

## AMENDMENT TO ALBERTA SECURITIES COMMISSION RULES

### *CONSEQUENTIAL RULE AMENDMENTS IN RESPONSE TO STATUTORY AMENDMENTS IN THE SECURITIES AMENDMENT ACT, 2003 RELATING TO PROSPECTUS AND REGISTRATION EXEMPTIONS*

#### Part 1 Amendments

1. **Section 1 is amended by repealing clause (j).**
2. **Subclause (c)(i) of section 66 is amended by adding “or section 66.2 of the Rules” after “section 86(1)(e) of the Act”.**
3. **Section 66.1 is amended by**
  - (a) **repealing the title and substituting the following “66.1 Amount re section 86(1)(s) of the Act” and**
  - (b) **repealing subsections (1), (3), (4) and (5).**
4. **The following is added after section 66.1:**

66.2 Registration exemption if aggregate acquisition cost is not less than \$97,000 - The dealer registration requirement does not apply in respect of a trade of a security if

  - (a) the purchaser purchases as principal, and
  - (b) the trade is in a security that has an aggregate acquisition cost to the purchaser of not less than \$97,000.
5. **Section 122 is amended by**
  - (a) **repealing clause (b), and**
  - (b) **adding to subclause (d)(i) “or section 122.2 of the Rules” after “section 131(1)(d) of the Act”.**
6. **Section 122.1 is amended by repealing subsections (1), (3), (4) and (5).**
7. **The following is added after section 122.1:**

122.2 Prospectus exemption if aggregate acquisition cost is not less than \$97,000 - (1) The prospectus requirement does not apply in respect of a distribution of a security if

  - (a) the purchaser purchases as principal,

(b) the trade is in a security that has an aggregate acquisition cost to the purchaser of not less than \$97,000, and

(c) if any document purporting to describe the business and affairs of the issuer and prepared for review by prospective purchasers to assist in making an investment decision in respect of the securities being sold is delivered to a purchaser, the issuer delivers to the purchaser, at the same time or before the purchaser signs the agreement to purchase the security, an offering memorandum in a form that

(i) complies with sections 4.2 and 4.4 of Multilateral Instrument 45-103 *Capital Raising Exemptions* (“MI 45-103”), or

(ii) includes

(A) the certificate required by section 4.4 of MI 45-103 and  
(B) a statement describing the rights of action provided by section 204 of the Act and the time limits specified by section 211 of the Act in which an action to enforce a right under section 204 must be commenced.

(2) Subsection (1)(c) does not apply if the documents delivered consist only of one or more of the following

(a) an annual report, annual information form, interim report,

(b) information circular, take-over bid circular, issuer bid circular, prospectus, or

(c) continuous disclosure document, the content of which is prescribed by Alberta securities law,

that has been filed.

(3) The issuer must update the offering memorandum in the circumstances described in section 4.4(4) of MI 45-103.

**8. Section 125 is repealed.**

**9. Section 126 is amended**

**(a) in subsection (1) by striking out “122(b) or (d)” and substituting “122(d)” and**

**(b) by adding the following after subsection (2):**

(3) The first trade in a security distributed under section 122.2 is subject to section 2.5 of Multilateral Instrument 45-102 *Resale of Securities*.

**10. Section 127 is repealed.**

**11. The following is added after former section 127:**

127.1 Offering memorandum required for exempt purchaser - (1) If any document purporting to describe the business and affairs of the issuer and

prepared for review by prospective purchasers to assist them in making an investment decision in respect of the securities being sold is delivered to a purchaser under section 131(1)(c) of the Act, in respect of an offering commenced after implementation of this section, the issuer must deliver to the purchaser, at the same time or before the purchaser signs the agreement to purchase the security, an offering memorandum in a form that

(a) complies with sections 4.2 and 4.4 of Multilateral Instrument 45-103 *Capital Raising Exemptions* (“MI 45-103”), or

(b) includes

(i) the certificate required by section 4.4 of MI 45-103 and

(ii) a statement describing the rights of action provided by section 204 of the Act and the time limits specified by section 211 of the Act in which an action to enforce a right under section 204 must be commenced.

(2) Subsection (1) does not apply if the documents delivered consist only of one or more of the following

(a) an annual report, annual information form, interim report,

(b) information circular, take-over bid circular, issuer bid circular, prospectus, or

(c) continuous disclosure document, the content of which is prescribed by Alberta securities law,

that has been filed.

(3) The issuer must update the offering memorandum in the circumstances described in section 4.4(4) of MI 45-103.

**127.2 Offering memorandum filing requirements** - An issuer that delivered an offering memorandum under

(a) section 131(1)(c) of the Act,

(b) section 122.2 of the Rules, or

(c) section 131(1)(d), (q), (r), (s), (t) or (bb) of the Act, as they existed prior to their repeal by the *Securities Amendment Act, 2003*,

must file a copy of the offering memorandum and any required update of a previously filed offering memorandum on or before the 10<sup>th</sup> day after each distribution under the offering memorandum or an update of the offering memorandum.

**12. Section 128 is amended by striking out “that is referred to in section 127(1)”.**

**13. Section 129 is repealed.**

**14. The following is added after former section 129:**

**129.1 Report of trade or distribution** – (1) Subject to subsection (2) an issuer that makes a distribution under section 131(1)(b), (c), (l), or (m) of the Act or

section 122(d) or 122.2 of the Rules, must, on or before the 10<sup>th</sup> day following completion of the distribution file a report,

- (a) in accordance with Form 20, or
- (b) on implementation of Form 45-103F4 *Report of Exempt Distribution*, in accordance with that form.

(2) A mutual fund or non-redeemable investment fund is not required to file the report under subsection (1) in the time required under subsection (1) for a distribution under section 122.2 of the Rules provided the report is filed not later than 30 days after the financial year end of the mutual fund or non-redeemable investment fund.

129.2 Transitional provision re: report of trade – (1) An issuer that makes a distribution under section 131(1)(a), (d), (q), (r), (s), (t), (u) or (bb) of the Act, as they existed prior to their repeal by the *Securities Amendment Act, 2003*, must, on or before the 10<sup>th</sup> day following completion of the distribution, file a report of trade in accordance with Form 20, or on implementation of Form 45-103F4 *Report of Exempt Distribution*, in accordance with that form.

(2) Notwithstanding subsection (1), a report of trade is not required in respect of a trade under section 131(1)(a) by which a financial institution acquires from a customer an evidence of indebtedness.

**15. Form 43 – *Offering Memorandum* is repealed.**

**Part 2 Effective Date**

1. **This rule, other than sections 1, 3, 6, 10 and 15, is effective on** · [date of proclamation of *Securities Amendment Act, 2003*]
2. **Sections 1, 3, 6, 10 and 15 of this rule are effective** · [30<sup>th</sup> day after proclamation of *Securities Amendment Act, 2003*]