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**RE: Multilateral CSA Notice 45-312 Proposed Prospectus Exemption for Distributions to Existing Security Holders**

Dear Ms. Clark,

I commend the Alberta and British Columbia Securities Commissions for being pro-active and taking steps aimed at removing road blocks in the public venture capital markets, while at the same time maintaining the integrity of our admired capital markets.

My comments will be directed at several points within the Proposed Exemption, as well as proposing several additions to the Proposed Exemption.

**Record Date**

I have difficulty with the requirement that in order to use the Proposed Exemption an investor must be a shareholder at the Record Date which will be one day prior to a press release announcing the financing. In effect, we end up with a modified rights offering type financing vehicle. My belief is that the existing shareholders and prior financing agents are likely fatigued and not able to invest or raise new capital. Therefore, the Proposed Exemption will have limited success in reaching new providers of capital, and be of limited value in enticing a new agent to assist in raising capital.

I also do not see the regulatory justification in only offering this Proposed Exemption to existing shareholders. Why are we creating two classes of retail shareholders?

Consider this example: If a client owns one board lot of a \$.60 stock, he has invested \$60. A broker would then be allowed to recommend to this client that he buy any amount, maybe even \$100,000. However, if the client does not own \$60 worth of the shares, the same broker cannot offer the same client even \$500 worth of the offering. It does not make any sense. I also believe that it will be virtually impossible to police the requirement and verify prior share ownership. At the very least it will be an administrative quagmire.

**Four Month Hold Period**

I am comfortable with limiting this Proposed Exemption to \$20,000 on brokered financings of public companies. With this limit, and an understanding that the entire subscriber base will be retail individuals, it seems totally inequitable to make this individual hold onto the stock for four months. In the example of a \$.60 being discounted to \$.50 for an offering, the individual would have a maximum \$4000 advantage and this differential advantage would likely be eliminated in the market within minutes of the financing being announced.

Additions to the Proposed Exemption- I propose that an additional element be added to this exemption in order to make it a financing tool that will be used by issuers looking for new capital. My proposal is that if a Registrant/Dealer is signed as agent for an offering, the

issuer be allowed a prospectus exemption such that the issuer, via the registrant agent, is allowed to raise up to \$20,000 per individual under the same exemption. I also recommend that these shares be freely tradable.

Why should we add in this element to the Proposed Exemption?

### **Benefits**

- This exemption allows a fully reporting, listed issuer, to access a retail client investor.
- This is an exemption that is aimed at making sure that the retail investor has the opportunity to participate. Most of the other exemptions are exclusionary to the average retail investor, thus most of the time the average retail investor is shut out of offerings.
- This exemption will allow capital to flow into the public venture capital markets.
- This exemption will lower the cost of accessing capital for public venture capital issuers but at the same time maintain a very high level of regulatory oversight and screening.

### **Justification**

- Data clearly shows that public venture capital issuers are frozen out of accessing capital.
- This is not a lowering of standards. In fact this is a much more regulated form of Crowdfunding for listed issuers.
- This exemption deals with listed issuers that have met all regulatory standards, are in good standing, and involves a further safety net by involving a registered dealer that must also follow all regulatory guidelines involving the actual due diligence review and all suitability qualifications for the retail investor.
- Continuous disclosure requirements, secondary market liability, and access to issuer information via SEDAR, allows the retail investor to be protected and informed.
- This exemption is aimed at existing retail investor clients that have already been screened for suitability and KYC. These investors have already established an interest in investing in public venture capital issuers.
- Many investor regulations set out to make sure that an investor is able to withstand a loss. However, most of the exemptions do not cap the amount of money that can be lost, thus the initial goal is never achieved by the resultant policy. The Dealer element directly addresses this issue and caps the amount that an investor can lose, thus fulfilling the goal of making sure an investor is able to withstand a loss.

Further regulatory comfort can be gained by restricting this exemption to issuers that have completed two public company audit cycles. Also, by having a registrant involved, the Commissions can take comfort in knowing that the proper due diligence will be done on the issuer, and that the Know Your Client and Suitability safety checks will be done by the broker and will be reviewed by compliance departments of the registrants.

## Summary

The addition of the Dealer amendments to the Proposed Exemption is a straight forward way to increase access to capital for capital starved issuers. The exemption will significantly lower the costs of accessing capital. The exemption will be inclusive of a very high percentage of existing retail investors. The exemption will be available only to listed issuers' that are in compliance with all securities and Exchange regulations. The Dealer component of the Proposed Exemption will be processed through registrants that will employ both a corporate finance due diligence process along with retail brokerage suitability and know your client screening and protection process. This exemption truly meets all of the requirements and needs of every stake holder in the public venture capital markets.

Our public venture capital markets are in a very problematic spot right now. These markets have not participated in any of the recovery like all of the other capital markets. If we do not take serious proactive measures right now, I honestly believe that we might lose this entire industry in Canada. The public venture capital markets have developed in Canada because of our regional dynamic efficiency in creating solutions within our capital markets. We simply can't wait for holdout jurisdictions to be a part of our solution. My concern is that other jurisdictions waited almost 20 years to accept the JCP/CPC program and over 10 years to look at the OM exemption. We don't have the luxury of waiting 20 months, never mind 20 years, for other jurisdictions to realize that we have a major problem in the public venture capital markets. We must go back to our dynamic and entrepreneurial roots and be champions of the public venture capital markets. If we don't, the public venture capital markets are surely doomed.

At present, there are three exemption ideas being contemplated by regulators in Canada. Ranking the importance of these proposals in relation to how they will be deployed by issuers is a very important discussion. My personal view is that a Dealer Exemption housed alongside the Proposed Existing Shareholder Exemption, will have the most positive effect on the TSXV. A stand-alone rights offering exemption will have almost no effect on the TSXV market, and will definitely not bring in new capital to the lion's share of the listed issuers that resort to this exemption.

**THE ABOVE COMMENTS ARE THE PERSONAL VIEWS OF THE WRITER. THE COMMENTS SHOULD NOT BE INTERPRETED AS THE OPINION OF THE EMPLOYER OF THE WRITER, OR THE OPINION OF THE VARIOUS COMMITTEES THAT THE WRITER IS A MEMBER OF.**

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