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PERLEY-ROBERTSON,
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SECURITIES ALERT

Canadian Securities Administrators (CSA) Introduce New Report for Exempt Distributions

More information required effective June 30, 2016

Issuers and underwriters who rely on certain prospectus exemptions to distribute securities are required to file a report of exempt distribution within the timeframe prescribed in National Instrument 45-106 *Prospectus Exemptions*. Currently, the form of report in most jurisdictions is Form 45-106F1 *Report of Exempt Distribution*, except in BC, where the form of report is Form 45-106F6 *British Columbia Report of Exempt Distribution*. The CSA is amending this dual reporting requirement by introducing a new single harmonized Form 45-106F1 report (the New Report). The New Report is expected to come into effect in all CSA jurisdictions on June 30, 2016.

The New Report is intended both to reduce the compliance burden for issuers and underwriters through the introduction of a harmonized report of exempt distribution and also to provide securities regulators with greater insight into the exempt market. While the first benefit may be helpful to issuers with a geographically dispersed subscriber base, the second requirement to provide more information will be the most noticeable result for most small or non-reporting issuers.

The new information requirements will require increased disclosure by issuers or underwriters filing a New Report, including:

- additional details about the issuer including,
 - the National Registration Database (NRD) number for any registrant named in the New Report
 - The issuer's System for Electronic Document Analysis and Retrieval (SEDAR) profile number, legal entity identifier and securities CUSIP number (to the extent applicable).
 - The previous legal name of any issuer that has changed its name within the previous twelve months.
 - The issuer's primary industry (including NAICS Code), number of employees and size of assets
 - The issuer's date of formation and financial year end.
- identities of the directors, executive officers and promoters of issuers unless such information is publically available (as it is for reporting issuers).
- identities of control persons of certain (primarily non-reporting) issuers in a non-public schedule
- additional details about the securities distributed and, for certain jurisdictions, details about the documents provided in connection with the distribution, such as offering memoranda or crowdfunding offering documents.
- specific details about the prospectus exemptions relied on, both on an aggregate and per investor basis, and

- details about compensation paid to registrants, connected persons, insiders and employees of the issuer involved in the distribution

As mentioned previously, the New Report provides carve-outs from certain information requirements for:

- Investment fund issuers,
- reporting issuers and their wholly owned subsidiaries
- foreign public issuers and their wholly owned subsidiaries, and
- issuers distributing eligible foreign securities only to permitted clients.

In addition, an issuer is not required to provide certain information in the New Report if the information can be gathered through the issuer's continuous disclosure filings, the issuer's profile on SEDAR or a registrant firm's profile on the NRD.

Overall, it seems likely that small or non-reporting issuers will find the more comprehensive information requirements of the New Report more challenging and time-consuming to complete, particularly for the first few filings.

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Contact us today and speak with a member of our securities law team.

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