RE: CSA NOTICE AND REQUEST FOR COMMENT – THE LISTED ISSUER FINANCING EXEMPTION

October 21, 2026

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October 21, 2026

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British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Service NL
Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Nunavut

Attention:
Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1

Dear Sirs/Mesdames:

RE: CSA NOTICE AND REQUEST FOR COMMENT - THE LISTED ISSUER FINANCING EXEMPTION

The Canadian Forum for Financial Markets/Forum Canadien des Marchés Financiers ("**CFFiM**") is dedicated to advancing proposals that foster healthy, competitive financial markets and a resilient Canadian economy. As part of its core mandate, CFFiM is committed to putting forward solutions that stimulate capital raising and reduce regulatory duplication without compromising investor protections.

The CFFiM writes with respect to the Canadian Securities Administrators' notice and request for comment on its proposed amendments to the listed issuer financing exemption (the "**Exemption**") in National Instrument 45-106, *Prospectus and Registration Exemptions* (the "**Proposed Amendments**").

EXECUTIVE SUMMARY

The CFFiM generally supports the Proposed Amendments. The Exemption has become an important and efficient means for listed issuers to raise capital. We support the CSA's decision to codify the relief granted under Coordinated Blanket Order 45-935 (the "**Blanket Order**") and make the following recommendations to further expand the Exemption:

1. For venture issuers, replace the dollar-based offering limit and the 50% dilution limit with a single 100% issuance limit;
2. For issuers that are not venture issuers, remove the $50 million ceiling and retain the percentage-based offering limit;
3. Permit distributions that would create a new control person where prior disinterested security holder approval is obtained;
4. Permit convertible debentures, subject to six defined conditions drawn largely from exchange requirements, with conversion shares counted in the dilution limit;
5. Do not require an expected price range in the news release;
6. Confirm that proceeds of a concurrent, conditional offering under another exemption may be counted toward available funds and any minimum offering;
7. Support successor issuer eligibility by confirming that the exchange-mandated filing statement, listing statement or circular forms part of the disclosure record in the offering document; and
8. Shorten the seasoning period for issuers that became reporting issuers by long-form prospectus.

This submission outlines the policy rationale for each of these recommendations along with the investor protection safeguards that exist for each recommendation under the Proposed Amendments and the parallel listing rules of the TSX Venture Exchange ("**TSXV**"), the Canadian Securities Exchange ("**CSE**"), and the Toronto Stock Exchange ("**TSX**").

RECOMMENDATIONS ON PROPOSED AMENDMENTS

The CFFiM supports the CSA's goal of increasing the amount that can be raised under the Exemption by codifying the relief granted under the Blanket Order and by streamlining other conditions and disclosure requirements. The Exemption has become an important and efficient means for listed issuers to raise capital while balancing investor protections. The data published by the CSA indicates that the Blank Order resulted in higher use of the Exemption without any material non-compliance or public interest concerns.

In order to promote further capital formation, the CFFiM recommends that the CSA make further revisions to expand the scope and utility of the Exemption. As discussed below, each of our recommendations are grounded in a consistent policy rationale and supported by parallel listing rules. Our recommendations are focused on those areas in which we believe the Exemption can be expanded or improved in a manner that is logical, protective of investors, and consistent with established market practice. Taken together, we believe the below revisions will make the Exemption more useful to the issuers it was designed to serve while maintaining the investor protections on which its success has depended.

A chart summarizing our recommendations is included at **Appendix "A"** and proposed revisions to the Exemption are included in **Appendix "B"**.

RECOMMENDATION NO. 1: REPLACE DOLLAR AND DILUTION LIMIT FOR VENTURE ISSUERS

(a) Issue:

The Proposed Amendments would codify the expanded dollar-based offering limit[1] and 50% dilution limit currently available under the Blanket Order as well as the requirement that a distribution under the Exemption not result in a new control person or in any person acquiring votes sufficient to elect a majority of the directors. For a venture issuer with a modest market capitalization, the 50% dilution limit is the operative constraint.[2] Above a market value of approximately $50 million, the dollar cap becomes the operative constraint, affecting more established venture issuers whose capital requirements have grown with their projects, such as mine development, later-stage clinical programs or infrastructure.

The OSC has observed that the Exemption should remain available to small to mid-cap listed issuers, "particularly venture issuers, with recurring capital needs, limited internal resources and dependence on efficient access to secondary public markets." The question that arises from the Proposed Amendments and the CSA's experience with the Blanket Order is whether, with the control conditions in the Exemption, it is necessary to include a separate dollar limit and dilution limit for venture issuers.

(b) Recommendation:

We recommend that, for a distribution by a venture issuer, the proposed dollar-based offering limit should be revoked and the dilution limit should be expanded to permit the issuance of up to 100% of the issuer's outstanding listed equity securities over the applicable 12-month period provided that the distribution satisfies the control conditions in the Exemption. An illustrative example of this recommendation is included at **Appendix "C"**.

(c) Policy Rationale:

The capital raising limits in the Proposed Amendments are inconsistent with the condition for other prospectus exemptions. For example, venture issuers are not subject to any dollar limits when relying on the accredited investor exemption or the minimum amount investment exemption. Further, the offering memorandum exemption imposes investment limits on individual purchasers rather than an aggregate limit on the issuer. The amount such an issuer may raise, and the dilution it may incur, are instead governed by CSE and TSXV listing rules:

- The CSE does not impose a dollar cap on private placements and permits listed issuers to issue up to 100% of their outstanding securities in an offering without security holder approval, provided the offering is not accompanied by a new control person.[3]
- The TSXV does not impose a general dollar or percentage limit on private placements but requires security holder approval where a new control person would be created.[4] The "control person" trigger recurs throughout the TSXV manual.[5]

[1] The greater of: (i) $25,000,000; and (ii) 20% of the aggregate market value of the issuer's listed equity securities, to a maximum of $50,000,000, in any 12-month period.
[2] An issuer with a market value of $20 million may raise approximately $10 million at market under the Exemption.
[3] CSE Policy 4, Corporate Governance, Security Holder Approvals, and Miscellaneous Provisions, s. 4.6(2)(a)(i).
[4] TSX Venture Exchange Corporate Finance Manual ["**TSXV Manual**"], Policy 4.1 Private Placements. s. 1.12(a).
[5] TSXV Manual, Policy 4.2, Prospectus Offerings, s. 1.4; Policy 4.3, Shares for Debt, s. 3.7; and Policy 5.3, Acquisitions and Dispositions of Non-Cash Assets, s. 5.14(a).

If a venture issuer needs to raise more capital than is permitted under the Exemption, the options that are available to the issuer are to defer its plans, undertake a more costly prospectus offering, or split its financing between the Exemption and other exemptions in compliance with the same exchange rules. It follows that the Exemption's dollar cap and the 50% dilution limit do not prevent dilution, with issuers being free to raise capital under multiple exemptions. There is no clear policy reason to cap the Exemption for venture issuers below the level of dilution that the same issuers may already incur under other exemptions and exchange rules.

Moreover, as currently structured, the portion of a financing that exceeds the Exemption's limits must be placed with accredited or otherwise exempt purchasers. As a result, the practical effect of the proposed dollar cap and dilution limits is to determine which purchasers may participate in an offering on what terms. Again, there is no clear policy reason to maintain limits that have the effect of splitting offerings between exemptions, with different groups of purchases being subject to different disclosure rules.

(d) Investor Protection:

Eliminating the dollar cap and expanding the 50% dilution limit will not give rise to any investor protection concerns. A 100% dilution limit would protect investors in line with CSE rules, and the control person limitation is harmonized across Canadian securities legislation and exchange policies and is consistent with the take-over bid threshold. An offering under the Exemption by a listed venture issuer remains subject to the exchanges' notice, acceptance, pricing and security holder approval requirements.

We recognize that some may view a 100% limit as permitting substantial dilution but stress that dilution is not avoided by a lower limit under the Exemption, since it may be incurred under other exemptions, and that a financing of that scale is, for many venture issuers, the only alternative to an inability to advance their business. As compared to the other exemptions, the Proposed Amendments enhance purchaser protections through the 18-month certificate lookback, enhanced offering document disclosure, and the preservation of the contractual right of rescission and statutory liability for misrepresentation. Exchange review continues in every case. In addition, as a practical matter, larger offerings are more often dealer-led and anchored by institutional or strategic investors, which brings an additional layer of commercial diligence to bear on the issuer and the pricing.

We also recognize the concern that the Exemption, unlike the accredited investor exemption, permits participation by retail investors. In our view, this is a reason to favour the Exemption rather than to restrict it. Purchasers under the Exemption receive a prescribed offering document and have a right of rescission or damages for a misrepresentation. Where a registrant is involved, they also have the benefit of the registrant's know-your-client, know-your-product and suitability obligations. Retail investors may in any event purchase the same listed securities in the secondary market without these protections.

RECOMMENDATION NO. 2: REMOVE CEILING LIMIT FOR NON-VENTURE ISSUERS

(a) Issue:

As proposed, the offering limit under the Exemption is the greater of $25 million and 20% of aggregate market value, to a maximum of $50 million. The $50 million ceiling only applies to issuers with an aggregate market value above $250 million. Below that level, the percentage-based limit or the $25 million floor applies.

(b) Recommendation:

We recommend that the $50 million absolute ceiling be removed for issuers other than venture issuers, so that the offering limit is the greater of $25 million and 20% of the aggregate market value of the issuer's listed equity securities. The dilution limit and the control conditions would continue to apply.

(c) Policy Rationale:

We agree with the CSA's use of percentage of market value as the primary measure of offering size. This measure scales the permitted offering with the size of the issuer. The absolute ceiling departs from that principle for the largest eligible issuers only.

For an issuer with a market value of $500 million, the percentage-based limit would be $100 million, but the ceiling reduces it to $50 million, or 10% of market value and half the percentage the CSA has otherwise considered appropriate. Issuers of that size are generally more liquid, more widely followed by analysts and institutional investors, and have more established disclosure records than the smaller issuers for whom the Exemption was first designed.

Removing the ceiling would be consistent with the TSX's approach to private placements, which does not impose a dollar limit on a private placement but regulates size proportionately. Pursuant to the TSX's listing rules, a private placement priced at or above market price is generally accepted regardless of the number of securities issued, and a discounted private placement requires security holder approval where it exceeds 25% of the issuer's securities on a non-diluted basis.[6] An offering of up to 20% of market value under the Exemption would, in most cases, fall within the range that the TSX already accepts.

The data published with the CSA Notice show that the higher limits under the Blanket Order were actively used, and that 40 issuers raised more than $25 million in the 12 months following the Blanket Order. As issuers grow, a fixed dollar ceiling will bind a larger proportion of them and will do so without regard to the issuer's size, liquidity or disclosure record.

(d) Investor Protection:

Removing the ceiling would not alter the proportionate safeguards in the Proposed Amendments. At market pricing, a limit of 20% of market value would ordinarily remain well within the 50% dilution limit. Further, the control conditions would continue to prevent a change of control and purchasers would continue to receive the offering document and the accompanying statutory rights. Moreover, these issuers would remain subject to exchange rules. The change would simply allow the CSA's chosen percentage to operate as intended across the full range of eligible issuers.

RECOMMENDATION NO. 3: PERMIT DISTRIBUTIONS CREATING A NEW CONTROL PERSON

(a) Issue:

The Proposed Amendments provide that a distribution under the Exemption may not result in any person or company becoming a control person. The Proposed Amendments do not include any mechanism to allow existing security holders to consent to a transaction that would result in a new control person.

[6] TSX Company Manual, ss. 607(c) and 607(g)(i).

(b) Recommendation:

We recommend that, as an alternative to the proposed prohibition, a distribution that would result in a person or company becoming a control person should be permitted under the Exemption where the issuer has obtained prior approval of the distribution from disinterested security holders. Further, it should be possible to obtain approval either by ordinary resolution at a meeting or by the written consent of the holders of more than 50% of the voting securities, in either case on disclosure of the identity of the proposed control person and its holdings before and after the distribution.

Where approval is obtained by written consent, we recommend that the consenting holders be required to have received the same information they would have received in an information circular for a meeting, and that the issuer publish a news release at least five business days before closing disclosing the material terms of the distribution and its reliance on written consent. Approval should be obtained before the news release is issued or, where that is impracticable, the closing of the relevant tranche should be expressly conditional on obtaining approval, with the conditionality disclosed in the news release and the offering document. Where approval is to be sought at a meeting after the news release, the CSA may wish to permit a longer closing period for the affected tranche, as the TSX does where security holder approval required is to be obtained at a meeting.[7]

(c) Policy rationale:

Strategic and cornerstone investors in listed issuers of all sizes do, in the ordinary course, take positions above 20%. Examples include a royalty or streaming counterparty, an industry partner funding a development program, or a long-standing anchor shareholder maintaining its position in a large financing. Under the Proposed Amendments as drafted, such an issuer must split its financing between the Exemption and the accredited investor exemption or another exemption, with the latter tranche subject to a four-month hold. That is an avoidable structural inefficiency, and it means that the securities acquired by the most significant purchaser are the ones that fall outside the Exemption's disclosure regime.

The mechanism we propose is not novel but is consistent with exchange rules, which do not prohibit the creation of a new control person but require prior shareholder approval.[8] Written consent is an established and accepted method of obtaining security holder approval on all three exchanges and should be expressly available under the Exemption. Calling a meeting typically adds several weeks and meaningful cost, which can be difficult to reconcile with the timetable of a financing under the Exemption. Where holders of a majority of the disinterested votes are prepared to approve the distribution on full disclosure, requiring a meeting adds delay without adding protection.

(d) Investor Protection:

Disinterested security holder approval is the most direct form of investor protection available. The persons whose proportionate interests and control expectations are affected decide the question themselves, whether at a meeting or by written consent, on disclosure identifying the incoming control person. That is stronger than a prohibition, which redirects the same transaction into a different exemption where the enhanced disclosure required under the Exemption does not apply.

[7] *Ibid* at s. 607(f)(i).
[8] TSXV Policy 4.1, Private Placements, s. 1.12(a); and TSX Company Manual, s. 604(a).

RECOMMENDATION NO. 4: PERMIT CONVERTIBLE DEBENTURES

(a) Issue:

Question 2 in the CSA Notice asks whether and under what conditions convertible debentures should be permitted under the Exemption.

(b) Recommendation:

We recommend that convertible debentures be permitted under the Exemption, subject to the following six conditions, most of which are drawn from existing exchange requirements:

- **Fixed Conversion Price**: The conversion price must be fixed at the time of issuance at not less than the market price of the underlying listed equity securities as at the price reservation date, and variable or market-at-conversion pricing must be prohibited.[9]
- **Maximum Five-Year Term**: The conversion period and term must not exceed five years, which is consistent with the TSXV and CSE listing rules.[10]
- **Commercially Reasonable Interest**: The interest rate must be commercially reasonable, and any interest paid in securities must be priced at not less than the market price at the date the interest becomes payable, subject to exchange acceptance. This is consistent with TSXV listing rules.[11]
- **No Repricing without Exchange Acceptance:** The conversion price may not be amended without the exchange acceptance, which is consistent with existing exchange requirements.
- **Listed Equity Only:** The debenture must be convertible only into listed equity securities of the issuer, or into units consisting of a listed equity security and a warrant.
- **Plain-Language Disclosure:** Form 45-106F19 must require plain-language disclosure of ranking and subordination, security (if any), maturity, interest, redemption and forced conversion rights, events of default and their consequences, the conversion price and ratio, and the maximum number of listed equity securities issuable on conversion.

(c) Policy Rationale:

Convertible debentures are useful to issuers, and particularly to venture issuers, because they defer dilution and allow a financing to be completed at an implied price above the current market. This is often a practical way to fund a milestone without an equity raise at a depressed price.

[9] This condition is more restrictive than the TSX and CSE rules. Section 610(a) of the TSX Company Manual permits the conversion price of a privately placed convertible security to be based on market price less the applicable discount at the time of issuance or at the time of conversion, or on the lower of undiscounted market price at either time. CSE Policy 6, s. 6.7(1)(c) permits the conversion price of a convertible debenture to be set at the market price at the time of conversion. In contrast, we recommend that conversion prices determined by reference to the market price at the time of conversion be excluded, because a floating conversion price produces dilution that cannot be quantified at the time of the offering, cannot be meaningfully disclosed in an offering document and cannot be counted against the dilution limit. Fixing the price at issuance is what makes the rest of our package coherent.

[10] TSXV Policy 4.1, Private Placements s. 2.3(b); and CSE Policy 6, s. 6.7(2)(c).

[11] TSXV Policy 4.1, s. 2.2(a)

(d) Investor Protection:

We recognize that some consider convertible debentures too complex for distribution under the Exemption, and it has been suggested that, if permitted, purchases be limited to advisory accounts subject to know-your-client, know-your-product and suitability obligations. We believe our above noted conditions address these concerns. Convertible debentures are long-standing financing instruments on the TSX, the TSXV, and the CSE, each of which has specific rules governing them. More importantly, the features that make a convertible debenture most difficult for a retail investor to evaluate, including floating conversion prices, open-ended terms, interest payable in shares at a discount and post-issuance repricing are addressed through our proposed conditions. What remains is a debt instrument with a fixed term, a commercially reasonable interest rate and a fixed conversion price, the maximum dilutive effect of which is a determinable number disclosed in the offering document.

We recommend against excluding conversion shares from the dilution calculation. The 60-day exclusion proposed for warrants rests on the premise that securities not exercisable in the near term are not part of the immediate dilutive event. We do not think that premise transfers well to convertible debentures, which are typically issued with multi-year conversion periods and with the expectation that they will convert. Because our first condition requires a fixed conversion price, the maximum number of issuable securities is determinable at the time of the offering and there is no practical obstacle to counting them.

RECOMMENDATION NO. 5: NO EXPECTED PRICE RANGE

(a) Issue:

The Proposed Amendments would permit the offering price to be omitted where the news release includes the expected range of the offering price. Question 4 in the CSA Notice asks whether the news release should be required to include an expected price range.

(b) Recommendation:

Issuers should not be required to include an expected price range in the news release. Instead, we recommend that where the offering price has not been determined, the news release should state that the price has not yet been determined, that it will not be less than the minimum price permitted under the rules of the exchange on which the securities are listed, and that the offering document will be amended to include the price within the timeline prescribed by the Proposed Amendments. An issuer should remain free to disclose a range voluntarily where it considers it useful.

If the CSA retains a price range requirement, we recommend that, if an issuer's final price is above the disclosed range, the issuer should not be required to restart the offering provided the amended offering document is filed, and a news release disclosing the price is issued, within the required time.

(c) Policy Rationale:

The exchanges already set a pricing floor for offerings. The TSX, the TSXV, and the CSE all prescribes the minimum price at which a listed issuer may issue securities in a private placement, generally expressed as a maximum discount to market price. The lowest price at which an offering may be completed, and therefore the maximum discount and the maximum dilution per dollar raised, is already determinable from public information on the date of the news release.

The floor is what matters most to investors. From the perspective of existing security holders and prospective purchasers, the relevant information is the lowest price at which securities may be issued, because that price determines the maximum dilution. A price at the upper end of a range, or above it, results in less dilution for existing holders, not more. It would make little sense to require an issuer that achieves a better price than it anticipated to restart its offering. A required range whose lower bound simply restated the exchange floor would add little, and a range set above the floor would narrow the issuer's flexibility without a corresponding benefit.

A published range can impair price discovery. Once a range is public, prospective purchasers have every incentive to bid at its lower end, and the range effectively discloses the issuer's reservation price before demand has been tested. If demand at the disclosed range proves insufficient, the issuer must issue a further news release and amend the offering document with a new range, which may itself be read by the market as a signal of weakness and put pressure on the trading price while the offering is under way. These costs fall most heavily on smaller issuers with less liquid securities, for whom the Exemption is particularly important.

Exchange practice allows pricing to be protected confidentially. The TSX, the TSXV, and the CSE permits listed issuers to request price protection or reservation while it assesses demand. The Exemption, by contrast, requires a public news release before any solicitation. Requiring news release to include a range would make public information that the exchanges otherwise allow to remain private during price discovery. Because a range may in any event be changed by a further news release and amended offering document, it offers purchasers limited assurance about the final price.

(d) Investor Protection:

Under the Proposed Amendments, an issuer must file an amended offering document containing the price on or before the date on which a purchaser enters into an agreement to purchase. As a result, every purchaser will have the final price, and the related disclosure, before committing to an investment. Our proposed revision would alert the market from the outset that the price cannot be lower than the applicable exchange minimum. Purchasers would retain their statutory rights in respect of the offering document as amended.

RECOMMENDATION NO. 6: SUFFICIENCY OF FUNDS – PROCEEDS OF CONCURRENT OFFERING

(a) Issue:

We support the proposed standard requiring issuers to have sufficient funds to meet their short-term liquidity requirements. As noted in the proposed guidance for a pre-revenue issuer, this standard is measured to the next significant milestone whereas for a revenue-generating issuers, this standard is measured over 12 months.

(b) Recommendation:

As proposed, Item 8 of Form 45-106F19 requires an issuer to count only funding that a person has a contractual obligation to provide. Read strictly, that instruction could be taken to exclude the proceeds of a concurrent offering under another prospectus exemption, even where the concurrent offering is fully subscribed under executed subscription agreements and closes concurrently with, or as a condition of,

the closing under the Exemption. We recommend that the companion policy be amended to confirm that such proceeds may be counted toward available funds and toward satisfaction of any minimum offering.

(c) Policy Rationale:

Issuers on each of the TSX, the TSXV, and the CSE commonly conduct a tranche under the Exemption alongside an accredited investor or other exempt tranche, and the two are typically cross-conditional. Where the concurrent tranche is supported by executed subscription agreements and its closing is a condition of the closing under the Exemption, the contractual-obligation rationale underlying the above noted instruction for Item 8 is satisfied in substance. The funds are committed, and the offering under the Exemption will not close unless they are received.

On the other hand, excluding this type of funding requires an issuer to either set an artificially high minimum offering under the Exemption or to disclose a funding shortfall that does not exist. The exchanges already treat concurrent tranches of this kind as a single financing for their own purposes. [12] Exchange review also provides an additional check on the use of proceeds, and the Companion Policy contemplates that an issuer without sufficient funds must set a minimum offering.

(d) Investor Protection:

This recommendation does not give rise to any investor protection concerns.

RECOMMENDATION NO. 7: SUCCESSOR ISSUERS – DISCLOSURE TO FORM PART OF THE RECORD

(a) Issue:

The Proposed Amendments would extend eligibility to successor issuers, using the definition in National Instrument 44-101 *Short Form Prospectus Distributions*. We generally support this change but acknowledge the concern that, where an issuer has been transformed by a reverse takeover or similar transaction, the predecessor's continuous disclosure record may be a poor foundation for an offering made on the strength of that record.

(b) Recommendation:

To address this concern, we recommend guidance confirming that where an issuer became a successor issuer as a result of a transaction for which an exchange required a filing statement, information circular or listing statement containing prospectus-level disclosure, that document forms part of the disclosure record on which the offering is made, and should be specifically identified and incorporated by reference in the offering document. The exchanges already require a disclosure document, and in most cases security holder approval, at the point at which an issuer is transformed by such a transaction.[13]

[12] For example, the TSX aggregates successive private placements within three months that have a common placee or a common use of proceeds. TSX Company Manual, s. 607(f)(v).

[13] TSXV Policy 5.2 requires that reverse takeovers and changes of business be supported by an Information Circular or Filing Statement. CSE Policy 8 provides that a Fundamental Change requires both Exchange and security holder approval, and that the circular or Listing Statement must contain full, true and plain disclosure, including prospectus-level financial statements. Under to the TSX listing rules, a backdoor listing must be approved by security holders, and the information circular must be filed with TSX for review before it is sent.

(c) Policy Rationale:

Our recommendation coupled with existing listing requirements would support the CSA's investor-protection objectives by directing purchasers to evaluate a successor issuer with reference to documents that describe the issuer's business.

(d) Investor Protection:

This recommendation is made in support of enhanced investor protection.

RECOMMENDATION NO. 8: SHORTEN THE SEASONING PERIOD FOR ISSUERS THAT BECAME REPORTING ISSUERS BY LONG-FORM PROSPECTUS

(a) Issue:

The Proposed Amendments would require an issuer to have been a reporting issuer for the 12 months before its news release, or to qualify as a successor issuer. The Companion Policy explains that the 12-month period reflects that the Exemption is intended to allow an issuer to raise limited amounts of capital based on its continuous disclosure filings.

(b) Recommendation:

We recommend that an issuer that became a reporting issuer by filing a final long-form prospectus be eligible to use the Exemption once: (i) at least four months have elapsed since the date of the receipt for that prospectus; and (ii) the issuer has filed at least one interim financial report and related MD&A, or annual financial statements and related MD&A, for a period ending after the date of the prospectus. The prospectus would form part of the disclosure record covered by the certificate in the offering document and by purchasers' statutory rights.

(c) Policy Rationale:

A long-form prospectus is required to provide full, true and plain disclosure of all material facts, is reviewed by securities regulators and is supported by a receipt. For an issuer that has recently completed an IPO, the prospectus together with its subsequent continuous disclosure provides a disclosure foundation that is akin to the continuous disclosure record of many issuers that have been reporting for 12 months. The four-month period corresponds to the restricted period that applies on resale of securities acquired under many prospectus exemptions, and the requirement for at least one subsequent periodic filing ensures that the issuer has demonstrated compliance with its continuous disclosure obligations as a reporting issuer. Newly public issuers frequently need follow-on capital in their first year and, at present, must look to exemptions available only to exempt purchasers or to a further prospectus.

(d) Investor Protection:

Purchasers would have the benefit of a recent, regulator-reviewed prospectus and at least one subsequent set of financial statements, all covered by the certificate and by purchasers' statutory rights. The proposal would not affect the exclusion of issuers whose operations have ceased or whose principal asset is cash, cash equivalents or an exchange listing, including capital pool companies and special purpose acquisition companies.

We thank the CSA for the opportunity to participate in this consultation.

Respectfully submitted,

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APPENDIX "A"
SUMMARY OF RECOMMENDATIONS

	Recommendation	CSA question / provision	Paired safeguard
1	For venture issuers, replace the dollar-based offering limit and the 50% dilution limit with a single 100% issuance limit, measured by reference to outstanding listed equity securities over 12 months, provided no new control person results.	Proposed s.5A.2(1)(g), (h), (h.1); Q3	Proposed paragraphs (j.1) and (j.2); 100% issuance ceiling; exchange pricing and approval rules.
2	Permit a distribution that would create a new control person where prior disinterested security holder approval is obtained.	Proposed s.5A.2(1)(j.1)	Disinterested security holder approval at a meeting or by written consent of more than 50%, with prescribed disclosure; MI 61-101 continues to apply.
3	For issuers that are not venture issuers, remove the $50 million absolute ceiling, retaining the percentage-based offering limit.	Proposed s.5A.2(1)(g)	Percentage-based limit; 50% dilution limit; control conditions.
4	Permit convertible debentures, subject to six defined conditions drawn largely from exchange requirements, with conversion shares counted in the dilution limit.	Q2(a), (b), (c)(i), (c)(ii)	Fixed conversion price at no discount; five-year maximum; no variable pricing; full dilution counting.
5	Do not require an expected price range in the news release; instead require a statement that the price will not be less than the minimum permitted by the applicable exchange.	Q4; proposed s. 5A.2(2)	Exchange pricing floors; final price in amended offering document before purchase; statutory rights.
6	Confirm by CP guidance that proceeds of a concurrent, conditional offering under another exemption may be counted toward available funds and any minimum offering.	Q1; proposed Item 8 instruction	Contractual commitment and concurrent-closing requirement preserved.
7	Support successor issuer eligibility, with CP guidance that the exchange-mandated filing statement, listing statement or circular forms part of the disclosure record and is referenced in the offering document.	Successor issuer eligibility	Prospectus-level disclosure already required by exchange rules.
8	Allow an issuer that became a reporting issuer by filing a long-form prospectus to use the Exemption after a shorter seasoning period.	Proposed s. 5A.2(1)(a)	Prospectus forms part of the certified disclosure record; minimum four months and one subsequent periodic filing.

APPENDIX "B"
REVISIONS TO PROPOSED AMENDMENTS

RECOMMENDATION NO. 1: REPLACE DOLLAR AND DILUTION LIMIT FOR VENTURE ISSUERS

Proposed drafting language

We suggest the following, which could be implemented either as a new subsection 5A.2(3) or by amendment to proposed paragraph 5A.2(1)(g):

> *In the case of a distribution by an issuer that is a venture issuer, as defined in National Instrument 51-102 Continuous Disclosure Obligations, on the date the issuer issues and files the news release referred to in paragraph (1)(k), if the conditions in paragraphs (1)(j.1) and (j.2) are satisfied, (a) paragraph (1)(g) does not apply, and (b) paragraphs (1)(h) and (h.1) are to be read as if each reference to 50% were a reference to 100%.*

Corresponding CP guidance could state that the CSA considers the dilution limit, as modified for venture issuers, and the control conditions in paragraphs (1)(j.1) and (j.2), together with applicable exchange requirements as to pricing, notice, acceptance and security holder approval, to provide the appropriate calibration of offering size for venture issuers, and that the absence of a dollar limit does not relieve an issuer of its obligations under the sufficiency of funds condition in paragraph (1)(i) or of its obligation to disclose the use of available funds.

RECOMMENDATION NO. 2: REMOVE CEILING LIMIT FOR NON-VENTURE ISSUERS

We recommend amending subparagraph 5A.2(1)(g)(ii) by deleting "to a maximum of $50 000 000" in each of clauses (A) and (B).

RECOMMENDATION NO. 3: PERMIT DISTRIBUTIONS CREATING A NEW CONTROL PERSON

We proposed the following language as new paragraphs 5A.2(4) and (4.1):

> ***5A.2(4)*** *Paragraph (1)(j.1) does not apply if (a) before the issuer issues and files the news release referred to in paragraph (1)(k), the distribution has been approved by ordinary resolution of the holders of the issuer's voting securities or by the written consent of the holders of more than 50% of those securities, or (b) the news release and the offering document state that closing of the distribution, or of the affected tranche, is expressly conditional on obtaining such approval before closing. In each case, the votes attached to securities beneficially owned, or over which control or direction is exercised, by the person or company that would become a control person as a result of the distribution and by its associates and affiliates, and by any related party of the issuer that has a material interest in the distribution that differs from the interest of security holders generally, must be excluded.*

> ***5A.2(4.1)*** *If approval under subsection (4) is given by written consent, (a) each holder giving consent must have received the information that would be required to be included in an information circular for a meeting called to approve the distribution, and (b) the issuer must issue and file a news release, at least five business days before closing of the distribution or the affected tranche, disclosing the material terms of the distribution and that the issuer has relied on written consent.*

RECOMMENDATION NO. 5: NO EXPECTED PRICE RANGE

Replace subparagraph 5A.2(2)(a)(i) with: "(i) a statement that the offering price has not been determined and will not be less than the lowest price at which the issuer is permitted to distribute the listed equity securities under the rules and policies of the exchange on which they are listed, and".

APPENDIX "C"
ILLUSTRATIVE EXAMPLE - RECOMMENDATION NO. 1

The following table illustrates the interaction of the limits. Assumptions: a single offering under the Exemption priced at market, no warrants, and no prior offering under the Exemption in the preceding 12 months. Figures are rounded and illustrative only. Where an offering is priced at the maximum permitted exchange discount, actual proceeds within an issuance limit would be lower. At a 25% discount, proceeds would be approximately 37.5% of market value under the 50% limit and approximately 75% of market value under the 100% limit.

Market value of listed equity securities	Dollar cap under proposed s.5A.2(1)(g)	50% dilution ceiling (approx.)	Binding constraint	Maximum under Proposed Amendments	Maximum under CFFiM proposal
$20 million	$25 million	$10 million	Dilution limit	$10 million	$20 million
$50 million	$25 million	$25 million	Both	$25 million	$50 million
$100 million	$25 million	$50 million	Dollar cap	$25 million	$100 million
$200 million	$40 million	$100 million	Dollar cap	$40 million	$200 million
$400 million	$50 million	$200 million	Ceiling	$50 million	$400 million

As demonstrated above, under our recommendation the amount that an issuer may raise remains proportionate to its size. The limit scales with the issuer's outstanding listed equity securities, as the CSE's security holder approval threshold already does. Even in the largest illustrative case, the financing must be distributed broadly enough that no participant crosses the 20% control person threshold.