



Business Lawyers

**BUSINESS GROUP LEGAL UPDATE:
CHANGES TO CAPITAL RAISING PROSPECTUS EXEMPTIONS**

April 20, 2015

In February of this year, the Canadian Securities Administrators announced the adoption of amendments to National Instrument 45-106 – *Prospectus and Registration Exemptions*, including amendments to the accredited investor (“AI”) and minimum amount investment (“MAI”) prospectus exemptions. It is expected that these changes will come into effect on May 5, 2015. Once in effect, these changes will have an impact on how and when issuers and investors may rely on the AI and MAI prospectus exemptions.

AI Exemption

In order for an individual investor to qualify for the AI exemption, the issuer must obtain a prescribed form of risk acknowledgement from the investor. The form describes certain risks associated with purchasing securities in the prospectus exempt market.

The amendments also include expanded guidance on the steps that an issuer should take to verify the status of investors who rely on the AI exemption. The guidance suggests that the previous market practice of securing investor representations in a subscription agreement may not be sufficient without additional verification steps. These steps may include, for example, securing further documentation or information to verify that an investor’s income or assets meet or exceed the thresholds set under the AI exemption. As a result, we expect to see new market practices develop in Canada around accredited investor verification procedures. It is currently not clear how these new market practices will develop.

MAI Exemption

When these changes come into effect, the MAI prospectus exemption (\$150,000 for B.C. investors) will no longer be available to investors that are individuals.

Changes to Current Practices

The above changes will require changes to investment documents currently in use, as well as market practices regarding confirmation of AI status. Issuers of securities that wish to use either the AI or the MAI prospectus exemption must update their investment documents to ensure compliance with the changes.

Issuers that currently rely on the private issuer prospectus exemption must also review and update their investment documents and procedures, as this prospectus exemption incorporates the updated AI prospectus exemption.

Implications for Investors

Investors who invest as individuals (i.e. not through a company) in reliance on the AI prospectus exemption can expect the above changes to impact the investment process. While market practices develop around what verification steps an issuer must take, investors may experience different requests from different issuers as they attempt to comply with this new regulatory guidance put forth by the Canadian Securities

Administrators. Individual accredited investors will be asked to sign additional paperwork, including the new risk acknowledgement form.

Individual investors (i.e. non-corporate) who previously relied on the MAI prospectus exemption will no longer be able to rely on that exemption.

About Reed Pope Law Corporation

Reed Pope Law Corporation is a leading business law firm based in Victoria, British Columbia. We offer top-tier service to a wide variety of businesses involved in local, national, and international commercial dealings and transactions, including finance and mergers and acquisitions. We are trusted counsel to prominent entrepreneurs in British Columbia and Alberta, as well as many start-up and emerging entities, family-owned businesses and not-for-profit organizations. Drawing on our depth of experience and collaborative approach to practice, we strive to generate positive, cost-effective outcomes for our clients. We also advise clients on a range of real estate development matters and commercial disputes.

Please do not hesitate to contact a member of Reed Pope Law Corporation's Business Group should you have any questions.

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