



CSA Publishes Proposed Amendments To Form 45-106F1 *Report of Exempt Distribution*

By **Melanie Cole, Daniel Everall and Liam Tracey-Raymont**

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On June 8, 2017, the Canadian Securities Administrators (“**CSA**”) published proposed amendments (the “**Proposed Amendments**”) to Form 45-106F1 *Report of Exempt Distribution* (the “**Form**”) that could simplify the way issuers report prospectus-exempt distributions. The CSA disseminated the Proposed Amendments through a request for comment that remains open for a 90-day comment period.

In the request for comment, the CSA stated that Proposed Amendments are designed to: (i) provide greater clarity and flexibility regarding the certification requirement of the Form; and (ii) streamline certain information requirements to assist filers completing the Form while maintaining necessary regulatory oversight. The Proposed Amendments are also designed to address concerns raised by foreign dealers and Canadian institutional investors regarding the Form’s certification requirement. Specifically, the CSA noted that Canadian institutional investors have expressed concern that they have been excluded from participating in foreign offerings in Canada as a result, at least in part, of foreign dealers’ concerns about certification of the Form and the extensive information that the Form requires.

Proposed Amendments – Key Changes

Certification

The Form currently requires that a director or officer of the issuer or underwriter certify that he or she has read and understood all of the information in the Form and that such information is correct. The Proposed Amendments modify the certification requirement in order to: (i) clarify that the individual certifying the Form is doing so on behalf of the issuer/underwriter; (ii) include certain qualifiers regarding the accuracy and completeness of the information in the Form; (iii) permit authorized agents to sign the certification; and (iv) remove the statement that it is an offence to make a misrepresentation in the Form and replace that statement with a reminder of the obligation to file the Form.

Information Requirements

The Form currently requires filers to provide the names of all exchanges on which the issuer’s securities are listed. The Proposed Amendments modify the Form in order to allow filers to only reference the exchange on which the issuer’s securities are primarily traded.

Where issues rely on the “accredited investor” exemption under National Instrument 45-106 *Prospectus Exemptions* (or the analogous provisions under the *Securities Act* (Ontario)), the Form currently requires the issuer to identify the specific paragraph of the definition of “accredited investor” applicable to each subscriber. The Proposed Amendments modify the disclosure requirement by allowing issuers distributing securities to non-individual “permitted clients,” as defined under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, to identify such distributions without the need to specify the applicable paragraph in the definition of “accredited investor.”



Other Amendments

The Proposed Amendments also incorporate other minor changes to the Form, including amendments that: (i) reflect changes as to how the Bank of Canada publishes foreign exchange rate data; (ii) reflect certain securities regulators' blanket orders relevant to the Form; (iii) clarify the instructions to the Form; and (iv) update contact information of the securities regulatory authorities in each local jurisdiction.

Contacts

Lawyers:

Melanie Cole	416.865.4638	mcole@airdberlis.com
Daniel Everall	416.865.4733	deverall@airdberlis.com
Liam Tracey-Raymont	416.865.3964	ltracey-raymont@airdberlis.com

Brookfield Place, 181 Bay Street, Suite 1800, Toronto, Canada M5J 2T9 T 416.863.1500 F 416.863.1515

www.airdberlis.com

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