

# VENTURE ISSUERS ARE REMINDED TO CONSIDER RECENT REGULATORY DEVELOPMENTS

Posted on May 16, 2016

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The past year has seen a number of regulatory developments impacting venture issuers. [1] Recognizing the challenges faced by smaller public issuers, securities regulatory authorities have introduced new measures to simplify disclosure requirements and regulatory compliance while also introducing new prospectus exemptions to assist with capital raising.

For venture issuers with financial years ending December 31, the upcoming 2016 proxy season and first quarter financial filings will mark the first time that they encounter some of these simplified disclosure options now available to them. We hope that this bulletin will serve as a timely reminder of the new streamlined disclosure requirements and capital raising options which are of interest to venture issuers.

## Quarterly Highlights

For financial years beginning on or after July 1, 2015, venture issuers now have the option to file a condensed "quarterly highlights" disclosure document in place of a full-fledged MD&A. For venture issuers with financial years ending December 31, this option is available for their first quarter ended March 31, 2016.

For more information see our bulletin: [A Tailored Fit: Streamlined Disclosure Rules to Suit Venture Issuers](#)

## New Form of Executive Compensation

For the 2016 proxy season, venture issuers may now elect to use the new streamlined executive compensation disclosure form (Form 51-102F6V), which was made available to venture issuers from July 1, 2015. In addition, venture issuers now have 180 days from their financial year-end to file executive compensation disclosure.

For more information see our bulletin: [A Tailored Fit: Streamlined Disclosure Rules to Suit Venture Issuers](#)

## New Form of Report of Exempt Distribution

In an effort to harmonize exempt distribution reporting across Canada and to lessen the burden a dual reporting regime imposes on issuers, the Canadian Securities Administrators has published a new form for reports of exempt distribution. The new form will merge Form 45-106F1 (used in all provinces except British

Columbia) and Form 45-106F6 (used in British Columbia) and can be filed in all jurisdictions in Canada; however, it will require disclosure of additional information not required in the current forms.

For more information see our bulletin: [2 Become 1: CSA Proposes Creation of Single Exempt Distribution Reporting Regime](#)

## **New Prospectus Exemptions**

The past year has seen the introduction of a number of new prospectus exemptions intended to facilitate capital raising in Canada, many of which are aimed at smaller public companies facing a challenging financing environment. Some of the key developments in this area, which may be of interest to venture issuers, are summarized below.

### *Investment Dealer Exemption*

A new investment dealer prospectus exemption, available in British Columbia, Alberta, Saskatchewan, Manitoba, and New Brunswick, permits issuers with shares listed on the TSX Venture Exchange to distribute securities to investors that have obtained advice about the investment's suitability from an investment dealer, subject to complying with certain disclosure and other requirements of the exemption.

For more information see our bulletin: [New Investment Dealer Prospectus Exemption Adopted](#)

### *Existing Security Holder Exemption*

In 2015, Ontario joined the majority of Canadian jurisdictions in adopting a prospectus exemption that permits issuers to distribute securities to existing security holders. To rely on the exemption, a number of conditions must be met, including that the issuer's shares must be listed on a designated stock exchange, the issuer must make the offering available to all existing security holders, the offering may not increase the number of outstanding listed securities of the issuer by more than 100% and the offering must be disclosed in a press release.

For more information see our bulletin: [OSC Adopts Existing Security Holder Prospectus Exemption](#)

### *Changes to the Rights Offering Exemption*

Canadian Securities Regulators have introduced changes to the rights offering prospectus exemption which are intended to streamline the requirements for use of the exemption and make it a more useful option for issuers.

For more information see our bulletin: Rights (offering) on the [Money: CSA Announces Changes to Rights Offering Prospectus Exemptions](#)

### *Harmonization of Offering Memorandum and Family, Friends and Business Associates Exemptions*

Ontario has introduced an offering memorandum prospectus exemption as well as a family, friends and business associates prospectus exemption which permits prospectus exempt distributions to directors, officers, control persons and founders of issuers as well as their family members, close personal friends and close business associates. These amendments harmonize the exemptions with other Canadian jurisdictions, which have long since had these exemptions available.

For more information see our bulletin: [OSC Introduces Four Proposed Prospectus Exemptions in Ontario](#)

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Venture issuers considering implementing the new measures to simplify disclosure requirements and/or regulatory compliance related to periodic reporting should speak with legal counsel to see if these new measures are available. Likewise, if an issuer is seeking to rely on the new capital raising prospectus exemptions, the issuer should speak with legal counsel to see if the new prospectus exemptions are available to the issuer.

by James Munro, Mark Neighbor and Bill Olaguera, Articled Student

1. [ps2id id="1" target=""]In general, a "venture issuer" is a reporting issuer that does not have securities listed or quoted on the Toronto Stock Exchange, Aequitas NEO Exchange Inc., a U.S. marketplace or a marketplace outside of Canada and the U.S., other than certain exempted exchanges.

#### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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