

November 16, 2005

Dear Client/Colleague:

New Private Placement Rules

The securities administrators of all of the provinces and territories of Canada have adopted National Instrument 45-106 *Prospectus and Registration Exemptions* (“NI 45-106”) which consolidates and harmonizes the majority of the prospectus and registration exemptions available for private placements and related transactions into one new instrument. NI 45-106 was effective September 14, 2005, but allows most of the former exemptions to be used during a transitional period ending November 30, 2005.

The prospectus and registration exemptions across Canada are now largely harmonized under NI 45-106; however, there are still differences between jurisdictions. Several jurisdictions are also retaining local exemptions outside of NI 45-106, including British Columbia. Effective September 14, 2005, Multilateral Instrument 45-103 *Capital Raising Exemptions* and Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors and Consultants* have been repealed because the exemptions in these instruments are now provided in NI 45-106.

Summary of Changes in British Columbia

The principal changes to the available prospectus and registration exemptions in British Columbia are as follows (for your convenience, we reference the applicable section numbers of NI 45-106 below):

Minimum Dollar Amount Exemption (Section 2.10)

- The \$97,000 minimum investment exemption for private placements has been increased to a minimum acquisition cost of \$150,000 to persons purchasing as principal, and this amount must be paid at the time of the trade. The exemption is now available in all jurisdictions of Canada.

Asset Purchase Exemption (Section 2.12)

- The minimum fair value of assets for the purposes of the asset purchase exemption has also been increased from \$100,000 to \$150,000. The exemption is now available in all jurisdictions of Canada.

Accredited Investor (Section 2.3)

- Securities of any value may still be sold to investors who are “accredited investors” and the definition of who qualifies as “accredited investors” under this exemption remains substantially the same. NI 45-106 expands the definition to include investment funds managed by a registered adviser (or an adviser exempt from registration). The accredited investor exemption is now available in all jurisdictions of Canada, but is not completely uniform in all jurisdictions.

Affiliates (Section 2.8)

- NI 45-106 allows an issuer to distribute securities to an affiliate that is purchasing as principal. An “affiliate” means a subsidiary or parent company of the issuer or a company controlled by the same entity as the issuer. This exemption is available in all jurisdictions of Canada.

Summary of Changes in Other Jurisdictions

Some other notable changes under NI 45-106 affecting other jurisdictions are as follows:

Ontario

- The \$150,000 minimum investment exemption has been re-introduced in Ontario.
- The shares for debt exemption to a creditor to settle a *bona fide* debt which is already available in British Columbia to reporting issuers has been adopted in Ontario (and all other jurisdictions).
- The “family, friends and business associates” exemption carried over to NI 45-106 from the former instrument has not been adopted in Ontario. Instead, Ontario has adopted a modified “founder, control persons and family” exemption which does not include close personal friends or close business associates.
- The petroleum, natural gas and mining properties exemption under NI 45-106 has been adopted in Ontario which broadens a similar mining claims exemption formerly available in Ontario.
- The offering memorandum exemption and TSX Venture Exchange short form offering document exemption have not been adopted in Ontario.

Quebec

- Quebec has adopted substantially all of the provisions of NI 45-106 including the accredited investor, the “family, friends and business associates”, the petroleum, natural gas and mining properties and the shares for debt exemptions.
- National Instrument 45-102 *Resale of Securities* has been adopted in Quebec allowing an issuer to issue securities in Quebec having a four month hold period even where the issuer is not a “reporting issuer” in Quebec, provided the issuer is a “reporting issuer” in at least one province of Canada.

Others

- The offering memorandum exemption is available for use in British Columbia, New Brunswick, Nova Scotia and Newfoundland and Labrador without a requirement for investors to meet certain eligibility criteria. The exemption is available for use in Alberta, Saskatchewan, Manitoba, Quebec, Prince Edward Island, Northwest Territories and Nunavut subject to investors meeting certain eligibility criteria.
- All investment funds may use the offering memorandum exemption in British Columbia, New Brunswick, Nova Scotia and Newfoundland and Labrador. In Alberta, Prince Edward Island, Northwest Territories and Nunavut, mutual funds must be “reporting issuers” to use the offering memorandum exemption, and in Saskatchewan, Manitoba and Quebec, in addition to being

“reporting issuers”, mutual funds must also be listed on a stock exchange or quoted on an over-the-counter market.

If you have any questions or would like more information, please contact us as set out below:

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Yours truly,

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