

CSA Staff Notice 45-308 (Revised)
*Guidance for Preparing and Filing
Reports of Exempt Distribution under
National Instrument 45-106 Prospectus Exemptions*

First Published April 26, 2012;
Revised June 25, 2015, April 7, 2016, September 29, 2016, July 19, 2018, October 4, 2018 and
June 9, 2023

June 9, 2023

Purpose

Issuers and underwriters that rely on certain prospectus exemptions to distribute securities are required to file a report of exempt distribution on Form 45-106F1 *Report of Exempt Distribution* (the **report**) within a prescribed timeframe set out in National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**).

Staff (**staff** or **we**) of the Canadian Securities Administrators (**CSA**) have prepared this revised Staff Notice (this **Notice**) to assist issuers, underwriters and their advisors in preparing and filing reports.

This Notice replaces a prior version of this notice issued on October 4, 2018.

This Notice includes the following documents:

- Annex 1 – Tips for Completing and Filing the Report
- Annex 2 – Checklist of Certain Information Requirements in the Report
- Annex 3 – Frequently Asked Questions
- Annex 4 – Contact Information of Public Officials regarding Indirect Collection of Personal Information

Background to this Notice

We may from time to time reissue this Notice to respond to additional questions or concerns raised about the completion and filing of reports. The following table sets out the history of this Notice.

| Date | Development |
|--------------|---|
| June 9, 2023 | The CSA will be implementing the first phase of the National Systems Renewal Program, an initiative to replace CSA national systems. The first phase replaces SEDAR, the National Cease Trade Order Database, the Disciplined List and certain filings in the British Columbia Securities Commission eServices system and the Ontario Securities Commission Electronic Filing Portal. We are reissuing this notice to change references to SEDAR to SEDAR+, and to provide guidance on the filing of reports of exempt distribution on SEDAR+. We have also removed guidance on the transition period for the report. |

| Date | Development |
|--------------------|--|
| October 4, 2018 | <p>The Alberta Securities Commission (ASC) repealed and replaced ASC Rule 72-501 <i>Distributions to Purchasers Outside Alberta</i> effective August 31, 2018, which included moving ASC Policy 45-601 <i>Distributions Outside Alberta</i> into Companion Policy 72-501 <i>Distributions to Purchasers Outside Alberta</i>. The response in Question 1 of Annex 3 of this Notice was revised to reflect this change.</p> |
| July 19, 2018 | <p>To further address concerns expressed by foreign dealers conducting offerings into Canada and Canadian institutional investors, on July 19, 2018, the CSA made amendments to the report to provide greater clarity and flexibility regarding the certification requirement and to streamline certain information requirements. This Notice was reissued in light of these amendments and provide further clarity on certain existing requirements. The amendments came into force on October 5, 2018.</p> |
| September 29, 2016 | <p>In spring and summer 2016, staff became aware of concerns expressed by foreign dealers conducting offerings into Canada, as well as Canadian institutional investors, about the certification requirements in the report and other related issues.</p> <p>In certain instances, Canadian institutional investors were being excluded from participating in foreign offerings into Canada through certain foreign dealers as a result of a perceived change in the risk of personal liability in the report, as well as the more extensive information required in the report.</p> <p>We reissued this Notice in September 2016 to provide:</p> <ul style="list-style-type: none"> • clarification regarding the certification of the report, • guidance on the reasonable steps the underwriter filing the report should undertake to obtain and confirm the required information regarding the issuer, • guidance on the procedures that an issuer or underwriter could implement in order to reasonably confirm that a purchaser meets the conditions for a particular exemption, • guidance on the increased flexibility for completing Schedule 1 for purchasers in certain circumstances who may qualify under more than one paragraph of the definition of “accredited investor”, and • guidance on disclosure of an issuer’s North American Industry Classification Standard (NAICS) code that corresponds to the issuer’s primary business activity where there is ambiguity on the appropriate code. |
| April 7, 2016 | <p>In June 2016, the CSA introduced a new harmonized version of the report set out in Form 45-106F1 <i>Report of Exempt Distribution</i> (i.e. the report). Both investment fund issuers and non-investment fund issuers that distribute securities under certain prospectus exemptions are required to file the report, which replaced both the prior version of Form 45-106F1 <i>Report of Exempt Distribution</i> and Form 45-106F6 <i>British Columbia Report of Exempt Distribution</i>.</p> <p>We reissued this Notice in April 2016 to reflect the adoption of the report, to provide guidance on the new information requirements set out in the report, and to assist filers to transition to the report.</p> |

| Date | Development |
|----------------|--|
| June 25, 2015 | This Notice was revised in June 2015 primarily to reflect the introduction of certain new prospectus exemptions in Ontario. |
| April 26, 2012 | Staff first published this Notice in April 2012 to highlight compliance issues identified in some reports filed. This Notice provided guidance to issuers, underwriters and their advisors for preparing and filing reports. |

Annexes to Notice

Annex 1 – Tips for Completing and Filing the Report

Annex 2 – Checklist of Certain Information Requirements in the Report

Annex 3 – Frequently Asked Questions

Annex 4 – Contact Information of Public Officials regarding Indirect Collection of Personal Information

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ANNEX 1 Tips for Completing and Filing the Report

The following are tips to assist issuers, underwriters and advisors in completing and filing the report.

1. File the report on time

If the issuer is relying on an exemption from the prospectus requirement that requires a report to be filed, the filers must file the report in each jurisdiction of Canada where the distribution occurred. The deadline for filing the report is generally 10 days after the distribution. If filing a report for distributions occurring on multiple dates, such distributions must occur within a 10-day period and the filer must file the report no later than 10 days after the first distribution date.

For a distribution made in reliance on the prospectus exemption in National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*, a report must be filed no later than 30 days after the distribution.

Pursuant to section 6.2(2) of NI 45-106, investment fund issuers relying on certain prospectus exemptions have the option of filing the report on an annual basis, within 30 days of the end of the calendar year. This option is only available for investment fund issuers distributing securities in reliance on the following prospectus exemptions in NI 45-106:

- section 2.3 [*Accredited investor*]¹
- section 2.10 [*Minimum amount investment*]
- section 2.19 [*Additional investment in investment funds*]

2. Pay the required fees

Filers must pay the applicable fee in each jurisdiction of Canada in which the report is filed. In order to determine the applicable fee in a particular jurisdiction of Canada, consult the securities legislation of that jurisdiction.

Filing fees payable in a particular jurisdiction are not affected by identifying all purchasers in a single report.

3. Complete the issuer information

Item 5 requires certain information about the issuer distributing the securities, where the issuer is not an investment fund.

Where an underwriter is filing the report, the underwriter should take reasonable steps to obtain and confirm the information regarding the issuer set out in Item 5. These reasonable steps may include:

- reviewing the offering document prepared in connection with the distribution of securities,
- reviewing the issuer's public continuous disclosure record, where available,
- reviewing information provided by the issuer's or the underwriter's legal counsel, and
- making inquiries of the issuer.

¹ This option is also available for investment fund issuers distributing securities in reliance on section 73.3 of the *Securities Act* (Ontario) [*Accredited investor*].

4. Include a complete list of purchasers in the report

Filers must ensure that Item 7(f) and Schedule 1 include all purchasers that participated in the distribution.

If an issuer located outside of Canada completes a distribution in a jurisdiction of Canada, the filer is required to provide information in the report about purchasers resident in that jurisdiction of Canada only. See Question 12 in Annex 3 for further guidance on issuers located outside of Canada.

If an issuer makes a distribution in more than one jurisdiction of Canada, the filer may complete a single report identifying all purchasers, and file that report in each jurisdiction of Canada in which the distribution occurs.

5. Ensure the information provided in the report and schedules is true and complete

Filers should verify that the information included in the report and schedules is true and, to the extent required, complete. In particular, filers should verify the following:

- The information provided in Item 7 about the distribution date, number and type of securities distributed, total dollar amount of securities distributed, number of unique purchasers in each jurisdiction and prospectus exemptions relied on, must reconcile with the information provided in Schedule 1.
- The identities of persons compensated provided in Item 8 must reconcile with the information provided in Schedule 1 about the persons compensated for each purchaser.
- Ensure that all appropriate columns in Schedule 1 that relate to use of the following prospectus exemptions are completed:
 - section 2.3 [*Accredited investor*],²
 - section 2.5 [*Friends, family and business associates*], or
 - subsection 2.9(2) or 2.9(2.1) [*Offering memorandum*] and the purchaser is an "eligible investor".
- The information about directors, executive officers and promoters provided in Item 9 must reconcile with the information provided in Schedule 2.

6. Correctly identify the total number of unique purchasers

The table in Item 7(f) requires the total number of unique purchasers to which the issuer distributed securities. To determine the total number of unique purchasers, the filer should count each purchaser only once, regardless of whether the issuer distributed different types of securities to that purchaser, on different dates, and/or relied on multiple prospectus exemptions for such distributions. See Question 15 in Annex 3 for further guidance on counting unique purchasers.

However, filers must list a purchaser multiple times on Schedule 1 if the issuer has distributed different types of securities to that purchaser, or has distributed securities to that purchaser on different dates.

² In Ontario, the accredited investor exemption is set out under subsection 73.3(2) of the *Securities Act* (Ontario).

7. Ensure the purchase price of the securities distributed is correct

If an issuer is relying on the prospectus exemption in section 2.10 [*Minimum amount investment*] of NI 45-106 for distributions to a purchaser, the purchase price paid by that purchaser must be at least \$150,000 (among other conditions), and the purchase price provided in Item 7 and Schedule 1 must be at least that minimum amount. An issuer is not permitted to distribute securities under this prospectus exemption to a purchaser that is an individual, or to multiple purchasers acting in concert or as a “syndicate” in order to pool separate purchases and reach the \$150,000 minimum.

8. Ensure that a valid prospectus exemption is available

Not all prospectus exemptions are available in all jurisdictions. An issuer should ensure that a valid prospectus exemption is available for a distribution to each purchaser.

Section 1.9 of Companion Policy 45-106CP *Prospectus Exemptions (45-106CP)* describes procedures that an issuer (or seller) could implement in order to reasonably confirm that the purchaser meets the conditions for a particular exemption. Some examples of these steps include:

- establishing policies and procedures to confirm that all parties acting on behalf of the issuer (or seller) understand the conditions that must be satisfied to rely on the exemption, and
- obtaining information that confirms the purchaser meets the criteria in the exemption.

Whether the steps taken are reasonable will depend on the particular facts and circumstances of the purchaser, the offering and the exemption being relied on. For certain purchasers, such as Canadian financial institutions, Schedule III banks and pension funds, it may not be necessary for the issuer (or seller) to reconfirm the purchaser’s status for each distribution to that purchaser.

9. Disclose all compensation paid in connection with the distribution

A filer must complete Item 8 for each person to whom the issuer directly provides, or will provide, any compensation in connection with the distribution. Compensation includes cash commissions, securities-based compensation, gifts, discounts or other compensation of a similar nature, paid in connection with a distribution of securities, regardless of the term used to describe the payment. For example, we consider a brokerage fee or finance fee to be compensation in connection with a distribution.

Compensation does not include payments for services incidental to the distribution, such as clerical, printing, legal or accounting services.

Item 8 and Schedule 1 do not require details about internal allocation arrangements with the directors, officers or employees of an entity compensated by the issuer.

In completing Item 8, where the person compensated is a non-individual with an NRD number, the filer should report the entity’s NRD number. A filer may refer to the CSA’s National Registration Search tool to determine if the entity has an NRD number. Registered firms and firms relying on the “international dealer exemption” or the “international adviser exemption” (as set out in section 8.18 and in section 8.26, respectively, of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*) have been assigned an NRD number.

In completing Schedule 1, where the person compensated is an individual and is not associated with an entity that has an NRD number, the filer should report the individual by the ‘family name’; ‘first given name’ and ‘secondary given names’ (*i.e.*, Smith; John Allen). A semi-colon should be used to separate the ‘family name’ from the ‘first given name’.

10. Date and certify the report

The report must be certified by the issuer or the underwriter, or by an agent that has been authorized by an officer or director of the issuer or underwriter to do so on behalf of the issuer or underwriter. Item 10 of the report must include the date of the report and the name and signature of the individual signing the report for and on behalf of the issuer or underwriter.

If the report is certified by an issuer or underwriter, this individual must be a director or officer of a corporate issuer or underwriter or, in other cases, an individual who performs functions similar to that of a director or officer (as determined by the issuer or underwriter). For example, if the issuer is a trust, the report may be signed by the issuer's trustee on behalf of the trust. If the issuer is an investment fund, a director or officer of the investment fund manager (or, if the investment fund manager is not a company, an individual who performs similar functions) may sign the report on behalf of the investment fund if the director or officer has been authorized to do so by the investment fund.

The certification date should be recorded at the top of Schedule 1 and, if applicable, Schedule 2.

See Question 22 in Annex 3 for further guidance on the certification of the report.

ANNEX 2
Checklist of Certain Information Requirements in the Report

The checklist below is designed to assist filers in gathering certain of the required information to complete the report.

| | |
|--------------------|---|
| All issuers | <ul style="list-style-type: none"><input type="checkbox"/> Most recent previous legal name (if issuer's name has changed in last 12 months)<input type="checkbox"/> Website of issuer (if issuer has one) and underwriter (if underwriter has one and is not a registrant)<input type="checkbox"/> Legal entity identifier (if issuer has one)<input type="checkbox"/> Firm NRD number and SEDAR+ profile number for underwriter<input type="checkbox"/> CUSIP numbers of securities distributed (if applicable)<input type="checkbox"/> Details about the distribution (number of purchasers and total amount raised) by jurisdiction and prospectus exemption relied on<input type="checkbox"/> Electronic copies of all offering materials required to be filed with or delivered to the securities regulatory authority or regulator for the distribution³<input type="checkbox"/> NRD number of registrant compensated (if applicable)<input type="checkbox"/> Whether person compensated facilitated distribution through funding portal or internet-based portal<input type="checkbox"/> Description of terms of any deferred compensation<input type="checkbox"/> Relationship of person compensated to issuer or investment fund manager (connected with issuer or investment fund manager/insider/director or officer/employee/none of the above) <p>Schedule 1 (non-public)</p> <ul style="list-style-type: none"><input type="checkbox"/> Email address of purchaser (if provided by purchaser)<input type="checkbox"/> Specific prospectus exemption relied on to distribute securities to each purchaser⁴<input type="checkbox"/> Identification of whether purchaser is a registrant or insider⁵<input type="checkbox"/> Name of person compensated for the distribution for each purchaser |
|--------------------|---|

³ Refer to question 23 in Annex 3 for additional guidance.

⁴ Refer to question 21.1 in Annex 3 for additional guidance.

⁵ Filers are not required to disclose whether a purchaser is a registrant or an insider of the issuer if any of the following apply:

- (a) the issuer is a foreign public issuer;
- (b) the issuer is a wholly owned subsidiary of a foreign public issuer;
- (c) the issuer is distributing only eligible foreign securities and the distribution is to permitted clients only.

| | |
|--|--|
| <p>Non-investment fund issuers</p> | <ul style="list-style-type: none"> <input type="checkbox"/> NAICS industry code⁶ <input type="checkbox"/> Stage of operations for issuers in mining industry (exploration/development/production) <input type="checkbox"/> Areas of asset holdings for issuers involved in investment activities (mortgages/real estate/commercial/business debt/consumer debt/private companies/cryptoassets) <input type="checkbox"/> Number of employees (within a range) <input type="checkbox"/> SEDAR+ profile number |
| <p>Investment fund issuers</p> | <ul style="list-style-type: none"> <input type="checkbox"/> NRD number of investment fund manager <input type="checkbox"/> SEDAR+ profile number <input type="checkbox"/> Type of investment fund (money market/equity/fixed income/balanced/alternative strategies/cryptoasset/other) <input type="checkbox"/> Net asset value (within a range) and date of calculation <input type="checkbox"/> Net proceeds by jurisdiction |
| <p>Issuers that are not any of the following:</p> <ul style="list-style-type: none"> • investment fund issuers • reporting issuers and their wholly owned subsidiaries • foreign public issuers and their wholly owned subsidiaries • issuers distributing only eligible foreign securities and the distribution is to permitted clients only | <ul style="list-style-type: none"> <input type="checkbox"/> Names, titles and locations of directors, executive officers and promoters <input type="checkbox"/> If a promoter is not an individual, this information is also required for the directors and executive officers of the promoter <p>Schedule 2 (non-public)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Business email address and telephone number of issuer’s CEO <input type="checkbox"/> Residential addresses of directors, executive officers, promoters and control persons that are individuals <input type="checkbox"/> If a promoter or control person is not an individual, this information is required for the directors and executive officers of the promoter and control person. <input type="checkbox"/> If control person is not an individual: <ul style="list-style-type: none"> <input type="checkbox"/> Organization or company name <input type="checkbox"/> Province or country of business location |

⁶ Refer to question 7 in Annex 3 for additional guidance.

ANNEX 3
Frequently Asked Questions

Filing the report

1. An issuer whose head office is in Alberta distributes securities to a purchaser resident in Saskatchewan. Where is the issuer required to file the report?

The issuer must file a report with the Alberta Securities Commission and with the Financial and Consumer Affairs Authority of Saskatchewan.

The issuer must file a report in each jurisdiction where the distribution occurred. To determine if a distribution has occurred in one or more jurisdictions of Canada, consult applicable securities legislation, securities directions and case law.

For example:

- In Alberta, an issuer should consult Companion Policy 72-501 *Distributions to Purchasers Outside Alberta*.
- In British Columbia, an issuer should consult BC Interpretation Note 72-702 *Distribution of Securities to Persons Outside British Columbia*.
- In New Brunswick, an issuer should consult Companion Policy to Local Rule 72-501 *Distributions of Securities to Persons Outside New Brunswick*.
- In Québec, an issuer should consult *Avis du personnel de l'Autorité des marchés financiers – Règlement 45-106 sur les dispenses de prospectus et d'inscription: Questions fréquemment posées*.

In all cases, a distribution occurs when a distribution is made to a purchaser resident in that jurisdiction. In most cases, a distribution includes a distribution made by an issuer whose head office is in that jurisdiction (or, in the case of an investment fund, an investment fund whose manager's head office is in that jurisdiction), to purchasers resident outside that jurisdiction. A distribution may also occur in a jurisdiction of Canada if the issuer has a significant connection to that jurisdiction.

If an issuer is uncertain as to whether a distribution has occurred in a jurisdiction of Canada, the issuer should file the report in that jurisdiction.

2. How does a filer file a report for a distribution to purchasers in every CSA jurisdiction?

Filers are required to file the report in all CSA jurisdictions where it is required to be filed through SEDAR+ in accordance with National Instrument 13-103 *System for Electronic Data Analysis and Retrieval* + (SEDAR+).

Schedule 1 and Schedule 2 of the report must be filed in .xlsx format using the Excel templates adopted and published by the CSA. The Excel templates are available on the website of each CSA member and on the CSA website.⁷ Schedule 2 will be auto-generated in SEDAR+ in .xlsx format and pre-populated with certain information provided in Item 9, as applicable.

⁷ <https://www.securities-administrators.ca/resources/reports-of-exempt-distribution/>

Filers must not manipulate, rename or delete the tabs in the templates, and must not modify the content, formatting or columns of the templates. We may reject a modified template and require it to be refiled using the approved template.

3. [intentionally deleted]

4. [intentionally deleted]

4.1 The section in the report under the heading “Notice – Collection and use of personal information” requires the filer to confirm that each individual listed in Schedules 1 and 2 was notified about certain information, including the title of the public official in the local jurisdiction who can answer questions about the security regulatory authority’s or regulator’s indirect collection of personal information. Where can I find the titles of these public officials?

Please see Annex 4 for the contact information and title of the public official in each local jurisdiction who can answer questions regarding the indirect collection of personal information. This information can also be found in the report and on the CSA’s website.

4.2 How do I report co-issuer distributions?

If two or more issuers distributed a single security, only one report of exempt distribution is required to be filed for the distribution. The report may be completed and filed by any one of the co-issuers.

Provide the full legal name of the co-issuer completing and filing the report in the ‘Full legal name’ field at the top of Item 3.

The full legal name(s) of the *other* co-issuer(s) should be provided in the ‘Full legal name(s) of co-issuer(s)’ field at the end of Item 3.

Names and identifiers

5. What information should be provided for individuals under family name, first given name and secondary given names in the report?⁸

Family name refers to the individual’s last name or surname.

First given name refers to the first name of an individual, used to identify the person from other members of a family, all of whom usually share the same family name.

Secondary given names, often referred to as middle names, refer to all given names of an individual, other than their first given name and family name.

The ordering of family and given names can vary among cultures. Indicate the ‘family name’, ‘first given name’ and ‘secondary given names’ in the appropriate field in the report regardless of the order in which they may be given or traditionally used.

⁸ Names of individuals are required to be provided in Item 8(a), Items 9(a) and (b), Item 10, Item 11, Schedule 1 and Schedule 2.

If an individual has only a single legal name, this name should be recorded as the ‘family name’ and “N/A” should be entered for ‘first given name’ and ‘secondary given names’.

Do not include aliases, nicknames, preferred names, initials or short forms of full names in the name fields of the report.

Avoid entering account numbers, account types, “in trust” references or other unnecessary information within the name fields. Enter only the legal name of the beneficial owner. See Question 20 below for further details.

If two or more individuals have purchased a security as joint purchasers, complete the Schedule 1 Excel template by providing information for each purchaser under the columns for family name, first given name and secondary given names, if applicable, and separating the individuals’ names with an ampersand. For example, if Jane Jones and Robert Smith are joint purchasers, indicate “Jones & Smith” in the family name column, and “Jane & Robert” in the first given name column of the Schedule 1 Excel template. Joint purchasers may be counted as one purchaser for the purposes of Item 7(f).

6. What is a legal entity identifier (LEI)? Is it necessary to obtain an LEI to complete Item 3 of the report?

An LEI is a globally recognized 20-character alphanumeric code used to identify entities that enter into financial transactions. If an issuer already has an LEI, the filer must provide the LEI in Item 3. The LEI will be pre-populated on SEDAR+ if the issuer has an LEI in their SEDAR+ profile. If an issuer does not have an LEI, it is not necessary to obtain one to complete the report.

7. How does the filer determine an issuer’s North American Industry Classification Standard (NAICS) code?

NAICS was developed to classify the domestic activities of businesses within North America, and also covers a wide range of industries that exist outside of North America.

If the issuer has already identified a NAICS code for its business, and the filer is the issuer, then it should use that previously identified code. For example, Canadian businesses that file tax returns with the Canada Revenue Agency should use the same NAICS code that they report on those forms. The NAICS code provided in the SEDAR+ profile will be prepopulated in Item 5 on SEDAR+.

If the issuer has not already identified a NAICS code, or if the filer is an underwriter and has not been able to obtain the NAICS code previously identified by the issuer, the filer should use [Statistics Canada’s NAICS search tool](#)⁹ to find a NAICS code that is appropriate for the issuer. An alternative is the [US Census Bureau’s NAICS search tool](#).¹⁰

The online search tools listed above allow the filer to enter keywords that describe the issuer’s business, and generate a list of primary business activities containing that keyword and the corresponding NAICS codes. If more than one NAICS code may apply to an issuer, the filer should use its reasonable judgment to choose the one that most closely describes the issuer’s primary business activity. Alternatively, the filer may browse a list of NAICS market sectors to find the more detailed industry level descriptions and the appropriate 6-digit code that, in the

⁹ <http://www23.statcan.gc.ca/imdb/p3VD.pl?Function=getVD&TVD=380372>

¹⁰ <https://www.census.gov/naics/>

filer’s reasonable judgment, most closely matches the issuer’s primary business activity.

Below are some examples of NAICS codes to consider:

| Description of Issuer | Keywords searched | Possible NAICS Codes to consider |
|---|---|---|
| ABC-ABS Inc. is structured as a special purpose financial vehicle organized for the securitization of pools of receivables and the issuance of marketable fixed-income securities (asset-backed securities) | “special purpose vehicle” or “securitization” | 526981 - Securitization vehicles |
| ABC Minerals operates as a mining and metals company worldwide. It produces copper, nickel, gold, zinc, platinum-group elements and pyrite. | “zinc” or “copper” or “nickel” or “gold” | 212233 - Copper-zinc ore mining 212232 - Nickel-copper ore mining 212220 - Gold and silver ore mining |
| ABC LP is a private equity fund that invests in a portfolio of private companies. The fund will typically acquire a controlling or substantial minority interest in a portfolio of companies. | “investment firm” or “portfolio companies” | 526989 - All other miscellaneous funds and financial vehicles 523920 - Portfolio management |

Issuer information

- 8. The issuer distributing securities was formed in 2002 by the completion of a plan of arrangement. Does Item 5(e) of the report require the date(s) of incorporation of the companies that completed the plan of arrangement, or the date of the completion of the plan of arrangement?**

In this example, the filer is not required to provide the incorporation dates of any predecessor entities in Item 5(e), only the date that the issuer was formed by the completion of the plan of arrangement in 2002.

- 9. How does a filer determine the number of employees for Item 5(b) of the report?**

Employees are individuals that are employed directly by the issuer and on the issuer’s payroll, including full and part-time employees.

- 9.1 What steps should be taken by an underwriter filing a report to obtain the information in Item 5 of the report?**

Where an underwriter is filing the report, the underwriter should take reasonable steps to obtain and confirm the information regarding the issuer set out in Item 5. These reasonable steps may include:

- reviewing the offering document prepared in connection with the distribution of securities,
- reviewing the issuer’s public continuous disclosure record, where available,
- reviewing information provided by the issuer’s or the underwriter’s legal counsel, and
- making inquiries of the issuer.

- 9.2 What is meant by the term “cryptoassets” in Item 5(a) of the report?**

Cryptoassets include, for example, cryptocurrencies, digital coins or tokens, derivatives linked to cryptoassets and operations to mine cryptoassets. An issuer whose primary business is to invest all

or substantially all of its assets in the above noted cryptoassets should check off the corresponding checkbox in item 5(a) of the report.

Investment fund issuer information

10. What do the different investment fund types in Item 6(b) of the report refer to?

In Item 6(b), an investment fund issuer must select the investment fund type that most accurately describes the issuer based on the following:

- Money Market – An investment fund that invests in cash, cash equivalents and/or short term debt securities, such as government bonds and treasury bills.
- Equity – An investment fund that invests primarily in equity securities of other issuers.
- Fixed Income – An investment fund that invests primarily in fixed income (debt) securities.
- Balanced – An investment fund that invests primarily in a balanced combination of fixed income and equity securities.
- Alternative Strategies – An investment fund that primarily adopts alternative investment strategies, such as short selling, leverage or the use of derivatives, or that invests primarily in alternative asset classes, such as real estate or commodities.
- Cryptoasset – An investment fund that invests primarily in cryptoassets, which include for example, cryptocurrencies, digital coins or tokens, or derivatives linked to cryptoassets.
- Other – An investment fund that cannot be classified under one of the above investment fund types. Include a short description of the type of investment fund in the box provided.

11. When would an investment fund issuer be considered to be primarily invested in other investment funds under Item 6(b) of the report?

An investment fund is generally considered a ‘fund of funds’ if a majority of its assets are invested in other funds, under normal market conditions. One factor to consider in determining whether an investment fund issuer is a ‘fund of funds’ is whether its investment objectives specifically state this as a strategy.

Distribution details

12. What does “located outside of Canada” mean in Item 7 of the report?

The onus is on an issuer and its counsel to determine where the issuer is located for the purposes of determining where a distribution has occurred, including whether an issuer is located in a jurisdiction of Canada.

The determination is based on the facts and circumstances of each particular distribution. The issuer should consider the following factors:

- where the issuer’s mind and management are primarily located, which may be determined by the location of the issuer’s head office or the residences of the issuer’s key officers and directors,
- where the issuer’s operations are conducted,
- where the issuer administers its business,
- whether any acts in furtherance of a distribution have occurred in a jurisdiction, including active advertisements or solicitations, negotiations, underwriting activities or investor

- relations activities, and
- where the issuer is incorporated or organized.

The above are examples of the types of factors that an issuer should consider in determining whether it is making a distribution from a jurisdiction, but it is not an exhaustive list.

13. What dates should be provided as the distribution date under Item 7(b) of the report?

If the report is being filed for securities distributed only on a single distribution date, provide this distribution date in Item 7(b) as both the start date and end date. For example, if the report is being filed for securities distributed only on July 1, 2016, provide July 1, 2016 as both the start date and end date.

If the report is being filed for securities distributed on more than one distribution date, in Item 7(b) provide the date of the earliest distribution as the start date and provide the date of the last distribution as the end date. A single report can be filed for distributions occurring on multiple dates only if such distributions occur within a 10-day period and the report is filed no later than 10 days after the first distribution date (other than investment funds that file reports on an annual basis).

For example:

- If the report is being filed for securities distributed on July 1, July 4, July 5 and July 7, 2016, in Item 7(b) provide July 1, 2016 as the start date and July 7, 2016 as the end date.
- If the report is being filed for an investment fund issuer that files annually and has distributed securities on a continuous basis from January 1, 2017 to December 31, 2017, in Item 7(b) provide January 1, 2017 as the start date and December 31, 2017 as the end date.

14. The type of security distributed by the issuer is not on the list of security codes in Instruction 12 of the report. What security code should the filer provide in Item 7(d) of the report?

The list of security codes in Instruction 12 of the report captures most types of securities distributed under a prospectus exemption triggering the filing of a report in Canada. If the security being distributed is not listed, enter “OTH” (for other) as the security code in Item 7(d) and include a description of the security in the box provided. Examples are provided below.

| Security code | | | CUSIP number (if applicable) | Description of security |
|---------------|---|---|---------------------------------|--|
| N | O | T | 555555555 | 6.26% medium term notes |
| C | E | R | 555555556 | Commercial mortgage pass-through certificates |
| U | B | S | | Units comprised of one common share and one-half of one non-transferrable share purchase warrant |
| O | T | H | | Managed joint venture interest |

14.1 When should the “DCT” security code be used?

Businesses that distribute digital coins or tokens, either directly or indirectly through a convertible or exercisable feature in any instrument, should first consider whether they are distributing securities. One way of determining whether they are distributing securities is to consider the four-

prong investment contract test and the guidance outlined in CSA Staff Notice 46-307 *Cryptocurrency Offerings (CSA Staff Notice 46-307)* and CSA Staff Notice 46-308 *Securities Law Implications for Offerings of Tokens (CSA Staff Notice 46-308)*. CSA Staff Notice 46-307 indicates that many initial coin offerings (ICOs) and initial token offerings (ITOs) involve distributions of securities, including because they are investment contracts and CSA Staff Notice 46-308 provides examples of situations and their possible implications on one or more of the elements of an investment contract. Filers should consider CSA Staff Notice 46-307, CSA Staff Notice 46-308 and any other relevant guidance published by the CSA.

15. How does a filer determine the number of unique purchasers for Item 7(f) of the report?

For the total number of unique purchasers, each purchaser should only be counted once, regardless of whether the issuer distributed different types of securities to that purchaser, distributed securities on different dates to that purchaser and/or relied on multiple prospectus exemptions for such distributions.

As an example, an issuer located in Alberta distributes (at \$10/debenture, \$10/common share):

- 100 debentures to Purchaser A in Alberta in reliance on the accredited investor prospectus exemption
- 100 common shares to Purchaser A in Alberta in reliance on the offering memorandum prospectus exemption
- 100 common shares to Purchaser B in Alberta in reliance on the accredited investor prospectus exemption
- 100 common shares to Purchaser C in Ontario in reliance on the family, friends and business associates prospectus exemption
- 100 debentures to Purchaser D in France in reliance on the accredited investor prospectus exemption

In this example, there are a total of 4 unique purchasers.

The table in Item 7(f) requires a separate line item for:

- each jurisdiction where a purchaser resides,
- each exemption relied on in the jurisdiction where a purchaser resides, if a purchaser resides in a jurisdiction of Canada, and
- each exemption relied on in Canada, if a purchaser resides in a foreign jurisdiction.

Complete the table as follows:

| Province or country | Exemption relied on | Number of unique purchasers ^{2a} | Total amount (Canadian \$) |
|---|---|---|----------------------------|
| Alberta | Accredited investor (NI 45-106 s.2.3) | 2 | 2,000 |
| Alberta | Offering memorandum (NI 45-106 s.2.9(2.1)) | 1 | 1,000 |
| Ontario | Family, friends and business associates (NI 45-106 s.2.5) | 1 | 1,000 |
| France | Accredited investor (NI 45-106 s.2.3) | 1 | 1,000 |
| | | | |
| Total dollar amount of securities distributed | | | 5,000 |
| Total number of unique purchasers^{2b} | | 4 | |

In Schedule 1, create a separate entry for each distribution date, security type and exemption relied on for the distribution to each purchaser. In the example above, this means there must be two separate entries for Purchaser A in Schedule 1: one entry for the distribution of 100 debentures in reliance on the accredited investor prospectus exemption, and a second entry for the distribution of 100 common shares in reliance on the offering memorandum prospectus exemption.

16. [intentionally deleted]

| |
|---------------------------------|
| Compensation information |
|---------------------------------|

17. How does an issuer report compensation paid to two dealers in connection with the distribution?

Item 8 of the report must be completed separately for each dealer to whom the issuer provides compensation in connection with the distribution. In completing Schedule 1, where the person compensated is an individual, the filer should report the individual by the ‘family name’; ‘first given name’ and ‘secondary given names’ (*i.e.*, Smith; John Allen). A semi-colon should be used to separate the ‘family name’ from the ‘first given name’. Where the person compensated is an entity, the full legal name of the entity should be reported.

In section f(3) of Schedule 1, the filer must indicate which of the two dealers received compensation in connection with the distribution to each purchaser by indicating the firm NRD number of the dealer, or the dealer’s full legal name if not a registered firm. The firm NRD number or name must be consistent with the information provided in Item 8. If neither of the two dealers received compensation in connection with the distribution to a particular purchaser, then section f(3) of Schedule 1 should be left blank for that purchaser.

As noted in the instructions to Item 8(d), the report does not require disclosure of details about internal allocation arrangements with the directors, officers or employees of entities compensated by the issuer. This information is also not required in Schedule 1.

17.1 How do I find out whether a person compensated has an NRD number?

A filer may refer to the CSA’s National Registration Search tool to check whether an entity to which the issuer is paying compensation in connection with a distribution has a Firm NRD number.

Registered firms and firms relying on the “international dealer exemption” or the “international adviser exemption” (as set out in section 8.18 and in section 8.26, respectively, of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*) have been assigned a Firm NRD number.

18. The issuer entered into a referral arrangement pursuant to which it pays an ongoing annual referral fee in cash to a third party for so long as the purchaser holds the securities distributed. Is the issuer required to disclose the ongoing referral fee in the report? Is the issuer required to do so each year for so long as it pays the referral fee?

If the referral fee is paid in cash in connection with a distribution, the filer must report the referral fee in Item 8(d) of the report, by checking the box that indicates a person is receiving deferred compensation in connection with the distribution and describing the terms of the referral arrangement in the box provided.

The filer is not required to report the referral fee every year. If no distributions were made in a particular year that give rise to referral fees being paid, then the referral fee is not required to be reported that year.

18.1 How should an issuer report deferred compensation shares?

Where an issuer agrees to distribute deferred shares to a person as compensation, the filer should not include the deferred compensation in the “Total Compensation Paid” section of item 8(d). However, the filer should check the box at the end of item 8(d) indicating a person will or may receive deferred compensation in connection with the distribution, and should describe the terms of deferred compensation in the box provided.

For example, if an issuer issues securities and agrees to pay a person the following compensation:

- 100 shares on the distribution date, and
- 300 shares to be issued over the course of 3 months following the distribution date, with 100 shares issued each month.

The filer should report the 100 shares issued on the distribution date by completing the “Value of all securities distributed as compensation” and “Security codes” boxes in item 8(d) of the report. The filer should also check the box at the bottom of item 8(d) indicating that a person is receiving deferred compensation and should describe that a total of 300 shares will or may be issued over the course of the 3 months following the distribution, with 100 shares issued each month.

Each time that the issuer distributes 100 deferred bonus shares to the person following the distribution (that is, 100 shares per month), the issuer must ensure that it has a prospectus exemption for that distribution and consider whether relying on that exemption triggers the requirement to file a new report.

19. What do the terms “funding portal” and “internet-based portal” refer to in Item 8(a) of the report?

These terms generally refer to an intermediary that provides an online platform for issuers to offer and sell securities to investors. These include funding portals as defined under Multilateral Instrument 45-108 *Crowdfunding* and National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* or an investment dealer or exempt market dealer facilitating distributions of securities for an issuer under other prospectus exemptions.

Purchaser information

20. The issuer sold shares to a purchaser that instructed that the shares be registered in the name of its investment adviser. What name is the filer required to disclose in Schedule 1 of the report?

All references to a purchaser in the report are to the beneficial owner of the securities (with the exception of fully managed accounts described below). In this example, the filer should provide the name of the beneficial owner as the purchaser in Schedule 1. The investment adviser in this example is the registered, not the beneficial, owner.

Similarly, if a trust or personal holding corporation purchases securities from an issuer, the trust or corporation is the beneficial owner. The names of the trust beneficiaries or shareholders of the

holding corporation are not required.

Beneficial owner information is not required in Schedule 1 where a trust company, trust corporation, or registered adviser is deemed to be purchasing the securities as principal on behalf of a fully managed account and the issuer is relying on the exemption described in paragraph (p) or (q) of the definition of “accredited investor” in section 1.1 of NI 45-106 to issue the securities. In that case, only the name of the trust company, trust corporation or registered adviser should be provided in Schedule 1.

21. The filer does not have a purchaser’s email address. What is the filer required to disclose in section c(7) of Schedule 1 of the report?

If the purchaser has not provided an email address to the filer, or the purchaser does not have an email address, the filer may leave section c(7) of Schedule 1 blank for that purchaser.

21.1 Certain purchasers may qualify as an accredited investor under more than one paragraph of the definition of “accredited investor”. It may not always be clear to the filer which paragraph the purchaser qualifies under for the purpose of a particular distribution. For example, trust companies, trust corporations, registered advisers and registered dealers may be purchasing securities as principal for their own account, and/or may be deemed to be purchasing securities as principal on behalf of a fully managed account. In these circumstances, which paragraph of the definition of “accredited investor” should the filer select when completing Schedule 1?

If a purchaser is a trust company or a trust corporation, the filer can select paragraphs “(a) and/or (p)” of the definition of “accredited investor” for that purchaser when completing Schedule 1 if the trust company or trust corporation is:

- purchasing as principal for its own account and qualifies as an accredited investor under paragraph (a) of that definition, and/or
- deemed to be purchasing as principal on behalf of a fully managed account and qualifies as an accredited investor under paragraph (p) of that definition.

If a purchaser is a registered adviser or registered dealer, the filer can select paragraphs “(d) and/or (q)” for that purchaser when completing Schedule 1 if the registered adviser or registered dealer is:

- purchasing as principal for its own account and qualifies as an accredited investor under paragraph (d) of that definition, and/or
- deemed to be purchasing as principal on behalf of a fully managed account and qualifies as an accredited investor under paragraph (q) of that definition.

The Schedule 1 Excel template includes these options for filers to select.

21.2 What steps are sellers expected to take to verify a purchaser’s status?

The seller of securities is responsible for determining whether the terms and conditions of the prospectus exemption are met. Sellers are reminded of the guidance set out in section 1.9 of 45-106CP regarding their responsibility for compliance and verifying purchaser status. In particular, paragraph 1.9(4) of 45-106CP describes procedures that a seller could implement in order to reasonably confirm that the purchaser meets the conditions for a particular exemption. Some examples of these steps include:

- establishing policies and procedures to confirm that all parties acting on behalf of the seller understand the conditions that must be satisfied to rely on the exemption, and
- obtaining information that confirms the purchaser meets the criteria in the exemption.

Whether the types of steps are reasonable will depend on the particular facts and circumstances of the purchaser, the offering and the exemption being relied on. For certain purchasers, such as Canadian financial institutions, Schedule III banks and pension funds, it may not be necessary for the seller to reconfirm the purchaser's status for each distribution to that purchaser.

Certification

22. Who must certify the report?

The certification in item 10 of the report must be provided by a director or officer of the issuer or underwriter filing the report, or by an agent that has been authorized by an officer or director of the issuer or underwriter to prepare and certify the report on behalf of the issuer or underwriter. Refer to item 10 in Annex 1 for guidance on how to date and certify the report.

In signing the certification, the director, officer or agent certifying the report is doing so on behalf of the issuer or underwriter.

Securities legislation of a jurisdiction in which the report is filed may impose liability on any person that makes a statement in the report that, in a material respect and at the time and in light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading. Securities legislation may also impose liability on any director or officer of an issuer or underwriter who authorizes, permits or acquiesces in the filing of such a report, including the individual signing the report for and on behalf of the filer. Such legislation may also provide a defence to liability based on the person or company's knowledge after exercising reasonable diligence. The potential personal liability of directors and officers of the filer is determined by applicable securities legislation and case law.

Offering Materials

23. Are offering materials required to be filed or delivered with the report?

If the securities legislation of a jurisdiction where the distribution occurred requires offering materials for the distribution to be filed with or delivered to the securities regulatory authority or regulator at the same time as the report for the distribution, the materials should be filed or delivered with the report. There is an option on SEDAR+ to include such documents along with the report.

In Ontario, in addition to any materials that may be specified in the provisions of a specific prospectus exemption as being required to be filed with or delivered to the securities regulatory authority or regulator, filers should also consider Part 5 of Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions* and the general definition of "offering memorandum" in subsection 1(1) of the *Securities Act* (Ontario).

ANNEX 4

Contact Information of Public Officials regarding Indirect Collection of Personal Information

Alberta Securities Commission

Suite 600, 250 – 5th Street SW
Calgary, Alberta T2P 0R4
Telephone: 403-297-6454
Toll free in Canada: 1-877-355-0585
Facsimile: 403-297-6156
Public official contact regarding indirect collection of information: FOIP Coordinator

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2
Inquiries: 604-899-6854
Toll free in Canada: 1-800-373-6393
Facsimile: 604-899-6506
Email: FOI-privacy@bcsc.bc.ca
Public official contact regarding indirect collection of information: Privacy Officer

The Manitoba Securities Commission

500 – 400 St. Mary Avenue
Winnipeg, Manitoba R3C 4K5
Telephone: 204-945-2561
Toll free in Manitoba: 1-800-655-5244
Facsimile: 204-945-0330
Public official contact regarding indirect collection of information: Director

Financial and Consumer Services Commission (New Brunswick)

85 Charlotte Street, Suite 300
Saint John, New Brunswick E2L 2J2
Telephone: 506-658-3060
Toll free in Canada: 1-866-933-2222
Facsimile: 506-658-3059
Email: info@fcnbc.ca
Public official contact regarding indirect collection of information: Chief Executive Officer and Privacy Officer

Government of Newfoundland and Labrador

Office of the Superintendent

Department of Digital Government and Service NL

P.O. Box 8700
Confederation Building
2nd Floor, West Block
Prince Philip Drive
St. John's, Newfoundland and Labrador A1B 4J6
Attention: Superintendent of Securities
Telephone: 709-729-2571
Facsimile: 709-729-6187
Public official contact regarding indirect collection of information: Superintendent of Securities

Government of the Northwest Territories Office of the Superintendent of Securities

P.O. Box 1320

Yellowknife, Northwest Territories X1A 2L9

Telephone: 867-767-9305

Facsimile: 867-873-0243

Public official contact regarding indirect collection of information: Superintendent of Securities

Nova Scotia Securities Commission

Suite 400, 5251 Duke Street

Duke Tower

P.O. Box 458

Halifax, Nova Scotia B3J 2P8

Telephone: 902-424-7768

Facsimile: 902-424-4625

Public official contact regarding indirect collection of information: Executive Director

Government of Nunavut

Office of the Superintendent of Securities

Legal Registries Division P.O. Box 1000, Station 570

4th Floor, Building 1106

Iqaluit, Nunavut X0A 0H0

Telephone: 867-975-6590

Facsimile: 867-975-6594

Public official contact regarding indirect collection of information: Superintendent of Securities

Ontario Securities Commission

20 Queen Street West, 22nd Floor

Toronto, Ontario M5H 3S8

Telephone: 416-593- 8314

Toll free in Canada: 1-877-785-1555

Facsimile: 416-593-8122

Email: exemptmarketfilings@osc.gov.on.ca

Public official contact regarding indirect collection of information: Inquiries Officer

Prince Edward Island Securities Office

95 Rochford Street, 4th Floor Shaw Building

P.O. Box 2000

Charlottetown, Prince Edward Island C1A 7N8

Telephone: 902-368-4569

Facsimile: 902-368-5283

Public official contact regarding indirect collection of information: Superintendent of Securities

Autorité des marchés financiers

800, rue du Square-Victoria, 22e étage

C.P. 246, Place Victoria

Montréal, Québec H4Z 1G3

Telephone: 514-395-0337 or 1-877-525-0337

Facsimile: 514-873-6155 (For filing purposes only)

Facsimile: 514-864-6381 (For privacy requests only)

Email: financementdesocietes@lautorite.qc.ca (For corporate finance issuers);

fonds_dinvestissement@lautorite.qc.ca (For investment fund issuers)

Public official contact regarding indirect collection of information: Corporate Secretary

Financial and Consumer Affairs Authority of Saskatchewan

Suite 601 - 1919 Saskatchewan Drive

Regina, Saskatchewan S4P 4H2

Telephone: 306-787-5842

Facsimile: 306-787-5899

Public official contact regarding indirect collection of information: Executive Director, Securities Division

Office of the Superintendent of Securities

Government of Yukon

Department of Community Services

307 Black Street, 1st Floor

P.O. Box 2703, C-6

Whitehorse, Yukon Y1A 2C6

Telephone: 867-667-5466

Facsimile: 867-393-6251

Email: securities@ yukon.ca

Public official contact regarding indirect collection of information: Superintendent of Securities