Act, contains a misrepresentation which was not corrected before the purchaser acquires a security under this exemption, without regard to whether the purchaser relied on the misrepresentation;
 - (b) is enforceable by the purchaser delivering a notice to the issuer
 - (i) in the case of an action for rescission, within 180 days after the purchaser signs the agreement to purchase the security, or
 - (ii) in the case of an action for damages, before the earlier of
 - 1. 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
 - 2. 3 years after the date the purchaser signs the agreement to purchase the security;
 - (c) is subject to the defense that the purchaser had knowledge of the misrepresentation;
 - (d) in the case of an action for damages, provides that the amount recoverable
 - (i) must not exceed the price at which the security was offered, and
 - (ii) does not include all or any part of the damages that the issuer proves does not represent the depreciation in value of the security resulting from the misrepresentation; and
 - (e) a description of how the issuer intends to allocate securities if aggregate subscriptions for securities under the proposed distribution exceed the maximum number of securities proposed to be distributed.
6. The issuer must represent each of the following to the purchaser in the subscription agreement:
- (a) the issuer's "documents" and "core documents", each as defined in section 122 of the Act, do not contain a misrepresentation;
 - (b) there is no material fact or material change related to the issuer which has not been generally disclosed.
7. Other than the subscription agreement, any offering material provided to a purchaser in connection with a distribution under this Instrument must be filed with the regulator or securities regulatory authority no later than the day that the material was first provided to a purchaser.

Resale restrictions

8. The first trade of a security acquired under this Instrument is subject to section 2.5 of National Instrument 45-102 *Resale of Securities*.

Report of exempt distribution

9. An issuer that distributes a security under this Instrument must file a report with the Superintendent no later than the 10th day after the distribution.
10. The required form of report under section 9 is Form 45-106F6 of NI 45-106.

Effective date

11. This order comes into effect on March 13, 2014.

DATED at Yellowknife in the Northwest Territories this 13th day of March, 2014.

Gary MacDougall
Gary I. MacDougall,
Superintendent of Securities