



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

***Exemption from National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure***

**BLANKET ORDER 2021/07**  
(Section 16)

**WHEREAS** under section 16 of the *Securities Act*, if the Superintendent considers that it would not be prejudicial to the public interest to do so, the Superintendent may, on application by an interested person or company or on its own initiative, make an order exempting a person, security, trade, distribution or transaction from all or any requirements of Northwest Territories securities laws on such terms or conditions as may be set out in the order.

**AND WHEREAS** the Canadian Securities Administrators acting on the recommendation of the Ontario Securities Commission Staff has agreed to grant an exemption order exempting certain guidelines of the Office of the Superintendent of Financial Institutions Guidelines from National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure*.

**IT IS ORDERED THAT:**

**Definitions**

1. Terms defined in the *Securities Act*, National Instrument 14-101 *Definitions* and National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* (NI 52-112) have the same meaning in this Blanket Order.
2. In this Instrument:  
  
"Bank Act" means the *Bank Act* (Canada) S.C. 1991, c.46 as amended from time to time;  
  
"eligible issuer" means a reporting issuer that is, or that has an affiliate that is, a federal financial institution subject to OSFI Guidelines;

**"federal financial institution"** has the same meaning as in the *Bank Act*;

**"OSFI"** means the Office of the Superintendent of Financial Institutions of the Government of Canada;

**"OSFI Guideline"** means any guideline or advisory guidance of OSFI that includes "best" or "prudent" practices that OSFI expects a federal financial institution to follow, clarifies OSFI's position regarding certain policy issues applicable to the federal financial institution or describes how OSFI administers and interprets provisions of the Bank Act or other applicable federal financial institution legislation.

**"SRO"** means a recognized self-regulatory organization.

### **Background**

3. Paragraph 4(1)(e) of NI 52-112 provides that NI 52-112 does not apply to an issuer in respect of disclosure of a specified financial measure that is required under law, or by an SRO of which the issuer is a member, if
  - (i) the law or the SRO's requirement specifies the composition of the measure and the measure was determined in compliance with that law or requirement, and
  - (ii) in proximity to the measure, the issuer discloses the law or the SRO's requirement under which the measure is disclosed.
4. The OSFI Guidelines are used to set standards to govern industry activities and behaviour, but are not mandatory requirements under the *Bank Act* or other law and as such, issuers who are subject to the OSFI Guidelines are unable to rely on the exception in paragraph 4(1)(e) of NI 52-112.
5. The Superintendent is satisfied that because the OSFI Guidelines include specifications on the composition of certain financial measures that would include certain specified financial measures and contain specific disclosure requirements related to those measures, eligible issuers already provide sufficient disclosure requirements. Providing an exemption from NI 52-112 to eligible issuers will minimize the regulatory burden on those issuers while maintaining market integrity and without impacting investor protection.

### **Exemption from NI S2-112**

6. The Superintendent, considering that to do so would not be prejudicial to the public interest, orders under section 16 of the Act that NI 52-112 does not apply to an eligible issuer in respect of disclosure of a specified financial measure pursuant to an OSFI Guideline, if
  - (a) the OSFI Guideline specifies the composition of the measure and that measure

was determined in compliance with that OSFI Guideline, and

- (b) in proximity to the measure, the eligible issuer discloses the OSFI Guideline under which the measure was disclosed.

**Effective date and terms**

3. This order is effective December 1, 2021.

DATED at the City of Yellowknife in the Northwest Territories, this 1<sup>st</sup> day of December, 2021.

*Matthew Yap*

Matthew F. Yap.CD, LL.M.  
Superintendent of Securities