

General Order 45-538
Self-Certified Investor Prospectus Exemption

In the Matter of
The Securities Act, 1988

Order

WHEREAS the Financial and Consumer Affairs Authority of Saskatchewan (the **FCAA**) has assigned to the Executive Director of the Securities Division, FCAA (the **Executive Director**) the power to make exemption orders under the provision of *The Securities Act, 1988* (the **Act**) including orders of general application;

AND WHEREAS section 58 of the Act requires that a prospectus relating to the distribution of a security has been filed and the Executive Director has issued a receipt for it;

AND WHEREAS National Instruments have been adopted as regulations in Saskatchewan under *The Securities Commission (Adoption of National Instruments) Regulations* that allow for certain exemptions from the prospectus requirement in section 58 of the Act;

AND WHEREAS FCAA Securities Division staff (**Staff**) has applied to the Executive Director for an Order pursuant to section 160 of the Act that the prospectus requirement in section 58 of the Act does not apply to certain distributions of securities by an issuer as outlined below;

AND WHEREAS terms defined in the Act, National Instrument 14-101 *Definitions*, National Instrument 45-102 *Resale of Securities* (**NI 45-102**) and National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) have the same meaning in this Order;

AND WHEREAS in this Order:

“**Accredited Investor**” has the meaning ascribed to it in NI 45-106;

“**Acknowledgement**” means a document in the form specified in Appendix 2 *Acknowledgement* to this Order;

“Corresponding Exemption” means an order or ruling of another securities regulatory authority or securities regulator in Canada that provides an exemption from the prospectus requirement that is substantially similar to this Order;

“Listed Issuer Investment” means the distribution of a security where both of the following apply

- (a) the issuer has a class of equity security currently listed and posted for trading on the TSX Venture Exchange, the Toronto Stock Exchange, the Canadian Securities Exchange or Neo Exchange Inc. and is not in default of the periodic and timely disclosure requirements applicable to it as a reporting issuer, and
- (b) the purchaser has received advice regarding the suitability of the investment from a person or company, registered under securities legislation in the jurisdiction of the purchaser, that is qualified in the circumstances to provide such advice;

“Participating Jurisdiction” means Alberta and Saskatchewan and each other jurisdiction of Canada that adopts a Corresponding Exemption;

“Private Issuer” has the meaning ascribed to it in NI 45-106;

“Qualifying Criteria” means the criteria specified in Schedule A *Qualifying Criteria* to Appendix 2 to this Order, as amended from time to time;

“Self-Certified Investor” means a person or company that has completed the Acknowledgement and has solemnly declared a Statutory Declaration, as contemplated in subsection 1(e) of this Order; and

“Statutory Declaration” means a completed statutory declaration in the form specified in Appendix 1 *Statutory Declaration* to this Order;

AND WHEREAS it has been represented to the Executive Director that:

- (a) A new additional prospectus exemption has the potential to further facilitate the capital raising efforts of businesses in Saskatchewan by allowing purchasers who do not currently meet the financial thresholds or other criteria required to qualify as an accredited investor to invest alongside accredited investors; provided the purchaser meets other criteria intended to demonstrate the purchaser’s financial and investment knowledge;
- (b) Staff understands that the securities regulatory authority or regulator in Alberta intends to issue a rule, instrument or blanket order providing equivalent exemptions from the securities law of its respective jurisdiction;

AND WHEREAS the Executive Director is of the opinion that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED under section 160 of the Act:

1. The prospectus requirement in section 58 of the Act does not apply to a distribution of securities by an issuer provided all of the following apply:
 - (a) the head office of the issuer is located in a Participating Jurisdiction;
 - (b) except in the case of a Listed Issuer Investment,
 - (i) the aggregate acquisition cost of the securities of the issuer acquired by the purchaser under this Order or a Corresponding Exemption in the calendar year does not exceed \$10,000, and
 - (ii) the purchaser represents to the issuer in the subscription agreement that the aggregate acquisition cost of the securities of all issuers acquired by the purchaser in the calendar year under this Order or a Corresponding Exemption, other than a Listed Issuer Investment, does not exceed \$30,000;
 - (c) the distribution to the purchaser is made concurrently with a distribution to an Accredited Investor and the purchaser is provided access to substantially the same information about the securities being distributed as is provided to the Accredited Investor;
 - (d) the purchaser purchases as principal;
 - (e) at or before the time the purchaser signs the agreement to purchase the securities, the issuer obtains from the purchaser a completed Statutory Declaration, that is dated within 36 months of the distribution and to which is attached a completed Acknowledgement in which the purchaser has completed both:
 - (i) Part A confirming that the purchaser meets the Qualifying Criteria, and
 - (ii) Part B confirming that the purchaser has read and understood each of the acknowledgements in that part;
 - (f) the issuer does not know and would not reasonably be expected to know that the statements made by the purchaser in the Acknowledgement or the representation referred to in section 1(b)(ii) of this Order are false;

- (g) in the case of an issuer that is not a Private Issuer, the issuer, on or before the 10th day after the closing of the distribution, files a completed Form 45-106F1 *Report of Exempt Distribution*, together with the applicable fee; and
 - (h) the issuer retains a copy of the Statutory Declaration and Acknowledgement for 8 years after the distribution;
 - (i) The first trade of a security acquired under this section or a Corresponding Exemption is subject to section 2.5 of NI 45-102
2. This Order comes into effect on March 31, 2021 and expires on April 1, 2024.

Dated March 31, 2021.

“Dean Murrison”

Dean Murrison
Executive Director, Securities Division
Financial and Consumer Affairs
Authority of Saskatchewan