

Nova Scotia Securities Commission
Rule 45-102(Amendment)
Amendments to Multilateral Instrument 45-102
Resale of Securities

-and-

Amendments to Multilateral Instrument 45-102
Resale of Securities

-and-

Amendments to
Companion Policy 45-102 CP to
Multilateral Instrument 45-102 Resale of Securities

WHEREAS:

1. Pursuant to section 150 of the *Securities Act*, R.S.N.S. 1989, chapter 418, as amended (the "Act"), the Nova Scotia Securities Commission (the "Commission") has power to make rules subject to compliance with the requirements of the Act;
2. Pursuant to section 19 of the Act, the Commission has power to issue and publish policy statements;
3. Amendments to Multilateral Instrument 45-102 Resale of Securities and Amendments to Companion Policy 45-102 CP to Multilateral Instrument 45-102 Resale of Securities, copies of which are attached hereto and are hereinafter called the "Rule" and "Companion Policy" respectively, have been made a rule by one or more of the Canadian securities regulatory authorities; and
4. The Commission is of the opinion that the attainment of the purpose of the Act is advanced by this Instrument.

NOW THEREFORE the Commission hereby

(a) pursuant to the authority contained in section 150 of the Act and subject to compliance with the requirements of section 150A of the Act approves the Rule and makes the same a rule of the Commission;

(b) pursuant to the authority contained in section 19 of the Act and subject to publication in the *Royal Gazette*, issues the Companion Policy as a policy statement of the Commission; and

(c) declares that the rule approved and made pursuant to clause (a) and the policy statement issued pursuant to clause (b) shall both take effect on **September 14, 2005** unless the Governor in Council disapproves the rule or returns it to the Commission in accordance with subsection 150A(3) of the Act in which event the rule and the policy statement shall not become effective until the rule is approved by the Governor in Council.

IN WITNESS WHEREOF this Instrument has been signed by the Chair and Vice-Chair of the Commission, being the members of the Commission prescribed by the Chair pursuant to subsection 15(3) of the Act to attend the hearing of this matter and the quorum with respect to this matter, on the 29 day of June, 2005.

"H. Leslie O'Brien"
H. Leslie O'Brien

"R. Daren Baxter"
R. Daren Baxter

Attachments

Amendments to Multilateral Instrument 45-102 *Resale of Securities*

PART 1 AMENDMENTS TO MULTILATERAL INSTRUMENT 45-102

1.1 **Amendment** - Multilateral Instrument 45-102 *Resale of Securities* (MI 45-102) is amended by:

(a) in MI 45-102, striking “Multilateral Instrument 45-102” and substituting “National Instrument 45-102” as follows:

(i) in the title of the instrument, and

(ii) in the title of Appendix B and C;

(b) in section 1.1,

(i) repealing the definition of “former MI 45-102”,

(ii) repealing and replacing the definition of “MI 45-102” with:

“MI 45-102” means Multilateral Instrument 45-102 *Resale of Securities* that came into force on March 30, 2004;

(iii) repealing and replacing the definition of “MI 45-103” with:

“MI 45-103” means Multilateral Instrument 45-103 *Capital Raising Exemptions* that came into force on June 6, 2003;

(iv) repealing and replacing the definition of “MI 45-105” with the following:

“MI 45-105” means Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* that came into force on August 15, 2003;

(v) adding the following after the definition of “multiple convertible security”:

“NI 45-106” means National Instrument 45-106 *Prospectus and Registration Exemptions*;

(vi) repealing and replacing the definition of “private company” with the following:

“private company” has the same meaning as in securities legislation;

(vii) repealing and replacing the definition of “private issuer” with:

“private issuer” means, as the context requires,

(a) a private issuer as defined in securities legislation,

(b) a private issuer as defined in NI 45-106, or

- (c) in Ontario, for purposes of the definition of private issuer as it existed in 1998 OSC Rule 45-501 (as defined in the Ontario transitional provisions in Appendix D) prior to its repeal on November 30, 2001, a person that
 - (i) is not a reporting issuer or a mutual fund,
 - (ii) is an issuer all of whose issued and outstanding shares
 - (A) are subject to restrictions on transfer contained in the constating documents of the issuer or one or more agreements among the issuer and the holders of its securities; and
 - (B) are beneficially owned, directly or indirectly, by not more than 50 persons or companies counting any two or more joint registered holders as one beneficial owner, exclusive of persons
 - (I) that are employed by the issuer or an affiliated entity of the issuer, or
 - (II) that beneficially owned, directly or indirectly, shares of the issuer while employed by it or an affiliated entity of it and at all times since ceasing to be so employed have continued to beneficially own, directly or indirectly, at least one share of the issuer, and
 - (iii) has not distributed any securities to the public;
- (viii) repealing and replacing the definition of “SEDAR” with:

“SEDAR” has the same meaning as in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;
- (ix) adding the following after the definition of “SEDAR”:

“trade”, in Quebec, has the same meaning as in NI 45-106; and
- (c) amending section 2.1 by striking “New Brunswick and the Yukon Territory” and substituting “and Yukon”;
- (d) amending item 3. of section 2.5 (2) by adding “ or on or after [insert effective date of NI 45-106] in Quebec,” after “ March 30, 2004,”

- (e) amending item 3.(a) and (b) by adding “and, in Quebec, the securities regulatory authority,” after “regulator”,
- (f) amending section 2.5(3) by adding “and, in Quebec, the securities regulatory authority,” after “regulator”,
- (g) repealing and replacing section 2.7 with:

2.7 Exemption for a Trade if the Issuer Becomes a Reporting Issuer After the Distribution Date - Item 1 of subsection 2.5(2), 2.6(3) or 2.8(2) does not apply if the issuer became a reporting issuer after the distribution date by filing a prospectus in a jurisdiction listed in Appendix B and is a reporting issuer in a jurisdiction of Canada at the time of the trade.

- (h) amending section 2.8 by repealing subsection (5);
- (i) amending section 2.9 by repealing and replacing subsection (1) with:
 - (1) In determining the period of time that an issuer was a reporting issuer in a jurisdiction of Canada for the purposes of section 2.5, 2.6 or 2.8, if the issuer was a party to an amalgamation, merger, continuation or arrangement, the selling security holder may include the period of time that one of the parties to the amalgamation, merger, continuation or arrangement was a reporting issuer in a jurisdiction of Canada immediately before the amalgamation, merger, continuation or arrangement.

- (j) in Form 45-102F1,
 - (A) striking “MI 45-102” and substituting “NI 45-102” in the title and in the Notice to selling security holders - collection and use of personal information, and
 - (B) adding the following Quebec contact information to the Notice to selling security holders - collection and use of personal information:

Autorité des marchés financiers
 Tour de la Bourse
 800 square Victoria
 C.P. 246, 22e étage
 Montréal, Québec H4Z 1G3
 Attention: Responsable de l'accès à l'information

- (k) repealing Appendices A, D, E and F and replacing them with the appendices (new Appendices A, D, E and F) in the attached Schedule 4.

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - These amendments are effective September 14, 2005.

APPENDIX A
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES

CONTROL DISTRIBUTIONS

JURISDICTION	SECURITIES LEGISLATION REFERENCE
Alberta	Definition of "control person" in section 1(l) and subclause (iii) of the definition of "distribution" contained in section 1(p) of the <i>Securities Act</i> (Alberta)
British Columbia	Paragraph (c) of the definition of "distribution" contained in section 1(1) of the <i>Securities Act</i> (British Columbia)
Manitoba	Paragraph (b) of the definition of "primary distribution to the public" contained in subsection 1(1) of the <i>Securities Act</i> (Manitoba)
Newfoundland and Labrador	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Newfoundland and Labrador)
New Brunswick	Definition of "control person" and clause (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (New Brunswick)
Northwest Territories	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Nova Scotia	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Nova Scotia)
Nunavut	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Ontario	Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (Ontario)
Prince Edward Island	Clause (iii) of the definition of "distribution" in section 1 of the <i>Securities Act</i> (Prince Edward Island)
Quebec	Paragraph 9 of the definition of "distribution" contained in section 5 of the <i>Securities Act</i> (Quebec)
Saskatchewan	Subclauses 2(1)(r)(iii), (iv) and (v) of <i>The Securities Act, 1988</i> (Saskatchewan)

APPENDIX D
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES

RESTRICTED PERIOD TRADES
(Section 2.3)

Except in Manitoba and the Yukon, the following exemptions from the prospectus requirement in NI 45-106:

- subsection 2.3(2) [Accredited investor]
- subsection 2.5(2) [Family, friends and business associates] (except in Ontario)
- subsection 2.7(2) [Founder, control person and family] (Ontario)
- subsection 2.8(2) [Affiliates]
- subsection 2.9(3) [Offering memorandum] (in British Columbia, New Brunswick, Nova Scotia, and Newfoundland and Labrador)
- subsection 2.9(5) [Offering memorandum] (in Alberta, Manitoba, Northwest Territories, Nunavut, Prince Edward Island, Quebec and Saskatchewan)
- subsection 2.10(2) [Minimum amount investment]
- subsection 2.12(2) [Asset acquisition]
- subsection 2.13(2) [Petroleum, natural gas and mining properties]
- subsection 2.14(2) [Securities for debt]
- subsection 2.19(2) [Additional investment in investment funds]
- subsection 2.30(2) [Isolated trade by issuer]
- subsection 2.40(2) [RRSP/RRIF], if the security acquired under section 2.40 was initially acquired by an individual or an associate of the individual or an RRSP or RRIF established for or by that individual or under which that individual is a beneficiary under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.5 of MI 45-102
- subsection 2.42(3) [Conversion, exchange or exercise] if the security acquired in the circumstances referred to in clause (a) of subsection 2.42 (1) was acquired in accordance with the terms and conditions of a previously issued security under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.5 of MI 45-102
- section 5.2 [TSX Venture exchange offering], if the security acquired under section 5.2 was acquired by
 - (a) a purchaser that, at the time the security was acquired, was an insider or promoter of the issuer of the security, the issuer's underwriter, or a member of the underwriter's "professional group" (as defined in National Instrument 33-105 *Underwriting Conflicts*), or
 - (b) any other purchaser who purchases securities in excess of \$40,000.

as well as the following local exemptions from the prospectus requirement:

- section 3.1 of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta*
- clauses 77(1)(u) and (w) and subclauses 77(1)(ab)(ii) and (iii) of the *Securities Act* (Nova Scotia)
- an exemption from the prospectus requirement in a jurisdiction of Canada that specifies that the first trade is subject to section 2.5 of NI 45-102

Transitional Provisions

1. General: An exemption from the prospectus requirement listed in Appendix D of MI 45-102 in effect on March 30, 2004 or an exemption from the prospectus requirement that specified prior to [*insert effective date of NI 45-106*] that the first trade was subject to section 2.5 of MI 45-102. The exemptions listed in Appendix D on March 30, 2004 were:

- ◆ Sections 131(1)(b), (c), (l), and (m) of the *Securities Act* (**Alberta**)
- ◆ Section 122(d) and 122.2 of the Alberta Securities Commission Rules, section 3.1 of Alberta Securities Commission Rule 72-501 *Distributions to Purchasers Outside Alberta*, subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Section 131(1)(f)(iii) of the *Securities Act* (**Alberta**), if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act* (Alberta), the Alberta Securities Commission Rules or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Sections 74(2)(1) to (6), (16), (18), (19), (23) and (25) of the *Securities Act* (**British Columbia**)
- ◆ Sections 128(a), (b), (c), (e), (f) and (h) of the *Securities Rules* (**British Columbia**) and subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Sections 74(2)(11)(ii), 74(2)(11)(iii) and 74(2)(13) of the *Securities Act* (**British Columbia**) if the security acquired by the selling security holder or the right to purchase, convert or exchange or otherwise acquire, was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or MI 45-103 referred to in this Appendix, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Section 74(2)(12) of the *Securities Act* (**British Columbia**) if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or MI 45-103 referred to in this Appendix, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Clauses 54(3)(f) and (g) and 73(1)(a), (b), (c), (d), (h), (l), (m), (p) and (q) of the *Securities Act* (**Newfoundland and Labrador**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103, or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclause 73(1)(f)(iii) of the *Securities Act* (**Newfoundland and Labrador**) if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the

Securities Act (Newfoundland and Labrador) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102

- ◆ Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**), subsections 3.1(2), 4.1(2), 4.1(4), 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Clauses 77(1)(a), (b), (c), (d), (l), (m), (p), (q), (u), (w), (y), (ab) and (ad) of the *Securities Act* (**Nova Scotia**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclause 77(1)(f)(iii) of the *Securities Act* (**Nova Scotia**) if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act* (Nova Scotia) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z) of Blanket Order No.1 of the Registrar of Securities (**Nunavut**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subparagraph 3(e)(iii) of Blanket Order No.1 of the Registrar of Securities (**Nunavut**) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under Blanket Order No. 1 of the Registrar of Securities (Nunavut) or MI 45-103, or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Clauses 13(1)(a), (b), (c), (g) and (i) of the *Securities Act* (**Prince Edward Island**), subsections 3.1(2), 4.1(2), 4.1(4), and 5.1(2) of MI 45-103 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclause 13(1)(e)(iii) of the *Securities Act* (**Prince Edward Island**) if the right to purchase, convert or exchange was previously acquired under one the above-listed exemptions under the *Securities Act* (Prince Edward Island) or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102
- ◆ Subclauses 81(1)(f)(iii) and (iv) of *The Securities Act, 1988* (**Saskatchewan**) if the convertible security, exchangeable security or multiple convertible security was acquired under one of the exemptions of *The Securities Act, 1988* (Saskatchewan) or

MI 45-103 referred to in this Appendix or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102

- ◆ Clause 81(1)(e) of *The Securities Act, 1988 (Saskatchewan)* if the person or company from whom the securities were acquired obtained the securities under one of the exemptions of *The Securities Act, 1988 (Saskatchewan)* referred to in this Appendix

2. Quebec Provisions

- ◆ Sections 43, 47, 48 and 51 of the *Securities Act (Quebec)* as they read prior to their repeal by section 7 and 8 of *An Act to amend the Securities Act and other legislative provisions*
- ◆ Prospectus and registration exemptions granted pursuant to section 263 of the *Securities Act (Quebec)* before March 30, 2004 if the exemption included as a condition a restricted period of 12 months

3. Ontario Provisions

Definitions

In this Appendix

“**1998 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on December 22, 1998;

“**2001 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on November 30, 2001;

“**2004 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

“**2005 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions* that came into force on September 14, 2005;

“**convertible security**” means, in Ontario, a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;

“**exchangeable security**” means, in Ontario, a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or the right of the issuer to cause the purchase of, a security of another issuer;

“**exchange issuer**” means, in Ontario, an issuer that distributes securities of a reporting issuer held by it in accordance with the terms of an exchangeable security of its own issue;

“**multiple convertible security**” means, in Ontario, a security of an issuer that is convertible into or exchangeable for, or carries the right of the holder to purchase, or of the issuer or exchange issuer to cause the purchase of, a convertible security, an exchangeable security or another multiple convertible security;

“**OSC Rule 45-502**” means Ontario Securities Commission Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans*;

“**Type 1 trade**” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the *Securities Act (Ontario)*;
- section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501;

- (c) section 2.3, 2.12, 2.13 or 2.14 of the 2001 OSC Rule 45-501; or
- (d) section 2.3, 2.12, 2.13, 2.14 or 2.16 of the 2004 OSC Rule 45-501; and

“**underlying security**” means, in Ontario, 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.

(a) Securities Act (Ontario)

Clauses 72(1)(a), (b), (c), (d), (l), (m), (p) and (q) of the *Securities Act (Ontario)* and subclause 72(1)(f)(iii) of the *Securities Act (Ontario)* if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act (Ontario)*, or an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.5 of MI 45-102

(b) 2005 OSC Rule 45-501

Section 2.1 of the 2005 OSC Rule 45-501

Section 2.2 of the 2005 OSC Rule 45-501

(c) 2001 OSC Rule 45-501 and 2004 OSC Rule 45-501

Section 2.3 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.11 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if section 2.5 of MI 45-102 would have been applicable to a first trade in that security by the person making the exempt distribution under section 2.11 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501.

Section 2.12 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.13 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.14 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.16 of the 2004 OSC Rule 45-501

(d) 1998 OSC Rule 45-501

Section 2.4 of the 1998 OSC Rule 45-501

Section 2.5 of the 1998 OSC Rule 45-501

Section 2.11 of the 1998 OSC Rule 45-501

(e) Other

Any provision under which an underlying security was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade or in a trade under section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501.

**APPENDIX E
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**SEASONING PERIOD TRADES
(Section 2.4)**

Except in Manitoba and the Yukon, the following exemptions from the prospectus requirement in NI 45-106:

- subsection 2.1(2) [Rights offering]
- subsection 2.2(4) [Reinvestment plan]
- subsection 2.4(2) [Private issuer]
- subsection 2.11(2) [Business combination and reorganization]
- subsection 2.16(2) [Take-over bid and issuer bid]
- subsection 2.17(2) [Offer to acquire to security holder outside local jurisdiction]
- subsection 2.18(6) [Investment fund reinvestment]
- subsection 2.20(2) [Private investment club]
- subsection 2.21(3) [Private investment fund - loan and trust pools]
- subsection 2.24(4) [Employee, executive officer, director and consultant]
- subsection 2.26(3) [Trades among current or former employees, executive officers, directors or consultants of non-reporting issuer]
- subsection 2.27(4) [Permitted transferees]
- subsection 2.31(3) [Dividends and distributions]
- subsection 2.40(2) [RRSP/RRIF], if the security acquired under section 2.40 was initially acquired by an individual or an associate of the individual or an RRSP or RRIF established for or by that individual or under which that individual is a beneficiary under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.6 of MI 45-102
- subsection 2.42(3) [Conversion, exchange or exercise - security of own issue] if the security acquired in the circumstances referred to in clause (a) of subsection 2.42 (1) was acquired in accordance with the terms and conditions of a previously issued security under
 - (a) one of the exemptions listed above,
 - (b) an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of this Instrument, or
 - (c) an exemption from the prospectus requirement that specified prior to the [insert effective date of NI 45-106] that the first trade was subject to section 2.6 of this Instrument
- subsection 2.42 (3) [Conversion, exchange or exercise - security of a reporting issuer] for a security being traded in the circumstances referred to in clause (b) of subsection 2.42 (1)

as well as the following local exemptions from the prospectus requirement:

- Alberta Securities Commission Rule 45-502 *Trade with RESP*, if not included in Appendix D
- Nova Scotia Securities Commission Blanket Order No. 46
- Prince Edward Island Local Rule 45-510 - Exempt Distributions - Exemptions for Trades Pursuant to Take-over Bids and Issuer Bids.

- An exemption from the prospectus requirement in a jurisdiction of Canada that specifies that the first trade is subject to section 2.6 of NI 45-102

Transitional Provisions

1. General:

An exemption from the prospectus requirement listed in Appendix E of MI 45-102 *Resale of Securities* in effect on March 30, 2004 or an exemption from the prospectus requirement that specified prior to [insert effective date of NI 45-106] that the first trade was subject to section 2.6 of MI 45-102. The exemptions listed in Appendix E of MI 45-102 on March 30, 2004 were:

- ◆ Section 131(1)(f) if not included in Appendix D of this Instrument, sections 131(h), (i), (j), (k), and (y) of the *Securities Act* (**Alberta**) and sections 107(1) (j.1) and (k.1) prior to their repeal by section 5 of the *Securities Amendment Act, 1989* (Alberta), subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Section 74(2)(11)(iii) if not included in Appendix D or F and sections 74(2)(7), (8) if not included in Appendix F, (9) to (11), (13), (22) and (24) of the *Securities Act* (**British Columbia**)
- ◆ Section 128(g) of the *Securities Rules* (**British Columbia**), section 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Section 74(2)(12) of the *Securities Act* (**British Columbia**), if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), the *Securities Rules* (British Columbia) or a multilateral instrument referred to in this Appendix or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Clauses 54(3) and 73(1)(f) if not included in Appendix D or F of this Instrument, (i) if not included in Appendix F, (j), (k) and (n) of the *Securities Act* (**Newfoundland and Labrador**), subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Paragraphs 3(e), (f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**), except for a trade made under subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) that is included in Appendix D or F of this Instrument or a trade made under paragraph 3(g) that is included in Appendix F of this Instrument, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Clause 77(1)(f) of the *Securities Act* (**Nova Scotia**) if not included in Appendix D or F of this Instrument, and clauses 77(1)(h), (i) if not included in Appendix F, (j), (k), (n), (v), (va), (ac), (ae) and (af) of the *Securities Act* (Nova Scotia), and clause 78(1)(a) of the *Securities Act* (Nova Scotia) as it relates to clause 41(2)(j) of the *Securities Act* (Nova Scotia) and Blanket Order No. 37, 38 if not included in Appendix F, 46 and 45-503 if not included in Appendix F, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Paragraphs 3(e), (f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (**Nunavut**), except for a trade made under subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Nunavut) that is included in Appendix D or F of this Instrument or a trade made under paragraph 3(g) that is included in Appendix F of this Instrument, subsection 2.1(2) of MI

45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

- ◆ Clauses 13(1)(e) if not included in Appendix D or F of this Instrument, (f) if not included in Appendix F, (h) and (k) of the *Securities Act (Prince Edward Island)* or section 3.1 or 3.2 of Rule 45-501, section 1.1 of Prince Edward Island Rule 45-502, section 2.1 or 2.2 of Prince Edward Island Rule 45-506 or section 2.1 or 2.2 of Prince Edward Island Rule 45-510, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102
- ◆ Clauses 81(1)(a.1), (e) if not included in Appendix D of this Instrument, (f) if not included in Appendix D or F of this Instrument, (f.1), (g), (h), (i) if not included in Appendix F, (i.1), (j), (k), (o), (cc) and (dd) of *The Securities Act, 1988 (Saskatchewan)*, subsection 2.1(2) of MI 45-103 and sections 2.1, 2.2, 2.3 and 2.4 of MI 45-105 or under an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

2. Quebec Provisions

- ◆ Sections 50 and 52 of the Securities Act (Quebec) as they read prior to their repeal by section 8 of *An Act to amend the Securities Act and other legislative provisions*
- ◆ Prospectus and registration exemptions granted pursuant to section 263 of the *Securities Act (Quebec)* before March 30, 2004 if the exemption included as a condition a seasoning period of 12 months

3. Ontario provisions

Definitions

In this Appendix

“**1998 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on December 22, 1998;

“**2001 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on November 30, 2001;

“**2004 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Exempt Distributions* that came into force on January 12, 2004;

“**2005 OSC Rule 45-501**” means the Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions* that came into force on September 14, 2005;

“**convertible security**” means, in Ontario, a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;

“**exchangeable security**” means, in Ontario, a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or the right of the issuer to cause the purchase of, a security of another issuer;

“**exchange issuer**” means, in Ontario, an issuer that distributes securities of a reporting issuer held by it in accordance with the terms of an exchangeable security of its own issue;

“**multiple convertible security**” means, in Ontario, a security of an issuer that is convertible into or exchangeable for, or carries the right of the holder to purchase, or of the issuer or exchange issuer to cause the purchase of, a convertible security, an exchangeable security or another multiple convertible security;

“**OSC Rule 45-502**” means Ontario Securities Commission Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans*;

“OSC Rule 45-503” means Ontario Securities Commission Rule 45-503 *Trades to Employees, Executives and Consultants*;

“Type 1 trade” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the *Securities Act* (Ontario);
- (b) section 2.4, 2.5 or 2.11 of the 1998 OSC Rule 45-501;
- (c) section 2.3, 2.12, 2.13 or 2.14 of the 2001 OSC Rule 45-501; or
- (d) section 2.3, 2.12, 2.13, 2.14 or 2.16 of the 2004 OSC Rule 45-501; and

“Type 2 trade” means, in Ontario, a distribution in a security under an exemption from the prospectus requirement in:

- (a) clause 72(1)(f) of the *Securities Act* (Ontario) other than a distribution to an associated consultant or investor consultant as defined in OSC Rule 45-503 or a distribution to an associated consultant or investor relations person as defined in MI 45-105;
- (b) clause 72(1)(h), (i), (j), (k) or (n) of the *Securities Act* (Ontario); or
- (c) section 2.5, 2.8 or 2.15 of the 2001 OSC Rule 45-501; or
- (d) section 2.5, 2.8 or 2.15 of the 2004 OSC Rule 45-501; and

“underlying security” means, in Ontario, 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.

(a) *Securities Act* (Ontario)

Clauses 72(1)(f), (i) if not included in Appendix F, (j), (k) and (n) of the *Securities Act* (Ontario), except for a trade made under 72(1)(f)(iii) of the *Securities Act* (Ontario) that is:

- (i) included in Appendix D or F of this Instrument, or
- (ii) contemplated by section 6.5 of Ontario Securities Commission Rule 45-501 *Exempt Distributions*; and

an exemption from the prospectus requirement that specifies that the first trade is subject to section 2.6 of MI 45-102

Clause 72(1)(h) of the *Securities Act* (Ontario) except for a distribution under clause 72(1)(h) of the *Securities Act* (Ontario) of an underlying security that was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade

(b) 2001 OSC Rule 45-501 and 2004 OSC Rule 45-501

Section 2.1 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501

Section 2.5 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501.

Section 2.6 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if an underlying security was distributed under section 2.6 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 on a forced

conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired:

- (a) in a Type 2 trade;
- (b) under section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1 of OSC Rule 45-503, other than a trade by an associated consultant or investor consultant as defined in OSC Rule 45-503; or
- (c) under a provision in Part 2 of MI 45-105.

Section 2.7 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if an underlying security was distributed under section 2.7 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired:

- (a) in a Type 2 trade;
- (b) under section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1 of OSC Rule 45-503, other than a trade by an associated consultant or investor consultant as defined in OSC Rule 45-503; or
- (c) under a provision in Part 2 of MI 45-105.

Section 2.8 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501.

Section 2.11 of the 2001 OSC Rule 45-501 and the 2004 OSC Rule 45-501 if section 2.6 of MI 45-102 would have been applicable to a first trade in that security by the person making the exempt distribution under section 2.11 of the 2001 OSC Rule 45-501 or the 2004 OSC Rule 45-501.

Section 2.15 of the 2004 OSC Rule 45-501

(c) 1998 OSC Rule 45-501

Section 2.7 of the 1998 OSC Rule 45-501

Section 2.8 of the 1998 OSC Rule 45-501

Section 2.9 of the 1998 OSC Rule 45-501 if an underlying security was distributed under section 2.9 of the 1998 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade

Section 2.10 of the 1998 OSC Rule 45-501 if an underlying security was distributed under section 2.10 of the 1998 OSC Rule 45-501 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade

Section 2.17 of the 1998 OSC Rule 45-501

Subsection 2.18(1) of the 1998 OSC Rule 45-501 after the issuer had ceased to be a private issuer for the purposes of the *Securities Act* (British Columbia)

(d) Other

Sections 2.1 and 3.1 of Ontario Securities Commission Rule 45-502.

**APPENDIX F
TO
NATIONAL INSTRUMENT 45-102
RESALE OF SECURITIES**

UNDERWRITERS

(Section 2.13)

Subsection 2.33(2) [Acting as underwriter] of NI 45-106 and subsection 2.11(2) [Business combination and reorganization] or 2.42 (3) [Conversion, exchange or exercise] of NI 45-106, if the original security was acquired under subsection 2.33(2) of NI 45-106 or one of the underwriter exemptions in the transitional provisions listed below

Transitional Provisions:

An exemption from the prospectus requirement listed in Appendix F of MI 45-102 as Appendix F read on March 30, 2004. Exemptions listed in Appendix F of MI 45-102 on March 30, 2004 were:

- ◆ Section 74(2)(15) of the *Securities Act* (**British Columbia**) and section 74(2)(8) or 74(2)(11)(iii) of the *Securities Act* (British Columbia) if the original security was acquired under section 74(2)(15) of the *Securities Act* (British Columbia)
- ◆ Clause 73(1)(r) of the *Securities Act* (**Newfoundland and Labrador**) and section 73(1)(i) or 73(1)(f)(iii) of the *Securities Act* (Newfoundland and Labrador) if the original security was acquired under section 73(1)(r) of the *Securities Act* (Newfoundland and Labrador)
- ◆ Paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (**Northwest Territories**) and paragraph 3(g) or subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories) if the original security was acquired under paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories)
- ◆ Clause 77(1)(r) of the *Securities Act* (**Nova Scotia**) and clause 77(1)(i) or 77(1)(f)(iii) of the *Securities Act* (Nova Scotia) or Blanket Order No. 38 or 45-503 if the original security was acquired under clause 77(1)(r) of the *Securities Act* (Nova Scotia)
- ◆ Paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (**Nunavut**) and paragraph 3(g) or subparagraph 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Nunavut) if the original security was acquired under paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (Nunavut)
- ◆ Clause 72(1)(f)(iii) of the *Securities Act* (**Ontario**) if the original security was acquired under clause 72(1)(r) of the *Securities Act* (Ontario)
- ◆ Clause 72(1)(i) of the *Securities Act* (**Ontario**) if the original security was acquired under clause 72(1)(r) of the *Securities Act* (Ontario)
- ◆ Clause 72(1)(r) of the *Securities Act* (Ontario)
- ◆ Section 2.1 of Prince Edward Island Rule 45-509 and subclause 13(1)(e) (ii) or clause 13(1)(f) of the *Securities Act* (**Prince Edward Island**) or section 1.1 of Prince Edward Island Rule 45-502 if the original security was acquired under section 2.1 of Prince Edward Island Rule 45-509

- ◆ Section 55 of the *Securities Act* (Quebec) as it read prior to its repeal by section 8 of *An Act to amend the Securities Act and other legislative provisions*
- ◆ Clause 81(1)(u) of *The Securities Act, 1988* (**Saskatchewan**) and clause 81(1)(i) or subclause 81(1)(f)(iii) of *The Securities Act, 1988* (Saskatchewan) if the original security was acquired under clause 81(1)(u) of *The Securities Act, 1988* (Saskatchewan)

**Amendments to Companion Policy 45-102CP to
Multilateral Instrument 45-102 *Resale of Securities***

PART 1 AMENDMENTS TO COMPANION POLICY 45-102CP

- 1.1 Amendment** - Companion Policy 45-102CP to Multilateral Instrument 45-102 *Resale of Securities* (the Companion Policy) is amended by:
- (a) in the Companion Policy, striking “Multilateral Instrument 45-102” and substituting “National Instrument 45-102” as follows:
 - (i) in the title of the Companion Policy, and
 - (ii) in subsection 1.1(1) of the Companion Policy;
 - (b) amending section 1.1 by
 - (i) striking “MI 45-102” wherever it appears and substituting “NI 45-102”,
 - (ii) in subsection (1), striking “except Quebec”, and
 - (iii) in subsection (2); striking “Manitoba, New Brunswick and the Yukon Territory” and substituting “Manitoba and Yukon”,
 - (c) amending section 1.2 by
 - (i) in subsections (1) and (3), striking “MI 45-102” wherever it appears and substituting “NI 45-102”,
 - (ii) repealing and replacing subsection (2) with:

(2) Appendices D and E to NI 45-102 list the new harmonized exemptions in National Instrument 45-106 *Registration and Prospectus Exemptions* (NI 45-106) and local exemptions that are subject to the resale restrictions under section 2.5 or 2.6 of NI 45-102, while Appendix F lists the new harmonized exemptions in NI 45-106 applicable to underwriters. Each of these appendices also contains transitional provisions applicable to securities acquired under exemptions listed in the Appendices to MI 45-102 as Appendices D, E and F read on March 30, 2004. For all local exemptions that come into effect after September 14, 2005, you should look to the local instrument itself to see if it specifies that the securities acquired are subject to section 2.5 or 2.6 of NI 45-102 as well as to Appendix D and E to NI 45-102. You may also wish to consult the CSA Notice listing local registration and prospectus exemptions in place in each jurisdiction of Canada, which the CSA will update periodically.
 - (d) repealing and replacing section 1.3 with:

1.3 Transition

- (1) When Multilateral Instrument 45-102 *Resale of Securities* (“former MI 45-102”) came into force on November 30, 2001, that instrument imposed harmonized resale restrictions on the first trade of securities made on or after that date, even if the securities were distributed, or acquired by the selling security holder in the case of a trade that is a control distribution, prior to November 30, 2001. These securities were subject to prescribed restricted periods and seasoning periods of either four or twelve months. When MI 45-102 was implemented on March 30, 2004, the securities of all reporting issuers became subject to four month restricted and seasoning periods under section 2.5 and 2.8 or four month seasoning periods under section 2.6 of MI 45-102. This meant that any existing restricted period or seasoning period imposed under Part 2 of former MI 45-102 that exceeded four months was reduced to four months under MI 45-102. Under NI 45-102, securities of all reporting issuers continue to be subject to a four month restricted period under subsection 2.5(2) or 2.8(2) of the Instrument.
 - (2) Item 3. of subsection 2.5(2) of MI 45-102 required that the certificate or the ownership statement evidencing a security that is the subject of the first trade carry either a legend or a legend restriction notation disclosing the resale restrictions. This legend requirement applied only to securities distributed on or after MI 45-102 comes into effect on March 30, 2004 in all jurisdictions except Quebec. We have added language to Item 3. of subsection 2.5(2) of NI 45-102 to clarify that the legend requirement in NI 45-102 will only apply to securities distributed in Quebec on or after NI 45-106 comes into effect on September 14, 2005.
 - (3) Issuers may continue to replace those certificates that are legended in accordance with former MI 45-102 with a certificate (or an acceptable electronic alternative) carrying the legend (or legend restriction notation) specified in item 3. of subsection 2.5(2) of NI 45-102. As was the case under former MI 45-102, certificates representing securities distributed prior to November 30, 2001 do not have to be legended.
- (e) amending section 1.4 by
- (i) striking “MI 45-102” and substituting “NI 45-102”, and
 - (ii) striking “Manitoba, New Brunswick and the Yukon Territory” and substituting “Manitoba and Yukon”;
- (f) amending sections 1.5 and 1.6 by striking “MI 45-102” wherever it appears and substituting “NI 45-102”;
- (g) repealing and replacing section 1.7 with:

1.7 Legending of Securities - Item 3. of subsection 2.5(2) of NI 45-102 imposes a legend requirement for securities distributed under any of the provisions listed in Appendix D to NI 45-102 or another prospectus exemption of any jurisdiction subject to the resale restrictions in subsection 2.5(2) of NI 45-102. Beneficial security holders must receive either a paper certificate representing their security or an electronic alternative such as an ownership statement under a direct registration system, scheduled to be phased into

operation during 2005. If a paper certificate is issued, the certificate must carry the legend specified in item 3 that notifies the beneficial security holder of the applicable resale restrictions. Similarly, an ownership statement must carry a restricted legend notation that notifies the beneficial security holder of the applicable resale restrictions. Issuers may add additional wording to that found in item 3. of subsection 2.5(2) of NI 45-102. If you supplement the specified text of the legend on the certificate or the restricted legend notation on the ownership statement, that additional wording cannot alter the meaning of the specified wording. You should also look to section 1.10 for further guidance on the legending of convertible and underlying securities.

- (h) amending section 1.8 by:
 - (i) in subsection (1) striking “MI 45-102” and substituting “NI 45-102”, and
 - (ii) repealing subsection (2);
- (i) amending sections 1.9, 1.11, 1.12, 1.13, 1.14 and 1.15 by striking “MI 45-102” wherever it appears and substituting “NI 45-102”;
- (j) amending section 1.16 by:
 - (i) striking “MI 45-102” wherever it appears and substituting “NI 45-102”, and
 - (ii) striking the last sentence.

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - These amendments are effective September 14, 2005.