

Section 1

Identification questions submitted via e-form through the CSA website

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Publication title

Proposed Amendments to National Instrument 45-106 Prospectus Exemptions relating to the Listed Issuer Financing Exemption

Comment addressed to participating jurisdictions:

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

Identification

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Are you commenting on behalf of an organization?

No

October 20, 2026

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

c/o

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Corporate Secretary and Executive Director, Legal Affairs
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Submitted via the Canadian Securities Administrators (CSA) online consultation [portal](#).

Re: CSA Notice and Request for Comment – Proposed Amendments to National Instrument 45-106 Prospectus Exemptions Relating to the Listed Issuer Financing Exemption

We are pleased to submit, in our personal capacities, comments in response to the notice and request for comment published by the CSA on July 23, 2026 (**Request for Comment**) regarding proposed amendments to National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**), including Form 45-106F19 *Listed Issuer Financing Document* (the **Proposed Amendments**), and proposed changes to Companion Policy 45-106CP *Prospectus Exemptions* (the **Proposed Changes**).

We aim to provide a rigorous independent perspective, informed by contemporary academic research, on questions raised in the Request for Comment relating to the listed issuer financing exemption in Part 5A of NI 45-106 (**LIFE** or the **Exemption**). Our comments specifically focus on questions 1 and 4 as identified in the Request for Comment, which are reproduced below in bold font.

A. Summary

We are in support of relaxing the 12-month sufficiency of funds condition to allow for an additional, significant milestone standard. However, the Proposed Changes distinguish issuers based only on whether they have generated revenue from ordinary activities, which disadvantages low- as opposed to pre-revenue junior issuers. We suggest that issuers should be able to choose compliance with a significant milestone standard if deemed more appropriate for their needs, although this milestone should be more clearly defined and accompanied by additional disclosure near the beginning of the offering document. This additional disclosure should more prominently summarize issuers' available funds, milestone costs and expected completion dates, and the consequences of the financing not being completed.

We similarly support the Proposed Amendments' omission of the offering price in the LIFE offering document. However, we suggest that disclosure of the expected price range should be optional rather than mandatory, because market prices already provide a useful benchmark and non-binding ranges, particularly wide ones, are unlikely to provide investors with meaningful additional information or protection.

B. Response to Question 1

Question 1(a): Do you think the proposal to modify the sufficiency of funds condition, combined with enhanced disclosure in the offering document, addresses the concerns raised?

The proposal justifiably relaxes the condition requiring that an issuer reasonably expect to have sufficient funds for 12 months following the distribution to use LIFE. Canadian junior issuers listed on the TSX Venture Exchange rely heavily on public equity to finance growth opportunities, given the difficulties they face in accessing private capital and debt financing.¹ Seasoned equity offerings are crucial to distressed firms in particular.² The CSA designed the Exemption to facilitate more efficient fundraising for smaller issuers; LIFE should therefore meet those issuers' needs and align with their financing practices.³

¹ L Daniel Wilson, "Canadian Junior Public Markets Health Check: Surprising Resilience Thus Far, Some Concerns Looking Forward" (2025) 18:2 School Pub Pol'y Publications 1 at 9, online: <spp.ucalgary.ca/publications/canadian-junior-public-markets-health-check-surprising-resilience-thus-far-some-concerns-looking-forward>; Cécile Carpentier, Jean-François L'Her & Jean-Marc Suret, "Seasoned Equity Offerings by Small and Medium-Sized Enterprises" (2012) 38:4 Small Bus Econs 449 at 453–55, online: <doi.org/10.1007/s11187-010-9271-x> [Carpentier, L'Her & Suret, "Seasoned Equity Offerings"].

² For U.S. evidence on distressed firms having valuable growth opportunities, see Mark D Walker & Qingqing Wu, "Equity Issues When in Distress" (2019) 25:3 European Financial Management 489 at 495, 517, online: <doi.org/10.1111/eufm.12220>.

³ CSA Notice of Amendments to NI 45-106 Prospectus Exemptions to Introduce the Listed Issuer Financing Exemption, BCSC CSA Notice (8 September 2022) at 2, online (pdf): <www.bcsc.bc.ca/-/media/PWS/New-Resources/Securities-Law/Instruments-and-Policies/Policy-4/45106-CSA-Notice-September-8-2022.pdf> [2022 Notice].

The proposal's main drawback is the manner in which the Proposed Changes distinguish issuers subject to a 12-month sufficiency of funds standard from those subject to a "next significant milestone" standard – the distinction is based upon whether the issuer has or has not yet generated revenue from ordinary activities.⁴ As proposed, any self-assessed revenue from ordinary activities, no matter how little, would generally subject an issuer to the 12-month standard of funds, regardless of its needs.⁵ Revenue can be a poor indicator of self-sufficiency in junior markets: smaller issuers often report little revenue,⁶ and the majority of mineral exploration companies, constituting more than half of Canadian junior listings, record no revenue.⁷

We suggest that the CSA retain the default condition requiring sufficient available funds to meet 12 months of business objectives and liquidity requirements following the offering, while introducing flexibility by also allowing issuers to choose a more clearly defined significant milestone standard if more appropriate for their needs, incorporating the additional disclosure discussed under Question 1(b). The advantage of this approach is to broaden the scope of issuers relying on the Exemption, as it would allow issuers with limited revenue generation in the "in-between" category of being neither pre-revenue, nor possessing sufficient available funds for 12 months of business objectives, to benefit from the Exemption. Issuers with ordinary course revenue to fund 12 months of business objectives would rely on the default sufficiency of funds condition, as larger fundraisings reduce fixed issuance costs and lower refinancing risk.⁸ Issuers who are unable or do not wish to raise funds meeting the 12-month sufficiency condition would be able to fundraise for a nearer milestone, regardless of revenue.⁹ Incentives to overstate available funds would decrease because issuers would no longer be excluded for falling short of the 12-month standard.¹⁰ Achieving significant milestones provides a valuable signal to investors affirming a venture's potential, which can help spur virtuous funding cycles by leading to higher valuations and less dilution in subsequent financings.

⁴ CSA Notice and Request for Comment: Proposed Amendments to NI 45-106 Prospectus Exemptions Relating to the Listed Issuer Financing Exemption, OSC CSA Notice, (2026) 49 OSCB 6577 (23 July 2026) at Annex B, 6587, online (pdf): <osc.ca/sites/default/files/2026-07/csa_20260723_45-106_rfc_prospectus-exemptions.pdf> [Consultation].

⁵ *Ibid* at Annex B, 6587.

⁶ See Carpentier, L'Her & Suret, "Seasoned Equity Offerings", *supra* note 1 at 458.

⁷ Wilson, *supra* note 1 at 18.

⁸ Cécile Carpentier, Jean-François L'Her & Jean-Marc Suret, "The Costs of Issuing Private Versus Public Equity for Entrepreneurial Ventures" in Douglas Cumming, ed, *The Oxford Handbook of Private Equity* (New York: Oxford University Press, 2012) 521 at 527–28, online: <doi.org/10.1093/oxfordhb/9780195391589.013.0020>; on venture capital financing risk, see William R Kerr, Ramana Nanda & Matthew Rhodes-Kropf, "Entrepreneurship as Experimentation" (2014) 28:3 J Econ Perspectives 25 at 39, online : <aeweb.org/articles?id=10.1257/jep.28.3.25>.

⁹ For investor-protection concerns, see Letter from Philip Anisman to the Canadian Securities Administrators (26 October 2021) at 4, online (pdf): <osc.ca/sites/default/files/2021-10/com_20211026_45-106_anismanp.pdf>.

¹⁰ On overstated available funds, see Autorité des marchés financiers, *Summary of Oversight and Regulatory Activities* (May 2026) at 24, online (pdf): <lautorite.qc.ca/fileadmin/lautorite/grand_public/publications/professionnels/PEIC/2026-sommaire-activites-surveillance-reglementation_an.pdf>.

If the sufficiency of funds condition is to be relaxed, then any “significant milestone” standard should be more clearly defined to protect investors and ensure proper use of funds; at present, the Proposed Changes leave “next significant milestone” undefined and set no maximum time frame for achieving it.¹¹ This creates ambiguity, among other things, over whether achieving a subsequent financing could constitute a significant milestone on its own, which we do not believe would provide investors with sufficient information, even if explained with reference to longer business objectives. At a minimum, LIFE guidance in Companion Policy 45-106CP should draw on the short-term liquidity benchmarks and discussion of appropriate milestones in *CSA Staff Notice 41-307*, such as completion of the next project phase for exploration-stage issuers, or progress in developing a key product for research and development issuers.¹² A greater degree of alignment with *CSA Staff Notice 41-307* could provide more definitional clarity and examples of significant milestones in the LIFE offering context, which involves similar investor protection and sufficiency of funds concerns as those raised in the context of prospectus offerings for issuers with short-term liquidity concerns.

Question 1(b): Is there additional disclosure regarding an issuer’s financial condition that should be required under the exemption?

Yes, we suggest that the proposed disclosure is a valuable addition.¹³ While the value of additional disclosure may be limited when considering that retail investors do not often read entire offering documents,¹⁴ and going-concern disclosure may become boilerplate and therefore less

¹¹ *Consultation*, *supra* note 4 at Annex B, 6587.

¹² *Concerns Regarding an Issuer’s Financial Condition and the Sufficiency of Proceeds from a Prospectus Offering*, OSC CSA Staff Notice 41-307, (2021) 44 OSCB 2525 (revised 25 March 2021) at 1–2, online: <osc.ca/sites/default/files/2021-03/csa_20210325_41-307_revised-prospectus-guidance.pdf> [*CSA Staff Notice 41-307*].

¹³ *Consultation*, *supra* note 4 at Annex A, 6585–86.

¹⁴ On concerns that LIFE investors may not consult issuers’ disclosure, see Letter from FAIR Canada to the Canadian Securities Administrators (5 November 2021) at 4, online (pdf): <lautorite.qc.ca/fileadmin/lautorite/consultations/Commentaires/valeurs-mobilieres/2021-10-26/FAIR.pdf>; Anisman, *supra* note 9 at 4; see also Anita K Krug, “Investors’ Paradox” (2018) 43:2 J Corp L 245 at 268, nn 128–29, online (pdf): <jcl.law.uiowa.edu/sites/jcl.law.uiowa.edu/files/2021-08/Krug_Final_Web.pdf>.

informative, studies have shown that investors benefit from clearer summary disclosure that presents salient information earlier on in the offering document.¹⁵

Our principal suggestion is that issuers funded only to a milestone, rather than relying on the 12-month sufficiency of funds condition, could provide a short, consolidated summary near the beginning of the offering document that more prominently discloses their available funds, milestone costs and expected completion dates, expected remaining funds, and consequences of the financing not being obtained.¹⁶ While Form 45-106F19 and the Proposed Amendments require disclosure of (*inter alia*) available funds, intended uses, risk factors, and the timing and cost of significant steps toward business objectives, these are disclosed in separate items rather than in a consolidated manner up front.¹⁷ A standardized summary could take the form of a concise table near the beginning of the offering document (of comparable length to the eight-row tabular disclosure in Form 45-106F19, Item 8), accompanied by a brief summary in the news release.¹⁸ Issuers could also report in subsequent MD&A or permitted quarterly highlights whether they met the funded milestone, building on existing disclosure obligations and helping the CSA assess the new approach.¹⁹

¹⁵ For Staff findings of boilerplate disclosure of financial-condition risks in prospectuses, see *CSA Staff Notice 41-307*, *supra* note 12 at 7. For discussion of how summary disclosure can decrease investment decision-making time and increase investor welfare, see John Beshears et al, “How Does Simplified Disclosure Affect Individuals’ Mutual Fund Choices?” in David A Wise, ed, *Explorations in the Economics of Aging* (Chicago: University of Chicago Press, 2011) 75 at 76; John Kozup, Elizabeth Howlett & Michael Pagano, “The Effects of Summary Information on Consumer Perceptions of Mutual Fund Characteristics” (2008) 42:1 J Consumer Affairs 37 at 54. For discussion of how a higher relative placement of salient information influences less-sophisticated investors, see Kristian D Allee et al, “Pro Forma Disclosure and Investor Sophistication: External Validation of Experimental Evidence Using Archival Data” (2007) 32:3 Accounting, Organizations and Society 201 at 217.

¹⁶ On standardized and prominent disclosure, see Troy A Paredes, “Blinded by the Light: Information Overload and Its Consequences for Securities Regulation” (2003) 81:2 Wash ULQ 417 at 476–78, online: <repository.library.washu.edu/law_lawreview/vol81/iss2/7>.

¹⁷ *Listed Issuer Financing Document*, BCSC Form 45-106F19 at items 7–9, online (pdf): <www.bcsc.bc.ca/-/media/PWS/New-Resources/Securities-Law/Instruments-and-Policies/Policy-4/45106F19-F-July25-2023.pdf> [*Form 45-106F19*]; *Consultation*, *supra* note 4 at 6585–86, Annex A, paras 14(a), 15.

¹⁸ For comparable disclosure formats, see *Rights Offering Circular for Reporting Issuers*, BCSC Form 45-106F15 (25 July 2023) at items 9, 18–20, online (pdf): <www.bcsc.bc.ca/-/media/PWS/New-Resources/Securities-Law/Instruments-and-Policies/Policy-4/45106F15-F-July-25-2023.pdf>; *Offering Memorandum for Non-Qualifying Issuers*, FCAA Form 45-106F2 (8 March 2023) at item 2.5(b), online (pdf): <fcaa.gov.sk.ca/public/CKeditorUpload/Securities/Local_Notice/GO_45-504_Annex_1_45-106_F2_March_8_2023.pdf>.

¹⁹ *Management’s Discussion & Analysis*, ASC Form 51-102F1 (consolidation current to 9 June 2023) at items 1.4(d), 1.4(i), 1.5, 2.2.1, online (pdf): <asc.ca/-/media/ASC-Documents-part-1/Regulatory-Instruments/2023/09/6103154--51-102-F1-Consolidation-Eff-June-9-2023.pdf>.

Question 1(c): Do you think a better alternative would be to shorten the current condition to a period of less than 12 months. Would a 6-month period be more appropriate?

No, we do not believe that a 6-month period would be more appropriate.

A fixed 6-month period for all issuers could still prevent pre-revenue junior issuers fundraising with the Exemption in instances where expected completion of the next significant milestone is less than six months away, reducing the benefits and flexibility of staged financing already discussed.²⁰ A fixed 6-month period would also require more funding than needed by some shorter milestones, and would not be tied to a specific project.

Question 1(d): Since retail investors are able to purchase the same securities offered under the exemption on an exchange without the additional disclosure provided under the exemption, should we consider removing the sufficiency of funds condition altogether, or does the fact that retail investors may be solicited under the exemption justify retaining this condition?

No, we suggest that the sufficiency of funds condition should remain mandatory, unless an issuer is fundraising on a significant milestone standard.

While we are supportive of enabling more efficient fundraising options for junior issuers, financially constrained issuers do raise unique investor protection concerns. Canadian studies find lower expected returns for financially constrained issuers, and in junior markets most issuers are expected to eventually fail.²¹ Disclosure alone may not be sufficient to prevent retail investors from overpaying for shares in financially constrained issuers.²²

When comparing primary market purchases of securities under LIFE to those made in the secondary market on an exchange, it is important to consider whether secondary market buyers are protected by a market efficient enough for prices to reflect the issuer's funding risk.²³ Securities law scholars challenge this assumption when there is less information production for

²⁰ See Ramana Nanda, "Financing 'Tough Tech' Innovation" in Soumitra Dutta, Bruno Lanvin & Sacha Wunsch-Vincent, eds, *The Global Innovation Index 2020: Who Will Finance Innovation?*, 13th ed (Ithaca, Fontainebleau & Geneva: Cornell University, INSEAD & WIPO, 2020) 113 at 117, online (pdf): <hbs.edu/ris/Publication%20Files/GII_2020_Full_body_R_31-chpt5_d72bbe25-0a93-42b5-9b6f-8d66d5780751.pdf>; see also Letter from DuMoulin Black LLP to the British Columbia Securities Commission (18 November 2021) at 2, online (pdf): <lautorite.qc.ca/fileadmin/lautorite/consultations/Commentaires/valeurs-mobilieres/2021-10-26/DuMoulin_Black.pdf>.

²¹ Carpentier, L'Her & Suret, "Seasoned Equity Offerings", *supra* note 1 at 460–61 ("[f]inancially constrained firms cannot generate sufficient funds to finance their growth, and cannot borrow because they do not own the tangible assets required by the lenders" at 453); Wilson, *supra* note 1 at 26.

²² Carpentier, L'Her & Suret, "Seasoned Equity Offerings", *supra* note 1 at 461–64.

²³ Frank H Easterbrook & Daniel R Fischel, "Mandatory Disclosure and the Protection of Investors" (1984) 70:4 Va L Rev 669 at 694, online: <chicagounbound.uchicago.edu/journal_articles/1177/>.

thinly traded securities with little analyst coverage.²⁴ Disclosure may be less reliable for financially constrained issuers, given potentially stronger incentives to withhold or distort bad news in contexts where raising equity is the only means to continue operations.²⁵ The share prices of junior issuers may be less informationally efficient, suggesting that the sufficiency of funds condition (or significant milestone condition) adds meaningful protection to retail purchases of securities issued pursuant to LIFE. Other exemptions allowing securities to be sold to retail investors address these risks with investment caps, signed risk acknowledgements, or bans on advertising and solicitation, but LIFE has none of these safeguards, despite its issuer eligibility, continuous disclosure, and pre-solicitation filing requirements.²⁶

Without this condition, an issuer could close an offering without sufficient funds for short-term obligations, allowing issuers denied a prospectus receipt for insufficient funds to use LIFE instead.²⁷ LIFE's misrepresentation remedies are generally limited in cases of failure to achieve disclosed plans,²⁸ and given the inadequacies of damages as a remedy (e.g., financially constrained issuers' ability to pay),²⁹ it is preferable to ensure adequate safeguards prior to the sale.

C. Response to Question 4

Question 4: We propose to allow the omission of the offering price in the offering document if certain conditions are met. These conditions would include that the news release announcing the offering must include the expected range of the offering price and that the issuer must file an amendment to the offering document by the 2nd business day

²⁴ Stephen J Choi, "Company Registration: Toward a Status-Based Antifraud Regime" (1997) 64:2 U Chicago L Rev 567 at 578, online: <chicagounbound.uchicago.edu/ucirev/vol64/iss2/3/>; see also John C Coffee Jr, "Market Failure and the Economic Case for a Mandatory Disclosure System" (1984) 70:4 Va L Rev 717 at 731–32, online: <scholarship.law.columbia.edu/faculty_scholarship/536/>.

²⁵ On potentially weaker incentives to disclose bad news in an issuer's final period, see Paredes, *supra* note 16 at 422.

²⁶ See Anisman, *supra* note 9 at 4; see also *Prospectus Exemptions*, ASC NI 45-106 (consolidation current to 19 September 2025), ss 2.9(1)–(2.1), 5A.2, online: <www.asc.ca/-/media/ASC-Documents-part-1/Regulatory-Instruments/2025/10/6237518-45-106-NI-Consolidation-Eff-September-19-2025.pdf> [NI 45-106].

²⁷ CSA Staff Notice 41-307, *supra* note 12 at 1–2; Autorité des marchés financiers, *supra* note 10 at 24.

²⁸ *Frequently Asked Questions About the Listed Issuer Financing Exemption*, OSC CSA Staff Notice 45-330, (2025) 48 OSCB 4366 (revised 14 May 2025) at question 3, online (pdf): <osc.ca/sites/default/files/2026-07/csa_20260723_45-330_notice-revised-faq.pdf>; see also Easterbrook & Fischel, *supra* note 23 at 678–79.

²⁹ See Letter from the Prospectors & Developers Association of Canada to the Canadian Securities Administrators (26 October 2021) at Appendix A (response to question 8(d)), online (pdf): <lautorite.qc.ca/fileadmin/lautorite/consultations/Commentaires/valeurs-mobilieres/2021-10-26/PDAC.pdf>.

after the date the offering price is determined. Should issuers be required to include the expected range of the offering price in the news release announcing the offering?

No, we suggest that the expected range should be optional rather than mandatorily required.

At present, before soliciting offers to purchase securities under LIFE, an issuer must issue and file a news release announcing the offering and file a completed Form 45-106F19, which contains details of the offering price.³⁰ The price may be subsequently revised, with appropriate disclosure. Given that LIFE offerings, which may be brokered or non-brokered,³¹ already routinely revise pricing depending on market conditions and business developments, the core consideration becomes: how much value would requiring a non-binding expected range, as currently proposed, add for issuers, investors, and other market participants?

Since listed issuers in Canada and comparable regimes are not generally required to include expected ranges for secondary offerings unless an estimated range has already been disclosed, it is instructive to consider findings from research on initial public offerings (IPOs) discussing the value of expected price ranges.³² Academic literature on IPOs identifies three primary functions of expected price ranges: 1) helping predict first-day returns once final pricing is confirmed,³³ 2) anchoring pricing expectations around the midpoint,³⁴ and 3) guiding expectations of final pricing when supported by credible commitments to stay within the range.³⁵ These functions may be weaker for LIFE offerings, because trending market prices already provide a benchmark or anchor, and issuers cannot credibly commit to price within the range (because the sanctions for

³⁰ NI 45-106, *supra* note 26, ss 5A.2(k)–(l) and Form 45-106F19, *supra* note 17 at Part 1, item 2(b).

³¹ For data on the frequency of brokered LIFE offerings, see Desmond Lee, “LIFE Offerings Increase in Canada Following Regulatory Changes” (19 September 2025), online: <osler.com/en/insights/updates/life-offerings-increase-in-canada-following-regulatory-changes/>.

³² Canada: *Information Required in a Prospectus*, BCSC Form 41-101F1, BC Reg 59/2008 at General Instruction 4, Item 1.7 [Form 41-101F1]; *Short Form Prospectus*, BCSC Form 44-101F1, BC Reg 370/2005 at Instruction 4, Item 1.7.1 [Form 44-101F1]; *Post-Receipt Pricing*, BCSC NI 44-103, BC Reg 426/2000, s 3.3, [NI 44-103]. United States: *Regulation S-K*, 17 CFR § 229.501(b)(3), Instruction 1(A). European Union: EU, *Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017, and repealing Directive 2003/71/EC*, [2017] OJ, L 168/12, art 17(1), online: <esma.europa.eu/publications-and-data/interactive-single-rulebook/prospectus-regulation/article-17-final-offer> [Regulation (EU) 2017/1129]. United Kingdom: Financial Conduct Authority, *Prospectus Rules: Admission to Trading on a Regulated Market*, PRM 2.4.1R(1), online: <handbook.fca.org.uk/handbook/prm2/prm2s4>.

³³ Kathleen Weiss Hanley, “The Underpricing of Initial Public Offerings and the Partial Adjustment Phenomenon” (1993) 34:2 J Financial Econ 231 at 232, DOI: <10.1016/0304-405X(93)90019-8>.

³⁴ Tim Loughran & Jay R Ritter, “Why Don’t Issuers Get Upset About Leaving Money on the Table in IPOs?” (2002) 15:2 Rev Financial Studies 413 at 422, online (pdf): <site.warrington.ufl.edu/ritter/files/2019/10/LoughranRitter2002RFS.pdf>.

³⁵ On the role of underwriters’ pricing commitments in supporting adherence to indicative IPO price ranges, see Tim Jenkinson, Alan D Morrison & William J Wilhelm Jr, “Why Are European IPOs So Rarely Priced Outside the Indicative Price Range?” (2006) 80:1 J Financial Econ 185 at 187, 199–200, 204, online: <doi.org/10.1016/j.jfineco.2005.05.001>.

pricing outside the range would only be reputational).³⁶ The main value of an expected price range would be to indicate to potential purchasers and existing shareholders worst-case pricing and dilution scenarios, where the range's lower bound indicates maximum dilution in a fixed-dollar offering or the minimum proceeds in a fixed-share offering. While a wider range would give issuers more pricing flexibility – which is particularly valuable in more volatile junior markets – this flexibility undermines the range's information function, because a range so broad that its lower end implies an issuance close to LIFE's 50% increase cap would tell shareholders very little.³⁷

The CSA should therefore make the range optional and permit an undetermined bulleted price (“\$•”) at launch and during bookbuilding, subject to the proposed deadline for filing the amended Form 45-106F19 and proposed disclosure requirements.³⁸ Making disclosure of an expected price range optional would more closely align LIFE offerings with Canadian prospectus regulation, which permits undetermined pricing without a range for preliminary and base post-receipt pricing prospectuses, unless a range has been already publicly disclosed.³⁹ An optional expected price range would also align with seasoned offering regimes in the United States, European Union, and United Kingdom, none of which generally require an indicative price range at launch for listed issuers.⁴⁰

Regardless of whether an expected price range is adopted – though doing so would only strengthen this suggestion – the LIFE regime should provide withdrawal rights to investors, consistent with safeguards in Canada's prospectus offering regulation and other comparable regimes.⁴¹ While this approach has limitations, most notably that withdrawal rights can reduce the certainty of proceeds for issuers,⁴² providing investors with the ability to withdraw from their

³⁶ On optional dealer involvement, see *Prospectus Exemptions*, BCSC Companion Policy 45-106CP, ss 3.12(9)–(10), online (pdf): <www.bccsc.bc.ca/-/media/PWS/New-Resources/Securities-Law/Instruments-and-Policies/Policy-4/45106CP-CP-November-18-2022.pdf>. On how smaller issuers face lower, but still consequential reputational sanctions as compared to larger issuers, see Jonathan Chan, “Delegated Gatekeepers as Reputational Stewards: A Study of the Alternative Investment Market (AIM)”, Cambridge LJ [forthcoming in 2026], online (pdf): <papers.ssrn.com/sol3/Delivery.cfm?abstractid=6629759>.

³⁷ *Consultation*, *supra* note 4 at Annex A, 6583–84 (proposed ss 5A.2(1)(h)–(h.1)).

³⁸ *Ibid* at Annex A, 6584 (proposed s 5A.2(2)).

³⁹ *Form 41-101F1*, *supra* note 32 at General Instruction 4, Item 1.7; *Form 44-101F1*, *supra* note 32 at Instruction 4, Item 1.7.1; *NI 44-103*, *supra* note 32, s 3.3.

⁴⁰ United States: *Regulation S-K*, *supra* note 32, 17 CFR § 229.501(b)(3) Instruction 1(A); European Union: *Regulation (EU) 2017/1129*, *supra* note 32, art 17(1); United Kingdom: Financial Conduct Authority, *supra* note 32, PRM 2.4.1R(1).

⁴¹ For comparable withdrawal rights, *cf Regulation 41-101 respecting General Prospectus Requirements*, CQLR c V-1.1, r 14, ss 2A.4(2)–(4), 2A.6(4)–(5); *Start-up Crowdfunding Registration and Prospectus Exemptions*, BCSC NI 45-110, BC Reg 243/2021, s 5(1)(j)(i); *Regulation 45-106 respecting Prospectus Exemptions*, CQLR c V-1.1, r 21, s 2.9(6); *NI 44-103*, *supra* note 32 at ss 2A.4 and 2A.6(4)–(7); *Regulation (EU) 2017/1129*, *supra* note 32, art 17(1).

⁴² *Cf* Lawrence M Benveniste & Walid Y Busaba, “Bookbuilding vs. Fixed Price: An Analysis of Competing Strategies for Marketing IPOs” (1997) 32:4 J Financial & Quantitative Analysis 383 at 397–98, online : <<https://doi.org/10.2307/2331230>>.

purchase within a short timeframe would strengthen shareholder protection as well as potentially strengthening issuers' incentives to stay within an expected range.

D. Concluding Remarks

We are broadly in support of making LIFE a more accessible fundraising option, particularly for pre-revenue issuers and those with minimal operating revenue who face more acute fundraising challenges than their larger peers. Our comments in favour of allowing issuers to choose a significant milestone standard, if appropriate for their needs and subject to additional disclosure, as well as allowing issuers to choose whether to disclose an expected price range in the news release, are intended to make LIFE more accessible without inappropriately compromising investor protection.

The appeal of LIFE over other exempt market fundraising routes is clear, as it combines retail access with freely tradeable securities that can lower issuers' cost of capital.⁴³ Although available data do not yet reveal how much LIFE financing is replacing other routes, it is important to consider the effects of increased LIFE offerings on Canada's wider securities regulatory ecosystem.⁴⁴ Prior to implementing the Proposed Amendments and Proposed Changes, it would be helpful for the CSA to publish offering-level data and assess LIFE's effects on issuers' access to capital, investor outcomes, and retail and institutional participation, building on the purchaser information required since 2022.⁴⁵

Thank you for considering our submission. We would welcome the opportunity to further discuss any questions regarding this letter or the research underlying our submission.

Sincerely,



Jonathan Chan

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⁴³ Alberta Securities Commission, *The Alberta Capital Market: 2026 Report* (Calgary: Alberta Securities Commission, 2026) at 39–40, online: <asc.ca/-/media/ASC-Documents-part-1/Publications/2026/Reports/2026-Alberta-Capital-Market-Report.pdf>; *2022 Notice*, *supra* note 3 at 2; *Modernizing the Regulation of Public Companies*, OSC CSA Consultation Paper 51-406, (2026) 49 OSCB 6264 (16 July 2026) at 6269, online: <osc.ca/sites/default/files/2026-07/csa_20260716_51-406_public-companies.pdf>.

⁴⁴ Alberta's prospectus financing grew alongside LIFE in 2025, see Alberta Securities Commission, *supra* note 43 at 27, 40; Autorité des marchés financiers, *supra* note 10 at 14, 16. On LIFE's potential effects on the prospectus system, see Letter from Davies Ward Phillips & Vineberg LLP to the Canadian Securities Administrators (26 October 2021) at 3–4, online: <lautorite.qc.ca/fileadmin/lautorite/consultations/Commentaires/valeurs-mobilieres/2021-10-26/Davies.pdf>.

⁴⁵ *2022 Notice*, *supra* note 3 at 4, Annex A, response 9.