

REGULATION TO AMEND REGULATION 41-101 RESPECTING GENERAL PROSPECTUS REQUIREMENTS

Securities Act

(R.S.Q., c. V-1.1, s. 331.1, par. (1), (4.1), (6), (8), (11), (14) and (34))

1. Section 1.1 of Regulation 41-101 respecting General Prospectus Requirements is amended:

(1) by inserting, after the definition of the term “base offering”, the following:

““base shelf prospectus” has the same meaning as in section 1.1 of Regulation 44-102 respecting Shelf Distributions;”;

(2) by inserting, after the definition of the term “business day”, the following:

““Canadian financial institution” has the same meaning as in section 1.1 of Regulation 45-106 respecting Prospectus and Registration Exemptions;”;

(3) by inserting, after the definition of the term “interim period”, the following:

““investment dealer” has the same meaning as in section 1.1 of Regulation 31-103 respecting Registration Requirements and Exemptions;”;

(4) by inserting, after the definition of the term “over-allotment option”, the following:

““permitted institutional investor” means any of the following:

(a) a Canadian financial institution or a Schedule III bank,

(b) the Business Development Bank of Canada,

(c) a subsidiary of any person referred to in paragraph (a) or (b) if the person owns all of the voting securities of the subsidiary except the voting securities required by law to be owned by directors of the subsidiary,

(d) a pension fund that is regulated by the federal Office of the Superintendent of Financial Institutions or a pension commission or similar regulatory authority of a jurisdiction of Canada or a foreign jurisdiction and includes a wholly-owned subsidiary of such a pension fund,

(e) an entity organized in a foreign jurisdiction that is analogous to any of the entities referred to in paragraphs (a) to (c),

(f) the Government of Canada or a jurisdiction of Canada, or any Crown corporation, agency or wholly-owned entity of the Government of Canada or a jurisdiction of Canada,

(g) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any agency of that government,

(h) a municipality, public board or commission in Canada and a metropolitan community or an intermunicipal management board in Québec,

(i) an investment fund if either of the following apply:

(i) the fund is managed by a person registered as an investment fund manager under the securities legislation of a jurisdiction of Canada,

(ii) the fund is advised by a person authorized to act as an adviser under the securities legislation of a jurisdiction of Canada;”;

(5) by inserting, after the definition of the term “publicly accountable enterprise”, the following:

““registered individual” has the same meaning as in section 1.1 of Regulation 31-103 respecting Registration Requirements and Exemptions;”;

(6) by inserting, after the definition of the term “reverse takeover acquirer”, the following:

““road show” means a presentation to potential investors, regarding a distribution of securities under a prospectus, conducted by an investment dealer on behalf of an issuer in which one or more executive officers of the issuer participate;

““Schedule III bank” means a bank named in Schedule III of the Bank Act (S.C. 1991, c. 46);”;

(7) by inserting, after the definition of the term “SEC issuer”, the following:

““shelf prospectus supplement” has the same meaning as in section 1.1 of Regulation 44-102 respecting Shelf Distributions;”;

(8) by inserting, after the definition of the term “subordinate voting securities”, the following:

““term sheet” means a written communication regarding a distribution of securities under a prospectus that contains information on the issuer or the securities, but does not include

(a) a prospectus, or

(b) a notice, circular, advertisement, letter or other communication referred to in section 13.1 that is expressly permitted by securities legislation;”.

2. Section 9.1 of the Regulation is amended by inserting, after subparagraph (vi) of paragraph (a), the following:

“(vii) a copy of any term sheet required to be filed under subsection 13.5(1); and”.

3. Section 9.2 of the Regulation is amended by inserting, after subparagraph (xiii) of paragraph (a), the following:

“(xiv) a copy of any term sheet required to be filed under subsection 13.5(1) that has not previously been filed; and”.

4. Section 13.1 of the Regulation is amended by replacing, in paragraph (1), the words “A notice” with the words “Except for a term sheet under subsection 13.5(1), a notice”.

5. Section 13.2 of the Regulation is amended by replacing, in paragraph (1), the words “A notice” with the words “Except for a term sheet under subsection 13.6(1) or 13.7(1), a notice”.

6. The Regulation is amended by adding, after section 13.3, the following:

13.4. Testing of the waters exemption – IPO issuers

(1) Subject to subsections (2) to (4), the prospectus requirement does not apply to a solicitation of an expression of interest in order to ascertain if there would be sufficient interest in an initial public offering of securities of an issuer pursuant to a preliminary long form prospectus, if

(a) the issuer has a reasonable expectation of filing a preliminary long form prospectus in respect of an initial public offering in at least one jurisdiction;

(b) the issuer

(i) is not a reporting issuer in any jurisdiction before the date of the preliminary long form prospectus,

(ii) is not an SEC issuer before the date of the preliminary long form prospectus,

(iii) does not have a class of securities that has been assigned a ticker symbol by the Financial Industry Regulatory Authority in the United States of America for use on any of the over-the-counter markets in the United States of America before the date of the preliminary long form prospectus,

(iv) does not have a class of securities that have been traded on an over-the-counter market where trading data is publicly reported before the date of the preliminary long form prospectus, and

(v) does not have any of its securities listed, quoted or traded on a marketplace outside of Canada or any other facility outside of Canada for bringing together buyers and sellers of securities where trading data is publicly reported before the date of the preliminary long form prospectus;

(c) an investment dealer makes the solicitation on behalf of the issuer;

(d) the issuer provided written authorization to the investment dealer to act on its behalf before the investment dealer made the solicitation;

(e) the solicitation is made to a permitted institutional investor; and

(f) the issuer and the investment dealer keep information about the proposed offering confidential.

(2) An investment dealer must not solicit an expression of interest from a permitted institutional investor under subsection (1) unless

(a) any written material provided to the investor is marked confidential and contains a legend stating that the material is not subject to liability for misrepresentations under applicable securities legislation; and

(b) before providing the investor with information about the proposed offering, the investment dealer obtains confirmation in writing from the investor that the investor will keep the information confidential.

(3) An issuer relying on the exemption in subsection (1) must keep a written record of any investment dealer that it authorized to act on its behalf in making solicitations in reliance on the exemption and a copy of any written authorizations referred to in paragraph (1)(d).

(4) An investment dealer relying on the exemption in subsection (1) must keep

(a) a written record of any permitted institutional investor that it solicited in reliance on the exemption,

(b) a copy of any written material referred to in paragraph (2)(a), and

(c) any written confirmations referred to in paragraph (2)(b).

“13.5. Term sheets during the waiting period

(1) An investment dealer that provides a term sheet to a potential investor during the waiting period is exempt from the prospectus requirement if

- (a) the term sheet complies with subsections (2) to (6);
- (b) the disclosure in the term sheet is fair, true and plain;
- (c) other than contact information for the investment dealer, all information in the term sheet concerning the securities is disclosed in the preliminary prospectus and any amendment to the preliminary prospectus;
- (d) the term sheet contains the same cautionary language in bold type, other than prescribed legends, as the face page and summary of the preliminary prospectus;
- (e) the term sheet is approved in writing by the issuer and the underwriters and filed before it is provided;
- (f) the term sheet is provided in the local jurisdiction only if a receipt for the preliminary prospectus was issued in the jurisdiction; and
- (g) the investment dealer provides a copy of the preliminary prospectus and any amendment with the term sheet.

(2) A term sheet provided under subsection (1) must be dated and state the following, on the first page, with the bracketed information completed:

“A preliminary prospectus containing important information relating to the securities described in this [term sheet] has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the preliminary prospectus, and any amendment to the preliminary prospectus, is required to be delivered with this [term sheet].

“The preliminary prospectus is still subject to completion. There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final prospectus has been issued.

“This [term sheet] does not provide full disclosure of all material facts relating to the securities offered. Investors should read the preliminary prospectus, any amendment to the preliminary prospectus, the final prospectus and any amendment to the final prospectus for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

(3) If a term sheet is provided during the waiting period under subsection (1), the issuer must

- (a) include the term sheet in its final prospectus or incorporate by reference the term sheet into its final prospectus in the manner contemplated by subsection 36A.1(1) of Form 41-101F1, subsection 37.3(1) of Form 41-101F2 or subsection 11.6(2) of Form 44-101F1, as applicable, and
- (b) indicate that the term sheet is not part of the final prospectus to the extent that the term sheet's contents have been modified or superseded by a statement contained in the final prospectus and, if a statement in the term sheet has been modified or superseded, disclose how the statement in the term sheet has been modified or superseded by the statement in the final prospectus.

(4) If a term sheet is provided during the waiting period under subsection (1) but the issuer does not include the term sheet in its final prospectus or incorporate by reference the term sheet into its final prospectus in the manner contemplated by subsection 36A.1(1) of Form 41-101F1, subsection 37.3(1) of Form 41-101F2 or subsection 11.6(2) of Form 44-

101F1, as applicable, the term sheet is deemed for purposes of securities legislation to be incorporated into the issuer's final prospectus as of the date of the final prospectus to the extent not otherwise expressly modified or superseded by a statement contained in the final prospectus.

(5) If the final prospectus, or any amendment to the final prospectus, modifies a statement of a material fact that appeared in a term sheet provided during the waiting period under subsection (1), the issuer must prepare a revised term sheet that highlights the modified statement and the relevant investment dealer must deliver with the final prospectus, or any amendment, a copy of the revised term sheet to each purchaser of securities distributed under the final prospectus, or any amendment, that received the original term sheet.

(6) Any revised term sheet provided with the final prospectus, or any amendment, under subsection (5) must comply with section 13.6.

“13.6. Term sheets after the receipt of a final prospectus

(1) An investment dealer must not provide a term sheet to a potential investor after a receipt for a final prospectus, or any amendment to the final prospectus, is issued unless

- (a) the term sheet complies with subsections (2) to (5);
- (b) the disclosure in the term sheet is fair, true and plain;
- (c) other than contact information for the investment dealer, all information in the term sheet concerning the securities is disclosed in the final prospectus and any amendment;
- (d) the term sheet contains the same cautionary language in bold type, other than prescribed legends, as the face page and summary of the final prospectus;
- (e) the term sheet is approved in writing by the issuer and the underwriters and filed before it is provided;
- (f) the term sheet is provided in the local jurisdiction only if a receipt for the final prospectus was issued in the jurisdiction; and
- (g) the investment dealer provides a copy of the final prospectus, and any amendment, with the term sheet.

(2) A term sheet provided under subsection (1) must be dated and state the following, on the first page, with the bracketed information completed:

“A final prospectus containing important information relating to the securities described in this [term sheet] has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the final prospectus, and any amendment to the final prospectus, is required to be delivered with this [term sheet].

“This [term sheet] does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final prospectus, and any amendment, for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”

(3) If a term sheet is provided under subsection (1), the issuer must include the term sheet in its final prospectus and any amendment to the final prospectus or incorporate by reference the term sheet into its final prospectus, and any amendment, in the manner

contemplated by subsection 36A.1(2) of Form 41-101F1, subsection 37.3(2) of Form 41-101F2 or subsection 11.6(3) of Form 44-101F1, as applicable.

(4) If a term sheet is provided under subsection (1), the issuer must

(a) state in the final prospectus that any term sheet provided by the issuer to a potential purchaser after the date of the final prospectus is deemed for the purposes of securities legislation to be incorporated into the final prospectus, and

(b) in the case of an amendment to the final prospectus, indicate that the term sheet is not part of the final prospectus to the extent that the term sheet's contents have been modified or superseded by a statement contained in the amendment and, if a statement in the term sheet has been modified or superseded, disclose how the statement in the term sheet has been modified or superseded by the statement in the amendment.

(5) If a term sheet is provided under subsection (1) but the issuer does not include the term sheet in its final prospectus, and any amendment, or incorporate by reference the term sheet into its final prospectus, and any amendment, in the manner contemplated by subsection 36A.1(2) of Form 41-101F1, subsection 37.3(2) of Form 41-101F2 or subsection 11.6(3) of Form 44-101F1, as applicable, the term sheet is deemed for purposes of securities legislation to be incorporated into the issuer's final prospectus as of the date of the final prospectus to the extent not otherwise expressly modified or superseded by a statement contained in the final prospectus.

“13.7. Term sheets after the receipt of a final base shelf prospectus

(1) An investment dealer must not provide a term sheet to a potential investor after a receipt for a final base shelf prospectus, or any amendment to the final base shelf prospectus, is issued unless

(a) the term sheet complies with subsections (2) to (8);

(b) the disclosure in the term sheet is fair, true and plain;

(c) other than contact information for the investment dealer, all information in the term sheet concerning the securities is disclosed in the final base shelf prospectus, any amendment to the final base shelf prospectus, or any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement that has been filed;

(d) the term sheet contains the same cautionary language in bold type, other than prescribed legends, as the face page and summary of the final base shelf prospectus;

(e) the term sheet is approved in writing by the issuer and the underwriters and filed before it is provided;

(f) the term sheet is provided in the local jurisdiction only if a receipt for the final base shelf prospectus was issued in the jurisdiction; and

(g) the investment dealer provides a copy of the final base shelf prospectus, and any amendment to the final base shelf prospectus, and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement with the term sheet.

(2) A term sheet provided under subsection (1) must be dated and state the following, on the first page, with the bracketed information completed:

“A final base shelf prospectus containing important information relating to the securities described in this [term sheet] has been filed with the securities regulatory

authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the final base shelf prospectus, any amendment to the final base shelf prospectus, and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement is required to be delivered with this [term sheet].

“This [term sheet] does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final base shelf prospectus, any amendment and any applicable supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

(3) If a term sheet is provided under subsection (1) after a receipt for the final base shelf prospectus is issued but before a shelf prospectus supplement is filed, the issuer must

(a) include the term sheet in the relevant shelf prospectus supplement or incorporate by reference the term sheet into the relevant shelf prospectus supplement in the manner contemplated by paragraph 4 of subsection 6.3(1) of Regulation 44-102 respecting Shelf Distributions, and

(b) indicate that the term sheet is not part of the shelf prospectus supplement to the extent that the term sheet's contents have been modified or superseded by a statement contained in the shelf prospectus supplement and, if a statement in the term sheet has been modified or superseded, disclose how the statement in the term sheet has been modified or superseded by the statement in the shelf prospectus supplement.

(4) If a term sheet is provided under subsection (1) after a receipt for the final base shelf prospectus is issued and after the relevant shelf prospectus supplement is filed, the issuer must include the term sheet in the relevant shelf prospectus supplement or incorporate by reference the term sheet into the relevant shelf prospectus supplement in the manner contemplated by paragraph 4 of subsection 6.3(1) of Regulation 44-102 respecting Shelf Distributions.

(5) If a term sheet is provided under subsection (1) after a receipt for the final base shelf prospectus is issued and after the relevant shelf prospectus supplement is filed, the issuer must state in the shelf prospectus supplement that any term sheet provided by the issuer to a potential purchaser after the date of the shelf prospectus supplement and before the termination of the distribution is deemed to be incorporated into the shelf prospectus supplement.

(6) If a term sheet is provided under subsection (1) but the issuer does not include the term sheet in its relevant shelf prospectus supplement or incorporate by reference the term sheet into its relevant shelf prospectus supplement in the manner contemplated by subsection (3) or (4), as applicable, the term sheet is deemed for purposes of securities legislation to be incorporated into the shelf prospectus supplement as of the date of the supplement to the extent not otherwise expressly modified or superseded by a statement contained in the supplement.

(7) If a shelf prospectus supplement modifies a statement of a material fact that appeared in a term sheet provided under subsection (1) with a preliminary form of shelf prospectus supplement, the issuer must prepare a revised term sheet that highlights the modified statement and the relevant investment dealer must deliver with the shelf prospectus supplement a copy of the revised term sheet to each purchaser of securities distributed under the shelf prospectus supplement that received the original term sheet.

(8) Any revised term sheet provided with the shelf prospectus supplement under subsection (7) must comply with this section.

“13.8. Road shows for permitted institutional investors during the waiting period

(1) An investment dealer that conducts a road show for permitted institutional investors during the waiting period is exempt from the prospectus requirement if

- (a) the road show complies with subsections (2) to (4);
- (b) the disclosure in the road show is fair, true and plain;
- (c) other than information that compares the issuer to other issuers and contact information for the investment dealer conducting the road show, all information in the road show concerning the securities is disclosed in the preliminary prospectus and any amendment to the preliminary prospectus;
- (d) the issuer provides written authorization to the investment dealer to conduct the road show;
- (e) the road show is conducted in the local jurisdiction only if a receipt for the preliminary prospectus was issued in the jurisdiction;
- (f) only permitted institutional investors, registered individuals and representatives of the issuer attend the road show; and
- (g) before the road show commences, the investment dealer obtains confirmation in writing from each permitted institutional investor attending the road show that the permitted institutional investor will keep confidential any information that compares the issuer to other issuers that is disclosed in connection with the road show.

(2) An investment dealer must not provide written material, other than a preliminary prospectus and any amendment to a preliminary prospectus, to a permitted institutional investor attending a road show conducted under subsection (1) unless

- (a) other than information that compares the issuer to other issuers, the written material is provided in accordance with section 13.5;
- (b) the issuer redacts any information not disclosed in the preliminary prospectus, or any amendment, that compares the issuer to other issuers from the written material before filing it in accordance with paragraph 13.5(1)(e);
- (c) the version of the written material that is filed contains a description of any information that was redacted in accordance with paragraph (b) immediately after the redacted information; and
- (d) the version of the written material that is provided to the permitted institutional investor attending the road show contains a statement, immediately after any information not disclosed in the preliminary prospectus or any amendment that compares the issuer to other issuers, that the information is not disclosed in the preliminary prospectus, or any amendment, and will not be subject to prospectus liability.

(3) The investment dealer must establish and follow reasonable procedures to

- (a) verify the identity and keep a written record of any permitted institutional investor attending the road show in person, by telephone conference call, over the internet or by other electronic means;
- (b) ensure that the permitted institutional investor has received a copy of the preliminary prospectus and any amendment to the preliminary prospectus; and
- (c) restrict copying of any written materials.

(4) The investment dealer must commence the road show with the oral reading of the following statement, with the bracketed information completed:

“A preliminary prospectus containing important information relating to the securities described in this presentation has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the preliminary prospectus, and any amendment to the preliminary prospectus, is required to be delivered to each investor attending this presentation.

“The preliminary prospectus is still subject to completion. There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final prospectus has been issued.

“This presentation does not provide full disclosure of all material facts relating to the securities offered. Investors should read the preliminary prospectus, any amendment to the preliminary prospectus and the final prospectus for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

“13.9. Road shows for retail investors during the waiting period

(1) An investment dealer that conducts a road show for potential investors during the waiting period is exempt from the prospectus requirement if

- (a) the road show complies with subsections (2) to (4);
- (b) the disclosure in the road show is fair, true and plain;
- (c) other than contact information for the investment dealer conducting the road show, all information in the road show concerning the securities is disclosed in the preliminary prospectus and any amendment to the preliminary prospectus;
- (d) the issuer provides written authorization to the investment dealer to conduct the road show;
- (e) the road show is conducted in the local jurisdiction only if a receipt for the preliminary prospectus was issued in the jurisdiction; and
- (f) only potential investors, registered individuals and representatives of the issuer attend the road show.

(2) An investment dealer must not provide written material, other than a preliminary prospectus and any amendment to the preliminary prospectus, to an investor attending a road show conducted under subsection (1) unless the written material is provided in accordance with section 13.5.

(3) The investment dealer must establish and follow reasonable procedures to

- (a) verify the identity and keep a written record of any investor attending the road show in person, by telephone conference call, over the internet or by other electronic means;
- (b) ensure that the investor has received a copy of the preliminary prospectus and any amendment; and
- (c) restrict copying of any written materials.

(4) The investment dealer must commence the road show with the oral reading of the following statement, with the bracketed information completed:

“A preliminary prospectus containing important information relating to the securities described in this presentation has been filed with the securities regulatory

authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the preliminary prospectus, and any amendment to the preliminary prospectus, is required to be delivered to each investor attending this presentation.

“The preliminary prospectus is still subject to completion. There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final prospectus has been issued.

“This presentation does not provide full disclosure of all material facts relating to the securities offered. Investors should read the preliminary prospectus, any amendment to the preliminary prospectus and the final prospectus for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

“13.10. Road shows for permitted institutional investors after the receipt of a final prospectus

(1) An investment dealer must not conduct a road show for permitted institutional investors after a receipt for a final prospectus, or any amendment to the final prospectus, is issued unless

- (a) the road show complies with subsections (2) to (4);
- (b) the disclosure in the road show is fair, true and plain;
- (c) other than information that compares the issuer to other issuers and contact information for the investment dealer conducting the road show, all information in the road show concerning the securities is disclosed in the final prospectus and any amendment;
- (d) the issuer provides written authorization to the investment dealer to conduct the road show;
- (e) the road show is conducted in the local jurisdiction only if a receipt for the final prospectus was issued in the jurisdiction;
- (f) only permitted institutional investors, registered individuals and representatives of the issuer attend the road show; and
- (g) before the road show commences, the investment dealer obtains confirmation in writing from each permitted institutional investor attending the road show that the permitted institutional investor will keep confidential any information that compares the issuer to other issuers that is disclosed in connection with the road show.

(2) An investment dealer must not provide written material, other than a final prospectus and any amendment, to permitted institutional investors attending a road show conducted under subsection (1) unless

- (a) other than information that compares the issuer to other issuers, the written material is provided in accordance with section 13.6;
- (b) the issuer redacts any information not disclosed in the final prospectus, or any amendment, that compares the issuer to other issuers from the written material before filing it in accordance with paragraph 13.6(1)(e);
- (c) the version of the written material that is filed contains a description of any information that was redacted in accordance with paragraph (b) immediately after the redacted information; and

(d) the version of the written material that is provided to the permitted institutional investors attending the road show contains a statement, immediately after any information not disclosed in the final prospectus or any amendment that compares the issuer to other issuers, that the information is not disclosed in the final prospectus or any amendment and will not be subject to prospectus liability.

(3) The investment dealer must establish and follow reasonable procedures to

(a) verify the identity and keep a written record of any permitted institutional investor attending the road show in person, by telephone conference call, over the internet or by other electronic means;

(b) ensure that the permitted institutional investor has received a copy of the final prospectus and any amendment; and

(c) restrict copying of any written materials.

(4) The investment dealer must commence the road show with the oral reading of the following statement, with the bracketed information completed:

“A final prospectus containing important information relating to the securities described in this presentation has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the final prospectus, and any amendment to the final prospectus, is required to be delivered to each investor attending this presentation.

“This presentation does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

“13.11. Road shows for retail investors after the receipt of a final prospectus

(1) An investment dealer must not conduct a road show for potential investors after a receipt for a final prospectus, or any amendment to the final prospectus, is issued unless

(a) the road show complies with subsections (2) to (4);

(b) the disclosure in the road show is fair, true and plain;

(c) other than contact information for the investment dealer conducting the road show, all information in the road show concerning the securities is disclosed in the final prospectus and any amendment;

(d) the issuer provides written authorization to the investment dealer to conduct the road show;

(e) the road show is conducted in the local jurisdiction only if a receipt for the final prospectus was issued in the jurisdiction; and

(f) only potential investors, registered individuals and representatives of the issuer attend the road show.

(2) An investment dealer must not provide written material, other than a final prospectus and any amendment, to investors attending a road show conducted under subsection (1) unless the written material is provided in accordance with section 13.6.

(3) The investment dealer must establish and follow reasonable procedures to

(a) verify the identity and keep a written record of any investor attending the road show in person, by telephone conference call, over the internet or by other electronic means;

(b) ensure that the investor has received a copy of the final prospectus and any amendment; and

(c) restrict copying of any written materials.

(4) The investment dealer must commence the road show with the oral reading of the following statement, with the bracketed information completed:

“A final prospectus containing important information relating to the securities described in this presentation has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the final prospectus, and any amendment to the final prospectus, is required to be delivered to each investor attending this presentation.

“This presentation does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

“13.12. Road shows for permitted institutional investors after the receipt of a final base shelf prospectus

(1) An investment dealer must not conduct a road show for permitted institutional investors after a receipt for a final base shelf prospectus, or any amendment to the final base shelf prospectus, is issued unless

(a) the road show complies with subsections (2) to (4);

(b) the disclosure in the road show is fair, true and plain;

(c) other than information that compares the issuer to other issuers and contact information for the investment dealer conducting the road show, all information in the road show concerning the securities is disclosed in the final base shelf prospectus, any amendment to the final base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement that has been filed;

(d) the issuer provides written authorization to the investment dealer to conduct the road show;

(e) the road show is conducted in the local jurisdiction only if a receipt for the final base shelf prospectus was issued in the jurisdiction;

(f) only permitted institutional investors, registered individuals and representatives of the issuer attend the road show; and

(g) before the road show commences, the investment dealer obtains confirmation in writing from each permitted institutional investor attending the road show that the permitted institutional investor will keep confidential any information that compares the issuer to other issuers that is disclosed in connection with the road show.

(2) An investment dealer must not provide written material, other than a final base shelf prospectus, any amendment to the final base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement, to permitted institutional investors attending a road show conducted under subsection (1) unless

(a) other than information that compares the issuer to other issuers, the written material is provided in accordance with section 13.7;

(b) the issuer redacts any information not disclosed in the final base shelf prospectus, any amendment to the final base shelf prospectus or any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement that compares the issuer to other issuers from the written material before filing it in accordance with paragraph 13.7(1)(e);

(c) the version of the written material that is filed contains a description of any information that was redacted in accordance with paragraph (b) immediately after the redacted information; and

(d) the version of the written material that is provided to the permitted institutional investors attending the road show contains a statement, immediately after any information not disclosed in the final base shelf prospectus, any amendment to the final base shelf prospectus or any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement that compares the issuer to other issuers, that the information is not disclosed in the final base shelf prospectus, any amendment or any applicable supplement, and will not be subject to prospectus liability.

(3) The investment dealer must establish and follow reasonable procedures to

(a) verify the identity and keep a written record of any permitted institutional investor attending the road show in person, by telephone conference call, over the internet or by other electronic means;

(b) ensure that the permitted institutional investor has received a copy of the final base shelf prospectus, any amendment to the base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement; and

(c) restrict copying of any written materials.

(4) The investment dealer must commence the road show with the oral reading of the following statement, with the bracketed information completed:

“A final base shelf prospectus containing important information relating to the securities described in this presentation has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the final base shelf prospectus, any amendment to the final base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement is required to be delivered to each investor attending this presentation.

“This presentation does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final base shelf prospectus, any amendment and any applicable supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

“13.13. Road shows for retail investors after the receipt of a final base shelf prospectus

(1) An investment dealer must not conduct a road show for potential investors after a receipt is issued for a final base shelf prospectus, or any amendment to the final base shelf prospectus, unless

(a) the road show complies with subsections (2) to (4);

(b) the disclosure in the road show is fair, true and plain;

(c) other than contact information for the investment dealer conducting the road show, all information in the road show concerning the securities is disclosed in the final base shelf prospectus, any amendment to the final base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement;

(d) the issuer provides written authorization to the investment dealer to conduct the road show;

(e) the road show is conducted in the local jurisdiction only if a receipt for the final base shelf prospectus was issued in the jurisdiction; and

(f) only potential investors, registered individuals and representatives of the issuer attend the road show.

(2) An investment dealer must not provide written material, other than a final base shelf prospectus, any amendment to the final base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement, to investors attending a road show conducted under subsection (1) unless the written material is provided in accordance with section 13.7.

(3) The investment dealer must establish and follow reasonable procedures to

(a) verify the identity and keep a written record of any investor attending the road show in person, by telephone conference call, over the internet or by other electronic means;

(b) ensure that the investor has received a copy of the final base shelf prospectus, any amendment to the final base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement; and

(c) restrict copying of any written materials.

(4) The investment dealer must commence the road show with the oral reading of the following statement, with the bracketed information completed:

“A final base shelf prospectus containing important information relating to the securities described in this presentation has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada]. A copy of the final base shelf prospectus, any amendment to the final base shelf prospectus and any applicable shelf prospectus supplement or preliminary form of shelf prospectus supplement is required to be delivered to each investor attending this presentation.

“This presentation does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final base shelf prospectus, any amendment and any applicable supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.””.

7. Form 41-101F1 of the Regulation is amended:

(1) by adding, in the general instructions and after paragraph (15), the following:

“(16) A term sheet prepared in accordance with subsections 13.5(1) or 13.6(1) of the Regulation is the only document that can be incorporated by reference into a long form prospectus.”;

(2) by replacing, in the reference provided under paragraph (a) of item 20.2, “[its/their] assessment of the state of the financial markets” with “[describe any “market out”, “disaster out”, “material change out” or similar provision]”;

(3) by inserting, after item 36.1, the following:

“Item 36A Term Sheets Incorporated by Reference**36A.1. Term sheets incorporated by reference**

(1) If a term sheet is provided during the waiting period under subsection 13.5(1) of the Regulation, the issuer must

(a) include the term sheet in the final prospectus or incorporate the term sheet by reference into the final prospectus, and

(b) indicate that the term sheet is not part of the final prospectus to the extent that the term sheet's contents have been modified or superseded by a statement contained in the final prospectus and, if a statement in the term sheet has been modified or superseded, disclose how the statement in the term sheet has been modified or superseded by the statement in the final prospectus.

(2) State that any term sheet provided under subsection 13.6(1) of the Regulation to a potential purchaser after the date of the final prospectus and before the termination of the distribution is deemed to be incorporated into the final prospectus.

GUIDANCE

A term sheet does not, as a matter of law, amend a preliminary prospectus, any amendment to a preliminary prospectus, a final prospectus or any amendment to a final prospectus.”;

(4) by inserting, after item 37.5, the following:

“37.6. Term sheets

If an issuer relied on subsection 13.5(1) of the Regulation or intends to rely on subsection 13.6(1) of the Regulation, change “prospectus” to “prospectus (which includes the term sheet[s] included or incorporated by reference)” in the first place where it appears in the statements in sections 37.2 and 37.3.”.

8. Form 41-101F2 of the Regulation is amended:

(1) by replacing, in the reference provided under paragraph (1) of item 25.3, “[its/their] assessment of the state of the financial markets” with “[describe any “market out”, “disaster out”, “material change out” or similar provision]”;

(2) by inserting, after item 37.2, the following:

“37.3. Term Sheets Incorporated by Reference

(1) If a term sheet is provided during the waiting period under subsection 13.5(1) of the Regulation, the issuer must

(a) include the term sheet in the final prospectus or incorporate the term sheet by reference into the final prospectus, and

(b) indicate that the term sheet is not part of the final prospectus to the extent that the term sheet's contents have been modified or superseded by a statement contained in the final prospectus and, if a statement in the term sheet has been modified or superseded, disclose how the statement in the term sheet has been modified or superseded by the statement in the final prospectus.

(2) State that any term sheet provided under subsection 13.6(1) of the Regulation to a potential purchaser after the date of the final prospectus and before the termination of the distribution is deemed to be incorporated into the final prospectus.

GUIDANCE

A term sheet does not, as a matter of law, amend a preliminary prospectus, any amendment to a preliminary prospectus, a final prospectus or any amendment to a final prospectus.”.

9. This Regulation comes into force on *(indicate the date of coming into force of this Regulation)*.