



NOTICE OF ADOPTION

**COMMISSION LOCAL RULE 72-501
*DISTRIBUTION OF SECURITIES TO PERSONS OUTSIDE NEW BRUNSWICK***

AND

**REPEAL OF COMMISSION LOCAL POLICY 72-601
*DISTRIBUTION OF SECURITIES OUTSIDE NEW BRUNSWICK***

Introduction

The Financial and Consumer Services Commission (Commission) recently approved Local Rule 72-501 *Distribution of Securities to Persons Outside New Brunswick* (Local Rule 72-501), Companion Policy 72-501CP, and the proposed repeal of Local Policy 72-601 *Distribution of Securities Outside New Brunswick* (Local Policy 72-601).

Pursuant to section 9 of New Brunswick Regulation 2010-127 under the *Securities Act* (O.C. 2010-440), a rule comes into force on the day the rule is published electronically by the Commission as required under paragraph 201(1)(a) of the *Securities Act*, S.N.B. 2004, c. S.5-5, or on such later date as is specified in the rule. Accordingly, the coming into force of Local Rule 72-501 and the repeal of Local Policy 72-601 become effective on 6 January 2014.

Background

On 17 June 2013, the New Brunswick Securities Commission (now the Financial and Consumer Services Commission of New Brunswick) approved publication for comment of proposed Local Rule 72-501 and the proposed repeal of Local Policy 72-601, both of which were published electronically on the Commission web site on 25 July 2013 and in the 7 August 2013 edition of *The Royal Gazette*. The 60-day consultation period ended on 23 September 2013. There were no comments submitted during the comment period, and no changes were administered to proposed Local Rule 72-501.

On 21 October 2013, the Commission approved the making of proposed Local Rule 72-501 and the proposed repeal of Local Policy 72-601. On 2 December 2013, the Minister of Justice consented to the making of proposed Local Rule 72-501 and the proposed repeal of Local Policy 72-601.

Substance and Purpose of Local Rule 72-501

Currently, under Local Policy 72-601, where reasonable steps are taken by the issuer, underwriters and other participants effecting the distribution to ensure that the securities come to rest outside New Brunswick, the Commission takes the view that a prospectus is not required nor is an exemption from the prospectus requirement necessary.

Local Rule 72-501 represents a new approach in that it provides registration and prospectus exemptions for distributions outside of New Brunswick. It sets out the circumstances in which a distribution of securities to purchasers outside of New Brunswick is exempt from the registration and prospectus requirement of securities legislation in New Brunswick. However, it does not establish bright line tests for determining when a distribution outside New Brunswick also constitutes a distribution in New Brunswick, to which a prospectus requirement applies. Consequently, this requirement will depend upon the facts and circumstances of the distribution.

Questions

If you have any questions, please refer them to:

Jason Alcorn
Legal Counsel, Securities
Financial and Consumer Services Commission
Tel: 506-643-7857
Fax: 506-658-3059
Email: jason.alcorn@fcnb.ca