



**IN THE MATTER OF THE SECURITIES ACT S.N.B. C. S-5.5 (the Act)**

**AND**

**IN THE MATTER OF  
EXEMPTION FROM THE PROSPECTUS REQUIREMENT FOR CERTAIN DISTRIBUTIONS  
THROUGH AN INVESTMENT DEALER**

**Blanket Order 45-508**

Section 208

**WHEREAS:**

1. Terms defined in the *Act* or National Instrument 14-101 *Definitions* have the same meaning in this Instrument.
2. In this Instrument:  
  
“investment dealer” has the same meaning as in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;  
  
“listed security” means a class of equity security of an issuer listed on the TSX Venture Exchange, the Toronto Stock Exchange, the Canadian Securities Exchange, or Aequitas Neo Exchange Inc.;  
  
“offering material” means a document purporting to describe the business and affairs of an issuer that has been prepared primarily for delivery to and review by a prospective purchaser so as to assist the prospective purchaser to make an investment decision in respect of securities being sold in a distribution under this Instrument; and  
  
“offering news release” means the news release of an issuer announcing its intention to conduct a distribution under this Instrument.
3. The Commission considers it would not be prejudicial to the public interest to make the following order.

**IT IS ORDERED** pursuant to section 208 of the *Act* that:

4. that the prospectus requirement does not apply to a distribution by an issuer of a security of its own issue if all of the following conditions are met:

- (a) the issuer is a reporting issuer in at least one jurisdiction of Canada;
- (b) the issuer's equity securities are listed for trading on the TSX Venture Exchange, the Toronto Stock Exchange, the Canadian Securities Exchange or Aequitas Neo Exchange Inc.;
- (c) the issuer has filed in each jurisdiction of Canada in which it is a reporting issuer all periodic and timely disclosure documents that it is required to have filed in that jurisdiction as required by each of the following:
  - (i) applicable securities legislation,
  - (ii) an order issued by the regulator or securities regulatory authority,
  - (iii) an undertaking to the regulator or securities regulatory authority;
- (d) the issuer has issued and filed the offering news release as set out in section 5;
- (e) the distribution is of a listed security, a unit consisting of a listed security and a warrant, or a security convertible into a listed security at the security holder's sole discretion;
- (f) the purchaser purchases the security as principal;
- (g) the purchaser has obtained advice regarding the suitability of the investment and, if the person is resident in a jurisdiction of Canada, that advice has been obtained from a person that is registered as an investment dealer in the jurisdiction; and
- (h) the purchaser and the issuer enter into a subscription agreement that contains the conditions set out in sections 6 and 7.

5. The offering news release must include

- (a) reasonable detail of the proposed distribution and proposed use of gross proceeds including:
  - (i) the minimum and maximum number of securities proposed to be distributed and the minimum and maximum aggregate gross proceeds of the distribution; and
  - (ii) a description of the principal purposes, with approximate amounts, for which the issuer will use the gross proceeds, assuming both the minimum and maximum offering;
- (b) disclosure of any material fact about the issuer that has not been generally disclosed; and
- (c) a statement that there is no material fact or material change about the issuer that has not been generally disclosed.

6. The subscription agreement between the issuer and purchaser must contain a contractual right of action against the issuer for rescission or damages that

- (a) is available to the purchaser if a document or core document, each as defined in section 161.1 of the Act, contains a misrepresentation that was not corrected before the purchaser acquires a security under this exemption, without regard to whether the purchaser relied on the misrepresentation;
  - (b) is enforceable by the purchaser delivering a notice to the issuer
    - (i) in the case of an action for rescission, within 180 days after the purchaser signs the agreement to purchase the security, or
    - (ii) in the case of an action for damages, before the earlier of
      - A. 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or
      - B. 3 years after the date the purchaser signs the agreement to purchase the security;
  - (c) is subject to the defense that the purchaser had knowledge of the misrepresentation;
  - (d) in the case of an action for damages, provides that the amount recoverable
    - (i) must not exceed the price at which the security was offered, and
    - (ii) does not include all or any part of the damages that the issuer proves does not represent the depreciation in value of the security resulting from the misrepresentation; and
  - (e) is in addition to, and does not detract from, any other right of the purchaser.
7. The issuer must represent each of the following to the purchaser in the subscription agreement:
- (a) the issuer's "documents" and "core documents", each as defined in section 161.1 of the Act, do not contain a misrepresentation;
  - (b) there is no material fact or material change related to the issuer that has not been generally disclosed.
8. Other than the subscription agreement, any offering material provided to a purchaser in connection with a distribution under this Instrument must be filed with the regulator or securities regulatory authority no later than the day that the material was first provided to a purchaser.
9. The first trade of a security acquired under this Instrument is subject to section 2.5 of National instrument 45-102 *Resale of Securities*.

10. An issuer that distributes a security under this Instrument must file a report in New Brunswick no later than the 10th day after the distribution.
11. The required form of report under section 10 is Form 45-106F1.
12. This order comes into effect on xx, 2015 and expires on \*\*, 2018.

**DATED** at Saint John, New Brunswick this \_\_\_\_ day of \_\_\_\_\_, 2015.

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