

## REGULATION

### 44-101

## RESPECTING SHORT FORM PROSPECTUS DISTRIBUTIONS

### PART 1 DEFINITIONS AND INTERPRETATION

#### 1.1. Definitions

In this Regulation:

"AIF" has the same meaning as in Regulation 51-102 respecting Continuous Disclosure Obligations approved by Ministerial Order no. 2005-03 dated May 19, 2005 for a reporting issuer other than an investment fund, and for an investment fund means an annual information form as such term is used in Regulation 81-106 respecting Investment Fund Continuous Disclosure approved by Ministerial Order no. 2005-05 dated May 19, 2005;

"alternative credit support" means support, other than a guarantee, for the payments to be made by an issuer of securities, as stipulated in the terms of the securities or in an agreement governing rights of, or granting rights to, holders of the securities, that

(a) obliges the person or company providing the support to provide the issuer with funds sufficient to enable the issuer to make the stipulated payments, or

(b) entitles the holder of the securities to receive, from the person or company providing the support, payment if the issuer fails to make a stipulated payment;

"applicable CD rule" means, for a reporting issuer other than an investment fund, Regulation 51-102 respecting Continuous Disclosure Obligations and, for an investment fund, Regulation 81-106 respecting Investment Fund Continuous Disclosure;

"approved rating" means, for a security, a rating at or above one of the following rating categories issued by an approved rating organization for the security or a rating category that replaces a category listed below:

<b>Approved Rating Preferred Organization Shares</b>	<b>Long Term Debt</b>	<b>Short Term Debt</b>
Dominion Bond Rating Pfd-3	BBB	R-2

Service Limited

Fitch Ratings Ltd.	BBB	F3	BBB
Moody's Investors Service "baaa"	Baa	Prime-3	
Standard & Poor's	BBB	A-3	P-3

"approved rating organization" means each of Dominion Bond Rating Service Limited, Fitch Ratings Ltd., Moody's Investors Service, Standard & Poor's and any of their successors;

"asset-backed security" has the same meaning as in Regulation 51-102 respecting Continuous Disclosure Obligations;

"business acquisition report" has the same meaning as in Regulation 51-102 respecting Continuous Disclosure Obligations;

"cash equivalent" means an evidence of indebtedness that has a remaining term to maturity of 365 days or less and that is issued, or fully and unconditionally guaranteed as to principal and interest, by

(a) the government of Canada or the government of a jurisdiction of Canada,

(b) the government of the United States of America, the government of one of the states of the United States of America, the government of another sovereign state or a permitted supranational agency, if, in each case, the evidence of indebtedness has an approved rating, or

(c) a Canadian financial institution, or other entity that is regulated as a banking institution, loan corporation, trust company, or insurance company or credit union by the government, or an agency of the government, of the country under whose laws the entity is incorporated or organized or a political subdivision of that country, if, in either case, the Canadian financial institution or other entity has outstanding short term debt securities that have received an approved rating from any approved rating organization;

"cash settled derivative" means a derivative, the terms of which provide for settlement only by means of cash or cash equivalent the amount of which is determinable by reference to the underlying interest of the derivative;

"convertible" means, if used to describe securities, that the rights and attributes attached to the securities include the right or option to purchase, convert into or exchange for or otherwise acquire equity securities of an issuer, or any other security that itself includes the right or option to purchase, convert into or exchange for or otherwise acquire equity securities of an issuer;

"credit supporter" means a person or company who provides a guarantee or alternative credit support for any of the payments to be made by an issuer of securities as stipulated in the terms of the securities or in an agreement governing rights of, or granting rights to, holders of the securities;

"current AIF" means,

(a) if the issuer has filed an AIF for its most recently completed financial year, that AIF, or

(b) the issuer's AIF filed for the financial year immediately preceding its most recently completed financial year if

(i) the issuer has not filed an AIF for its most recently completed financial year, and

(ii) the issuer is not yet required under the applicable CD rule to have filed its annual financial statements for its most recently completed financial year,

"current annual financial statements" means,

(a) if the issuer has filed its comparative annual financial statements in accordance with the applicable CD rule for its most recently completed financial year, those financial statements together with the auditor's report accompanying the financial statements and, if there has been a change of auditors since the comparative period, an auditor's report on the financial statements for the comparative period, or

(b) the issuer's comparative annual financial statements filed for the financial year immediately preceding its most recently completed financial year, together with the auditor's report accompanying the financial statements and, if there has been a change of auditors since the comparative period, an auditor's report on the financial statements for the comparative period if

(i) the issuer has not filed its comparative annual financial statements for its most recently completed financial year, and

(ii) the issuer is not yet required under the applicable CD rule to have filed its annual financial statements for its most recently completed financial year;

"derivative" means an instrument, agreement or security, the market price, value or payment obligation of which is derived from, referenced to, or based on an underlying interest;

"designated foreign jurisdiction" has the same meaning as in Regulation 52-107 respecting Acceptable Accounting Principles, Auditing Standards and Reporting Currency approved by Ministerial Order no. 2005-08 dated May 19, 2005;

"equity securities" means securities of an issuer that carry a residual right to participate in the earnings of the issuer and, upon the liquidation or winding up of the issuer, in its assets;

"executive officer" has the same meaning as in Regulation 51-102 respecting Continuous Disclosure Obligations;

"foreign disclosure requirements" has the same meaning as in Regulation 52-107 respecting Acceptable Accounting Principles, Auditing Standards and Reporting Currency;

"full and unconditional credit support" means

(a) alternative credit support that

(i) entitles the holder of the securities to receive payment from the credit supporter, or enables the holder to receive payment from the issuer within 15 days of any failure by the issuer to make a payment as stipulated, and

(ii) results in the securities receiving the same credit rating as, or a higher credit rating than, the credit rating they would have received if payment had been fully and unconditionally guaranteed by the credit supporter, or would result in the securities receiving such a rating if they were rated, or

(b) a guarantee of the payments to be made by the issuer of securities as stipulated in the terms of the securities or in an agreement governing rights of, or granting rights to, holders of the securities such that the holder of the securities is entitled to receive payment from the guarantor within 15 days of any failure by the issuer to make a payment as stipulated;

"information circular" has the same meaning as in Regulation 51-102 respecting Continuous Disclosure Obligations;

"interim period" has the same meaning as in the applicable CD rule;

"investment fund" has the same meaning as in Regulation 81-106 respecting Investment Fund Continuous Disclosure;

"material change report" means, for a reporting issuer other than an investment fund, a completed Form 51-102F3, Material Change Report, of Regulation 51-102 respecting Continuous Disclosure Obligations and for an investment fund, a completed Form 51-102F3 adjusted as directed by Regulation 81-106 respecting Investment Fund Continuous Disclosure;

"MD&A" has the same meaning as in Regulation 51-102 respecting Continuous Disclosure Obligations in relation to a reporting issuer other than an investment fund, and in relation to an investment fund means an annual or interim management report of fund performance as defined in Regulation 81-106 respecting Investment Fund Continuous Disclosure;

"mineral project" has the same meaning as in Regulation 43-101 respecting Standards of Disclosure for Mineral Projects approved by Ministerial Order no. 2005-23 dated November 30, 2005;

"non-convertible" means, if used to describe a security, a security that is not convertible;

"permitted supranational agency" means the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Caribbean Development Bank, the European Bank for Reconstruction and Development, the African Development Bank and any person or company prescribed under paragraph (g) of the definition of "foreign property" in subsection 206(1) of the *Income Tax Act* (R.S.C. (1985), c. 1 (5<sup>th</sup> Supp.));

"reorganization" means

(a) a statutory amalgamation,

(b) a statutory merger, or

(c) a statutory arrangement;

"restricted security" has the same meaning as in Regulation 51-102 respecting Continuous Disclosure Obligations;

"short form eligible exchange" means each of the Toronto Stock Exchange, Tier 1 and Tier 2 of the TSX Venture Exchange and the Canadian Trading and Quotation System Inc.;

"special warrant" means a security that, by its terms or the terms of an accompanying contractual obligation, entitles or requires the holder to acquire another security without payment of material additional consideration and obliges the issuer of either security to undertake efforts to file a prospectus to qualify the distribution of the other security;

"successor issuer" means an issuer existing as a result of a reorganization, other than, in the case where the reorganization involved a divestiture of a portion of an issuer's business, an issuer that succeeded to or otherwise acquired the portion of the business divested;

"underlying interest" means, for a derivative, the security, commodity, financial instrument, currency, interest rate, foreign exchange rate, economic indicator, index, basket, agreement, benchmark or any other reference, interest or variable, and, if applicable, the relationship between any of the foregoing, from, to or on which the market price, value or any payment obligation of the derivative is derived, referenced or based; and

"U.S. credit supporter" means a credit supporter that

(a) is incorporated or organized under the laws of the United States of America or any state or territory of the United States of America or the District of Columbia,

(b) either

(i) has a class of securities registered under section 12(b) or section 12(g) of the 1934 Act, or

(ii) is required to file reports under section 15(d) of the 1934 Act,

(c) has filed with the SEC all 1934 Act filings for a period of 12 calendar months immediately before the filing of the preliminary short form prospectus,

(d) is not registered or required to be registered as an investment company under the Investment Company Act of 1940 of the United States of America, and

(e) is not a commodity pool issuer;

"U.S. GAAS" has the same meaning as in Regulation 52-107 respecting Acceptable Accounting Principles, Auditing Standards and Reporting Currency.

## **1.2. References to Information Included in a Document**

References in this Regulation to information included in a document refer to both information contained directly in the document and information incorporated by reference in the document.

## **1.3. References to Information to be Included in a Document**

Provisions of this Regulation that require an issuer to include information in a document require an issuer either to insert the information directly in the document or to incorporate the information in the document by reference.

#### **1.4. Interpretation of "short form prospectus"**

In this Regulation, other than in Parts 4 through 8 or unless otherwise stated, a reference to a short form prospectus includes a preliminary short form prospectus.

#### **1.5. Interpretation of "payments to be made"**

For the purposes of the definition of "full and unconditional credit support", payments to be made by an issuer of securities as stipulated in the terms of the securities include any amounts to be paid as dividends in accordance with, and on the dividend payment dates stipulated in, the provisions of the securities, whether or not the dividends have been declared.

## **PART 2 QUALIFICATION TO FILE A PROSPECTUS IN THE FORM OF A SHORT FORM PROSPECTUS**

### **2.1. Short Form Prospectus**

(1) Only an issuer that satisfies the criteria under any of sections 2.2 through 2.6 qualifies to file a prospectus in the form of a short form prospectus.

(2) An issuer that is qualified under any of sections 2.2 through 2.6 to file a prospectus in the form of a short form prospectus for a distribution may file, for that distribution,

(a) a preliminary prospectus, prepared and certified in the form of Form 44-101F1, Short Form Prospectus; and

(b) a prospectus, prepared and certified in the form of Form 44-101F1, Short Form Prospectus.

### **2.2. Basic Qualification Criteria**

An issuer is qualified to file a prospectus in the form of a short form prospectus for a distribution of any of its securities, if the following criteria are satisfied:

(a) the issuer is an electronic filer under Regulation 13-101 respecting the System for Electronic Document Analysis and Retrieval (SEDAR) adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0272 dated June 12, 2001;

- (b) the issuer is a reporting issuer in at least one jurisdiction of Canada;
- (c) the issuer has filed with the securities regulatory authority in each jurisdiction in which it is a reporting issuer all periodic and timely disclosure documents that it is required to have filed in that jurisdiction
  - (i) under applicable securities legislation,
  - (ii) pursuant to an order issued by the securities regulatory authority, or
  - (iii) pursuant to an undertaking to the securities regulatory authority;
- (d) the issuer has, in at least one jurisdiction in which it is a reporting issuer,
  - (i) current annual financial statements, and
  - (ii) a current AIF;
- (e) the issuer's equity securities are listed and posted for trading on a short form eligible exchange and the issuer is not an issuer
  - (i) whose operations have ceased, or
  - (ii) whose principal asset is cash, cash equivalents, or its exchange listing.

### **2.3. Alternative Qualification Criteria for Issuers of Approved Rating Non-Convertible Securities**

- (1) An issuer is qualified to file a prospectus in the form of a short form prospectus for a distribution of non-convertible securities, if the following criteria are satisfied:
- (a) the issuer is an electronic filer under Regulation 13-101 respecting the System for Electronic Document Analysis and Retrieval (SEDAR);
  - (b) the issuer is a reporting issuer in at least one jurisdiction of Canada;
  - (c) the issuer has filed with the securities regulatory authority in each jurisdiction in which it is a reporting issuer all periodic and timely disclosure documents that it is required to have filed in that jurisdiction
    - (i) under applicable securities legislation,
    - (ii) pursuant to an order issued by the securities regulatory authority, or
    - (iii) pursuant to an undertaking to the securities regulatory authority;
  - (d) the issuer has, in at least one jurisdiction in which it is a reporting issuer,

(i) current annual financial statements, and

(ii) a current AIF;

(e) the securities to be distributed

(i) have received an approved rating on a provisional basis,

(ii) are not the subject of an announcement by an approved rating organization, of which the issuer is or ought reasonably to be aware, that the approved rating given by the organization may be down-graded to a rating category that would not be an approved rating, and

(iii) have not received a provisional or final rating lower than an approved rating from any approved rating organization.

(2) Paragraph (1)(e) does not apply to an issuer filing a short form prospectus that is a base shelf prospectus under Regulation 44-102 respecting Shelf Distributions adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0201 dated May 22, 2001.

## **2.4. Alternative Qualification Criteria for Issuers of Guaranteed Non-Convertible Debt Securities, Preferred Shares and Cash Settled Derivatives**

(1) An issuer is qualified to file a prospectus in the form of a short form prospectus for a distribution of non-convertible debt securities, non-convertible preferred shares or non-convertible cash settled derivatives, if the following criteria are satisfied:

(a) a credit supporter has provided full and unconditional credit support for the securities being distributed,

(b) at least one of the following is true:

(i) the credit supporter satisfies the criteria in paragraphs 2.2(a), (b), (c) and (d) if the word "issuer" is replaced with "credit supporter" wherever it occurs;

(ii) the credit supporter is a U.S. credit supporter and the issuer is incorporated or organized under the laws of Canada or a jurisdiction of Canada;

(c) unless the credit supporter satisfies the criteria in paragraph 2.2(e) if the word "issuer" is replaced with "credit supporter" wherever it occurs, at the time the preliminary short form prospectus is filed

(i) the credit supporter has outstanding non-convertible securities that

(A) have received an approved rating,

(B) have not been the subject of an announcement by an approved rating organization, of which the issuer is or ought reasonably to be aware, that the approved rating given by the organization may be down-graded to a rating category that would not be an approved rating, and

(C) have not received a rating lower than an approved rating from any approved rating organization, and

(ii) the securities to be issued by the issuer

(A) have received an approved rating on a provisional basis,

(B) have not been the subject of an announcement by an approved rating organization, of which the issuer is or ought reasonably to be aware, that the approved rating given by the organization may be down-graded to a rating category that would not be an approved rating, and

(C) have not received a provisional or final rating lower than an approved rating from any approved rating organization.

(2) Subparagraph (1)(c)(ii) does not apply to an issuer filing a short form prospectus that is a base shelf prospectus under Regulation 44-102 respecting Shelf Distributions.

## **2.5. Alternative Qualification Criteria for Issuers of Guaranteed Convertible Debt Securities or Preferred Shares**

An issuer is qualified to file a prospectus in the form of a short form prospectus for a distribution of convertible debt securities or convertible preferred shares, if the following criteria are satisfied:

(a) the debt securities or the preferred shares are convertible into securities of a credit supporter that has provided full and unconditional credit support for the securities being distributed;

(b) the credit supporter satisfies the criteria in section 2.2 if the word "issuer" is replaced with "credit supporter" wherever it occurs.

## **2.6. Alternative Qualification Criteria for Issuers of Asset-Backed Securities**

(1) An issuer established in connection with a distribution of asset-backed securities is qualified to file a prospectus in the form of a short form prospectus for a distribution of asset-backed securities, if the following criteria are satisfied:

(a) the issuer is an electronic filer under Regulation 13-101 respecting the System for Electronic Document Analysis and Retrieval (SEDAR);

(b) the issuer has, in at least one jurisdiction of Canada,

(i) current annual financial statements, and

(ii) a current AIF;

(c) the asset-backed securities to be distributed

(i) have received an approved rating on a provisional basis,

(ii) have not been the subject of an announcement by an approved rating organization, of which the issuer is or ought reasonably to be aware, that the approved rating given by the organization may be down-graded to a rating category that would not be an approved rating, and

(iii) have not received a provisional or final rating lower than an approved rating from any approved rating organization.

(2) Paragraph (1)(c) does not apply to an issuer filing a short form prospectus that is a base shelf prospectus under Regulation 44-102 respecting Shelf Distributions.

## **2.7. Exemptions for New Reporting Issuers and Successor Issuers**

(1) Paragraph 2.2(d), paragraph 2.3(1)(d) and paragraph 2.6(1)(b) do not apply to an issuer if

(a) the issuer is not exempt from the requirement in the applicable CD rule to file annual financial statements within a prescribed period after its financial year end, but the issuer has not yet been required under the applicable CD rule to file annual financial statements, and

(b) unless the issuer is seeking qualification under section 2.6, the issuer has filed and obtained a receipt for a final prospectus that included the issuer's comparative annual financial statements for its most recently completed financial year or the financial year immediately preceding its most recently completed financial year, together with the auditor's report accompanying those financial statements and, if there has been a change of auditors since the comparative period, an auditor's report on the financial statements for the comparative period.

(2) Paragraph 2.2(d), paragraph 2.3(1)(d) and paragraph 2.6(1)(b) do not apply to an issuer if

(a) the successor issuer is not exempt from the requirement in the applicable CD rule to file annual financial statements within a prescribed period after its financial year end, but the issuer has not yet, since the completion of the reorganization which resulted in the successor issuer, been required under the applicable CD rule to file annual financial statements, and

(b) an information circular relating to the reorganization that resulted in the successor issuer was filed by the successor issuer or an issuer that was a party to the reorganization, and such information circular

(i) complied with applicable securities legislation, and

(ii) included disclosure in accordance with Item 14.2 or 14.5 of Form 51-102F5, Information Circular, of Regulation 51-102 respecting Continuous Disclosure Obligations for the successor issuer.

## **2.8. Notice of Intention and Transition**

(1) An issuer is not qualified to file a short form prospectus under this Part unless it has filed a notice declaring its intention to be qualified to file a short form prospectus at least 10 business days prior to the

issuer filing its first preliminary short form prospectus after the notice

(a) with its notice regulator, and

(b) in substantially the form of Appendix A.

(2) The notice under subsection (1) is effective until withdrawn.

(3) For the purposes of subsection (1), "notice regulator" means, as determined on the date the notice is filed, in Québec, the securities regulatory authority or, in another jurisdiction of Canada, the securities regulatory authority or regulator of the jurisdiction of Canada

(a) in which the issuer's head office is located, if the issuer is not an investment fund and the issuer is a reporting issuer in that jurisdiction,

(b) in which the investment fund manager's head office is located, if the issuer is an investment fund and the issuer is a reporting issuer in that jurisdiction, or

(c) with which the issuer has determined that it has the most significant connection, if paragraphs (a) and (b) do not apply to the issuer.

(4) For the purposes of this section, if, on December 29, 2005, an issuer had a current AIF under Regulation 44-101 respecting Short Form Prospectus Distributions adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0394 dated August 14, 2001, the issuer is deemed to have filed a notice on December 14, 2005 declaring its intention to be qualified to file a short form prospectus.

(5) For the purposes of this Part, if, on December 29, 2005, an issuer or a credit supporter had an annual information form that is in Form 44-101F1, AIF, of Regulation 44-101 respecting Short Form Prospectus Distributions adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0394 dated August 14, 2001 and is a current AIF under that Regulation, the issuer or credit supporter is deemed to have a current AIF under this Part until the date it is first required under the applicable CD rule to file its annual financial statements.

## **PART 3 DEEMED INCORPORATION BY REFERENCE**

### **3.1. Deemed Incorporation by Reference of Filed Documents**

If an issuer does not incorporate by reference in its short form prospectus a document required to be incorporated by reference under section 11.1 or 12.1 of Form 44-101F1, Short Form Prospectus, the document is deemed for purposes of securities legislation to be incorporated by reference in the issuer's short form prospectus as of the date of the short form prospectus to the extent not otherwise modified or superseded by a statement contained in the short form prospectus or in any other subsequently filed document that also is, or is deemed to be, incorporated by reference in the short form prospectus.

### **3.2. Deemed Incorporation by Reference of Subsequently Filed Documents**

If an issuer does not incorporate by reference in its short form prospectus a subsequently filed document required to be incorporated by reference under section 11.2 or 12.1 of Form 44-101F1, Short Form Prospectus, the document is deemed for purposes of securities legislation to be incorporated by reference in the issuer's short form prospectus as of the date the issuer filed the document to the extent not otherwise modified or superseded by a statement contained in the short form prospectus or in any other subsequently filed document that also is, or is deemed to be, incorporated by reference in the short form prospectus.

### **3.3. Incorporation by Reference**

A document deemed by this Regulation to be incorporated by reference in another document is deemed for purposes of securities legislation to be incorporated by reference in the other document.

## **PART 4 FILING REQUIREMENTS FOR A SHORT FORM PROSPECTUS**

### **4.1. Required Documents for Filing a Preliminary Short Form Prospectus**

An issuer that files a preliminary short form prospectus shall

(a) file the following with the preliminary short form prospectus:

(i) a signed copy of the preliminary short form prospectus;

(ii) a certificate, dated as of the date of the preliminary short form prospectus, executed on behalf of the issuer by one of its executive officers

(A) specifying which of the qualification criteria set out in Part 2 the issuer is relying on in order to be qualified to file a prospectus in the form of a short form prospectus, and

(B) certifying that

(I) all of those qualification criteria have been satisfied, and

(II) all of the material incorporated by reference in the preliminary short form prospectus and not previously filed is being filed with the preliminary short form prospectus;

(iii) copies of all material incorporated by reference in the preliminary short form prospectus and not previously filed;

(iv) copies of all documents referred to in subsection 12.1(1) or 12.2(1) of Regulation 51-102 respecting Continuous Disclosure Obligations or section 16.4 of Regulation 81-106 respecting Investment Fund Continuous Disclosure, as applicable, that relate to the securities being distributed, and that have not

previously been filed;

(v) if the issuer has a mineral project, the technical reports required to be filed with a preliminary short form prospectus under Regulation 43-101 respecting Standards of Disclosure for Mineral Projects;

(vi) a copy of each report or valuation referred to in the preliminary short form prospectus for which a consent is required to be filed under section 4.4 and that has not previously been filed, other than a technical report that

(A) deals with a mineral project or oil and gas activities, and

(B) is not otherwise required to be filed under paragraph (v); and

(b) deliver to the regulator or, in Québec, the securities regulatory authority concurrently with the filing of the preliminary short form prospectus, the following:

(i) an authorization in the form set out in Appendix B to the indirect collection, use and disclosure of personal information including, for each director and executive officer of an issuer, each promoter of the issuer or, if the promoter is not an individual, each director and executive officer of the promoter, for whom the issuer has not previously delivered the information;

(ii) a signed letter to the regulator or, in Québec, the securities regulatory authority from the auditor of the issuer or of the business, as applicable, prepared in accordance with the form suggested for this circumstance by the Handbook, if a financial statement of an issuer or a business included in a preliminary short form prospectus is accompanied by an unsigned audit report.

## **4.2. Required Documents for Filing a Short Form Prospectus**

An issuer that files a short form prospectus shall

(a) file the following with the short form prospectus:

(i) a signed copy of the short form prospectus;

(ii) copies of all material incorporated by reference in the short form prospectus and not previously filed;

(iii) copies of all documents referred to in subsection 12.1(1) or 12.2(1) of Regulation 51-102 respecting Continuous Disclosure Obligations or section 16.4 of Regulation 81-106 respecting Investment Fund Continuous Disclosure, as applicable, that relate to the securities being distributed, and that have not previously been filed;

(iv) a copy of each report or valuation referred to in the short form prospectus, for which a consent is required to be filed under section 4.4 and that has not previously been filed, other than a technical report that

(A) deals with a mineral project or oil and gas activities of the issuer, and

(B) is not otherwise required to be filed under subparagraph 4.1(a)(v);

(v) a submission to jurisdiction and appointment of agent for service of process of the issuer in the form set out in Appendix C, if an issuer is incorporated or organized in a foreign jurisdiction and does not have an office in Canada;

(vi) a submission to jurisdiction and appointment of agent for service of process of the selling security holder, promoter or credit supporter, as applicable, in the form set out in Appendix D, if a selling security holder, promoter or credit supporter of an issuer is incorporated or organized under a foreign jurisdiction and does not have an office in Canada or is an individual who resides outside of Canada;

(vii) the consents required to be filed under section 4.4;

(viii) the written consent of the credit supporter to the inclusion of its financial statements in the short form prospectus, if financial statements of a credit supporter are required under section 12.1 of Form 44-101F1, Short Form Prospectus to be included in a short form prospectus and a certificate of the credit supporter is not required under section 21.3 of Form 44-101F1 to be included in the short form prospectus; and

(b) deliver the following to the regulators or, in Québec, the securities regulatory authority, no later than the filing of the short form prospectus:

(i) a copy of the short form prospectus, blacklined to show changes from the preliminary short form prospectus;

(ii) if disclosure about a credit supporter is required to be included in the short form prospectus under section 12.1 of Form 44-101F1, an undertaking of the issuer, in a form acceptable to the regulators or, in Québec, the securities regulatory authority, to file the periodic and timely disclosure of the credit supporter similar to the disclosure required under section 12.1 of Form 44-101F1, Short Form Prospectus for so long as the securities being distributed are issued and outstanding.

### **4.3. Review of Unaudited Financial Statements**

(1) Any unaudited financial statements of an issuer or an acquired business included in or incorporated by reference into a short form prospectus must have been reviewed in accordance with the relevant standards set out in the Handbook for a review of financial statements by an entity's auditor or a public accountant's review of financial statements.

(2) Despite subsection (1),

(a) if the financial statements of the issuer or acquired business have been audited in accordance with U.S. GAAS, the unaudited financial statements may be reviewed in accordance with U.S. review standards,

(b) if the financial statements of the issuer or acquired business have been audited in accordance with International Standards on Auditing, the unaudited financial statements may be reviewed in accordance with international review standards, or

(c) if the financial statements of the issuer or acquired business have been audited in accordance with auditing standards that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the issuer is subject, the unaudited financial statements may be reviewed in accordance with review standards that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the issuer is subject.

#### **4.4. Consents of Experts**

(1) If any solicitor, auditor, accountant, engineer or appraiser, or any other person or company whose profession or business gives authority to a statement made by that person or company, is named in a short form prospectus or an amendment to a short form prospectus, either directly or in a document incorporated by reference,

(a) as having prepared or certified any part of the short form prospectus or the amendment,

(b) as having opined on financial statements from which selected information included in the short form prospectus has been derived and which audit opinion is referred to in the short form prospectus either directly or in a document incorporated by reference, or

(c) as having prepared or certified a report or valuation referred to in the short form prospectus or the amendment, either directly or in a document incorporated by reference;

the issuer shall file no later than the time the short form prospectus or the amendment is filed, the written consent of the person or company to being named and to the use of that report, valuation, statement or opinion.

(2) The consent referred to in subsection (1) shall

(a) refer to the report, valuation, statement or opinion stating the date of the report, valuation, statement or opinion, and

(b) contain a statement that the person or company referred to in subsection (1)

(i) has read the short form prospectus, and

(ii) has no reason to believe that there are any misrepresentations in the information contained in it that are

(A) derived from the report, valuation, statement or opinion, or

(B) within the knowledge of the person or company as a result of the services performed by the person or company in connection with the report, financial statements, valuation, statement or opinion.

(3) In addition to any other requirement of this section, the consent of an auditor or accountant shall also state

- (a) the dates of the financial statements on which the report of the person or company is made, and
  - (b) that the person or company has no reason to believe that there are any misrepresentations in the information contained in the short form prospectus that are
    - (i) derived from the financial statements on which the person or company has reported, or
    - (ii) within the knowledge of the person or company as a result of the audit of the financial statements.
- (4) Subsection (1) does not apply to an approved rating organization that issues a rating to the securities being distributed under the preliminary short form prospectus or short form prospectus.

## **4.5. Language of Documents**

- (1) A person or company must file a document required to be filed under this Regulation in the French language or in the English language.
- (2) Despite subsection (1), if a person or company files a document only in the French language or only in the English language but delivers to an investor or prospective investor a version of the document in the other language, the person or company must file that other version not later than when it is first delivered to the investor or prospective investor.
- (3) In Québec, the preliminary short form prospectus, the short form prospectus, the permanent information record and any document incorporated by reference must be in the French language or in the French language and the English language.

# **PART 5**

## **AMENDMENTS TO A SHORT FORM PROSPECTUS**

### **5.1. Form of Amendment**

- (1) An amendment to a preliminary short form prospectus or a short form prospectus shall consist of either an amendment that does not fully restate the text of the preliminary short form prospectus or short form prospectus or an amended and restated preliminary short form prospectus or short form prospectus.
- (2) An amendment to a preliminary short form prospectus or a short form prospectus shall contain the certificates required by securities legislation and, in the case of an amendment that does not fully restate the text of the preliminary short form prospectus or short form prospectus, shall be numbered and dated as follows:

"Amendment No. [insert amendment number] dated [insert date of amendment] to [Preliminary] Short Form Prospectus dated [insert date of preliminary short form prospectus or short form prospectus]."

### **5.2. Required Documents for Filing an Amendment**

An issuer that files an amendment to a preliminary short form prospectus or short form prospectus shall

(a) file a signed copy of the amendment,

(b) deliver to the regulator or, in Québec, the securities regulatory authority a copy of the preliminary short form prospectus or short form prospectus blacklined to show the changes made by the amendment, if the amendment is also a restatement of the preliminary short form prospectus or short form prospectus,

(c) file or deliver any supporting documents required under this Regulation or other provisions of securities legislation to be filed or delivered with a preliminary short form prospectus or a short form prospectus, as the case may be, unless the documents originally filed or delivered with the preliminary short form prospectus or short form prospectus as the case may be, are correct as of the date the amendment is filed, and

(d) in case of an amendment to a short form prospectus, file any consent letter required under this Regulation to be filed with a short form prospectus, dated as of the date of the amendment.

### **5.3. Auditor's Comfort Letter**

If an amendment to a preliminary short form prospectus materially affects, or relates to, an auditor's comfort letter delivered under section 4.1, the issuer shall deliver with the amendment a new auditor's comfort letter.

### **5.4. Forwarding Amendments**

An amendment to a preliminary short form prospectus shall be forwarded to each recipient of the preliminary short form prospectus according to the record of recipients to be maintained under securities legislation.

### **5.5. Amendment to Preliminary Short Form Prospectus**

(1) The regulator or, in Québec, the securities regulatory authority shall issue a receipt for an amendment to a preliminary short form prospectus as soon as reasonably possible after the amendment is filed.

(2) Despite subsection (1), in British Columbia, the regulator shall issue a receipt for an amendment to a preliminary short form prospectus in accordance with the Securities Act (R.S.B.C. 1996, c. 418).

### **5.6. Amendment to Short Form Prospectus**

(1) If, after a receipt is issued for a short form prospectus but prior to the completion of the distribution under such short form prospectus, securities in addition to the securities previously disclosed in the prospectus are to be distributed, the person or company making the distribution must file an amendment to the short form prospectus disclosing the additional securities, as soon as practical, and in any event no later

than 10 days after the decision to increase the number of securities offered is made.

(2) The regulator or, in Québec, the securities regulatory authority shall issue a receipt for an amendment to a short form prospectus required to be filed under this section or under securities legislation unless the regulator considers that it is not in the public interest to do so, or unless otherwise required by securities legislation.

(3) The regulator or, in Québec, the securities regulatory authority shall not refuse to issue a receipt under subsection (2) without giving the person or company who filed the short form prospectus an opportunity to be heard and, in Québec, to present observations and, where necessary, to produce documents to complete its file.

(4) A distribution or an additional distribution must not proceed until a receipt for an amendment to a short form prospectus that is required to be filed is issued by the regulator or, in Québec, the securities regulatory authority.

## **PART 6**

### **NON-FIXED PRICE OFFERINGS AND REDUCTION OF OFFERING PRICE UNDER SHORT FORM PROSPECTUS**

#### **6.1 Non-Fixed Price Offerings and Reduction of Offering Price under Short Form Prospectus**

(1) Every security distributed under a short form prospectus shall be distributed at a fixed price.

(2) Despite subsection (1), securities for which the issuer is qualified under Part 2 to file a prospectus in the form of a short form prospectus may be distributed for cash at non-fixed prices under a short form prospectus if, at the time of the filing of the preliminary short form prospectus, the securities have received a rating, on a provisional or final basis, from at least one approved rating organization.

(3) Despite subsection (1), if securities are distributed for cash under a short form prospectus, the price of the securities may be decreased from the initial offering price disclosed in the short form prospectus and, after such a decrease, changed from time to time to an amount not greater than the initial offering price, without filing an amendment to the short form prospectus to reflect the change, if

(a) the securities are distributed through one or more underwriters that have agreed to purchase all of the securities at a specified price,

(b) the proceeds to be received by the issuer or selling security holders or by the issuer and selling security holders are disclosed in the short form prospectus as being fixed, and

(c) the underwriters have made a reasonable effort to sell all of the securities distributed under the short form prospectus at the initial offering price disclosed in the short form prospectus.

(4) Despite subsections (2) and (3), the price at which securities may be acquired on exercise of rights shall be fixed.

## **PART 7 SOLICITATIONS OF EXPRESSIONS OF INTEREST**

### **7.1. Solicitations of Expressions of Interest**

The prospectus requirement does not apply to solicitations of expressions of interest before the filing of a preliminary short form prospectus for securities to be qualified for distribution under a short form prospectus in accordance with this Regulation, if

(a) the issuer has entered into an enforceable agreement with an underwriter who has, or underwriters who have, agreed to purchase the securities,

(b) the agreement referred to in paragraph (a) has fixed the terms of the distribution and requires that the issuer file a preliminary short form prospectus for the securities and obtain from the regulator or, in Québec, the securities regulatory authority a receipt, dated as of a date that is not more than four business days after the date that the agreement is entered into, for the preliminary short form prospectus,

(c) the issuer has issued and filed a news release announcing the agreement immediately upon entering into the agreement,

(d) upon issuance of a receipt for the preliminary short form prospectus, a copy of the preliminary short form prospectus is sent to each person or company who has expressed an interest in acquiring the securities, and

(e) except as provided in paragraph (a), no agreement of purchase and sale for the securities is entered into until the short form prospectus has been filed and a receipt obtained.

## **PART 8 EXEMPTION**

### **8.1. Exemption**

(1) The regulator or the securities regulatory authority and, in Québec, only the securities regulatory authority, may grant an exemption from the provisions of this Regulation, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

(3) An application made to the securities regulatory authority or regulator and, in Québec, only the securities regulatory authority for an exemption from the provisions of this Regulation shall include a letter or memorandum describing the matters relating to the exemption, and indicating why consideration should be given to the granting of the exemption.

(4) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions*, adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0274 dated June 12, 2001 opposite the name of the local jurisdiction.

## **8.2. Evidence of Exemption**

(1) Without limiting the manner in which an exemption under this Part may be evidenced, the granting under this Part of an exemption, other than an exemption, in whole or in part, from Part 2 or subsection 4.5(3), may be evidenced by the issuance of a receipt for a short form prospectus or an amendment to a short form prospectus.

(2) An exemption under this Part may be evidenced in the manner set out in subsection (1) only if

(a) the person or company that sought the exemption

(i) sent to the regulator or, in Québec, the securities regulatory authority the letter or memorandum referred to in subsection 8.1(3) on or before the date of the filing of the preliminary short form prospectus, or

(ii) sent to the regulator or, in Québec, the securities regulatory authority the letter or memorandum referred to in subsection 8.1(3) after the date of the filing of the preliminary short form prospectus and received a written acknowledgement from the regulator or, in Québec, the securities regulatory authority that the exemption may be evidenced in the manner set out in subsection (1); and

(b) the regulator or, in Québec, the securities regulatory authority has not before, or concurrently with, the issuance of the receipt sent notice to the person or company that sought the exemption, that the exemption sought may not be evidenced in the manner set out in subsection (1).

## **PART 9 TRANSITION, REPEAL AND EFFECTIVE DATE**

### **9.1. Applicable Rules**

A short form prospectus may, at the issuer's option be prepared in accordance with securities legislation in effect at either the date of issuance of a receipt for the preliminary short form prospectus or the date of issuance of a receipt for the short form prospectus.

### **9.2 Repeal**

This Regulation replaces Regulation 44-101 respecting Short Form Prospectus Distributions adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0394 dated August 14, 2001.

### **9.3 Effective Date**

This Regulation comes into force on December 30, 2005.

## **APPENDIX A**

### **NOTICE DECLARING INTENTION TO BE QUALIFIED UNDER REGULATION 44-101 RESPECTING SHORT FORM PROSPECTUS DISTRIBUTIONS ("Regulation 44-101")**

[date]

To: [the issuer's notice regulator (as defined in subsection 2.8(2) of Regulation 44-101), and any other securities regulatory authority or regulator of a jurisdiction of Canada with whom the issuer may voluntarily file this notice]

[name of issuer] (the "Issuer") intends to be qualified to file a short form prospectus under Regulation 44-101. The Issuer acknowledges that it must satisfy all applicable qualification criteria prior to filing a preliminary short form prospectus. This notice does not evidence the Issuer's intent to file a short form prospectus, to enter into any particular financing or transaction or to become a reporting issuer in any jurisdiction. This notice will remain in effect until withdrawn by the Issuer.

[signature of Issuer]

[name and title of duly authorized signing officer of Issuer]

## APPENDIX B

### **AUTHORIZATION OF INDIRECT COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION**

The attached Schedule 1 contains information concerning the full name, position with or relationship to the issuer named below (the "Issuer"), name and address of employer, if other than the Issuer, full residential address, date and place of birth and citizenship (the "Information") of each director, executive officer, and any promoter of the issuer, and, in the case of a promoter, of each director and executive officer of the promoter. The Issuer is required by securities legislation to deliver the Information to the regulators listed in Schedule 2, unless the Information was previously delivered.

The Issuer confirms that each person or company listed in Schedule 1:

(a) has been notified by the Issuer

(i) of the Issuer's delivery to the regulator of the Information in Schedule 1 pertaining to that person or company,

(ii) that the Information is being collected indirectly by the regulator under the authority granted to it in securities legislation,

(iii) that the Information is being collected and used for the purpose of enabling the regulator to administer and enforce securities legislation, including those obligations that require or permit the regulator to refuse to issue a receipt for a prospectus if it appears to the regulator that the past conduct of management or promoters of the Issuer affords reasonable grounds for belief that the business of the Issuer will not be conducted with integrity and in the best interests of its securityholders, and

(iv) of the contact, business address and business telephone number of the regulator in the local jurisdiction as set out in the attached Schedule 2, who can answer questions about the regulator's indirect collection of the Information;

(b) has read and understands and has signed the Notice of Collection, Use and Disclosure of Personal Information by Regulators attached hereto as Schedule 3; and

(c) has, by signing the Notice, authorized the indirect collection, and use and disclosure of the Information by the regulator as described in Schedule 3.

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Issuer

Per: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Official Capacity

(Please print the name of the individual whose signature appears in the official capacity)

# Schedule 1 to Authorization of Indirect Collection, Use and Disclosure of Personal Information

## Personal Information

**[Name of Issuer]**

### Part 1

Full Name  (including previous name(s) if any)	Position with or Relationship to Issuer	Name and Address of Employer, if other than Issuer	Full Residential Address	Date and Place of Birth	Citizenship
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### Part 2

For any of the above noted individuals with a residential address outside of Canada, please provide the following additional information:

Full Name	Previous Address(es) (5-year history)	Dates Residing in Foreign Country	Height and Weight	Eye Colour	Hair Colour	Passport Nationality and Number
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**Schedule 2**  
**to Authorization of Indirect Collection, Use and Disclosure of Personal**  
**Information**

**Local Jurisdiction**

**Regulator**

Alberta

Information Officer  
Alberta Securities Commission  
Suite 400  
300 - 5th Avenue S.W  
Calgary, Alberta T2P 3C4  
Telephone: (403) 297-6454  
E-mail: [inquiries@seccom.ab.ca](mailto:inquiries@seccom.ab.ca)  
[www.albertasecurities.com](http://www.albertasecurities.com)

British Columbia

Review Officer  
British Columbia Securities Commission  
P.O. Box 10142 Pacific Centre  
701 West Georgia Street  
Vancouver, British Columbia V7Y 1LZ  
Telephone: (604) 899-6854  
Toll Free within British Columbia and Alberta:  
(800) 373-6393  
E-mail: [inquiries@bcsc.bc.ca](mailto:inquiries@bcsc.bc.ca)  
[www.bcsc.bc.ca](http://www.bcsc.bc.ca)

Manitoba

Director, Corporate Finance  
The Manitoba Securities Commission  
1130 - 405 Broadway  
Winnipeg, Manitoba R3C 3L6  
Telephone: (204) 945-2548  
E-mail: [securities@gov.mb.ca](mailto:securities@gov.mb.ca)  
[www.msc.gov.mb.ca](http://www.msc.gov.mb.ca)

New Brunswick

Director Corporate Finance and Chief  
Financial Officer  
New Brunswick Securities Commission  
Suite 606, 133 Prince William Street  
Saint John, New Brunswick E2L 4Y9  
Telephone: (506) 658-3060  
Fax: (506) 658-3059  
E-mail: [information@nbsc-cvmnb.ca](mailto:information@nbsc-cvmnb.ca)

Newfoundland and Labrador	<p>Director of Securities          Department of Government Services and          Lands          P.O. Box 8700          West Block, 2nd Floor, Confederation          Building          St. John's, Newfoundland A1B 4J6          Telephone: (709) 729-4189  <a href="http://www.gov.nf.ca/gsl/cca/s">www.gov.nf.ca/gsl/cca/s</a></p>	
Northwest Territories	<p>Securities Registries          Department of Justice          Government of the Northwest Territories          P.O. Box 1320,          Yellowknife, Northwest Territories X1A 2L9  <a href="http://www.justice.gov.nt.ca/SecuritiesRegistry/SecuritiesRegistry.html">www.justice.gov.nt.ca/SecuritiesRegistry/SecuritiesRegistry.html</a></p>	
Nova Scotia	<p>Deputy Director, Compliance and          Enforcement          Nova Scotia Securities Commission          P.O. Box 458          Halifax, Nova Scotia B3J 2P8          Telephone: (902) 424-5354  <a href="http://www.gov.ns.ca/nssc">www.gov.ns.ca/nssc</a></p>	
Nunavut	<p>Government of Nunavut          Legal Registries Division          P.O. Box 1000 - Station 570          Iqaluit, Nunavut X0A 0H0          Telephone: (867) 975-6590</p>	
Ontario	<p>Administrative Assistant to the Director of          Ontario Securities Commission          19th Floor, 20 Queen Street West          Toronto, Ontario M5H 2S8          Telephone: (416) 597-0681          E-mail: <a href="mailto:Inquiries@osc.gov.on.ca">Inquiries@osc.gov.on.ca</a>  <a href="http://www.osc.gov.on.ca">www.osc.gov.on.ca</a></p>	Corporate Finance
Prince Edward Island	<p>Deputy Registrar, Securities Division          Shaw Building          95 Rochford Street, P.O. Box 2000, 4th Floor</p>	

Charlottetown, Prince Edward Island  
C1A 7N8  
Telephone: (902) 368-4550  
[www.gov.pe.ca/securities](http://www.gov.pe.ca/securities)

Québec

Autorité des marchés financiers  
Stock Exchange Tower  
P.O. Box 246, 22<sup>nd</sup> Floor  
800 Victoria Square  
Montréal, Québec H4Z 1G3  
Attention: Responsable de l'accès à  
l'information  
Telephone: (514) 395-0337  
Toll Free in Québec: (877) 525-0337  
[www.lautorite.qc.ca](http://www.lautorite.qc.ca)

Saskatchewan

Director  
Saskatchewan Financial Services Commission  
6<sup>th</sup> Floor, 1919 Saskatchewan Drive  
Regina, Saskatchewan S4P 3V7  
Telephone: (306) 787-5842  
[www.sfsc.gov.sk.ca](http://www.sfsc.gov.sk.ca)

Yukon

Registrar of Securities  
Department of Justice  
Andrew A. Philipsen Law Centre  
2130 - 2nd Avenue, 3rd Floor  
Whitehorse, Yukon Territory Y1A 5H6  
Telephone: (867) 667-5005

## **Schedule 3**

### **to Authorization of Indirect Collection, Use and Disclosure of Personal Information**

#### **Notice of Collection, Use and Disclosure of Personal Information by Regulators**

The regulators listed in Schedule 2 collect the personal information in Schedule 1 to the Authorization of Indirect Collection, Use and Disclosure of Personal Information under the authority granted to them under provincial and territorial securities legislation.

The regulators collect the personal information in Schedule 1 for the purpose of enabling the regulators to administer and enforce provincial and territorial securities legislation, including those provisions that require or permit the regulators to refuse to issue a receipt for a prospectus if it appears to the regulators that the past conduct of management or promoters of the Issuer affords reasonable grounds for belief that the business of the Issuer will not be conducted with integrity and in the best interests of its securityholders.

You understand that by signing this document, you are consenting to the Issuer submitting your personal information in Schedule 1 (the "Information") to the regulators and to the collection and use by the regulators of the Information, as well as any other information that may be necessary to administer and enforce provincial and territorial securities legislation. This may include the collection of information from law enforcement agencies, other government or non-governmental regulatory authorities, self-regulatory organizations, exchanges, and quotation and trade reporting systems to conduct background checks, verify the Information and perform investigations and conduct enforcement proceedings as required to ensure compliance with provincial and territorial securities legislation.

You also understand and agree that the Information the regulators collect about you may also be disclosed, as permitted by law, where its use and disclosure is for the purposes described above. The regulators may also use a third party to process Information, but when this happens, the third party will be carefully selected and obligated to comply with the limited use restrictions described above and with provincial and federal privacy legislation.

**Warning:** It is an offence to submit information that, in a material respect and at the time and in the light of the circumstances in which it is submitted, is misleading or untrue.

#### **Questions**

If you have any questions about the collection, use, and disclosure of the information you provide to the regulators, you may contact the regulator in the jurisdiction in which the required information is filed, at the address or telephone number listed in Schedule 2.

I have read and understand the foregoing and consent to the indirect collection, use and disclosure of the personal information pertaining to me that is set out in the Authorization.

Date: \_\_\_\_\_

---

Signature

\_\_\_\_\_  
Name

## APPENDIX C

### ISSUER FORM OF SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

1. Name of issuer (the "Issuer"):

---

2. Jurisdiction of incorporation, or equivalent, of Issuer:

---

3. Address of principal place of business of Issuer:

---

4. Description of securities (the "Securities"):

---

5. Date of the short form prospectus (the "Short Form Prospectus") under which the Securities are offered:

---

6. Name of agent for service of process (the "Agent"):

---

7. Address for service of process of Agent in Canada (the address may be anywhere in Canada):

---

8. The Issuer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the distribution of the Securities made or purported to be made under the Short Form Prospectus or the obligations of the Issuer as a reporting issuer, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.

9. The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of

(a) the judicial, quasi-judicial and administrative tribunals of each of the provinces [and territories] of Canada in which the securities are distributed under the Short Form Prospectus; and

(b) any administrative proceeding in any such province [or territory],

in any Proceeding arising out of or related to or concerning the distribution of the Securities made or purported to be made under the Short Form Prospectus or the obligations of the issuer as a reporting issuer.

10. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file a new submission to jurisdiction and appointment of agent for service of process in this form

at least 30 days before termination of this submission to jurisdiction and appointment of agent for service of process.

11. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before any change in the name or above address of the Agent.

12. This submission to jurisdiction and appointment of agent for service of process shall be governed by and construed in accordance with the laws of [insert province or territory of above address of Agent].

Dated: \_\_\_\_\_  
Signature of Issuer

\_\_\_\_\_  
Print name and title of signing officer of Issuer

**AGENT**

The undersigned accepts the appointment as agent for service of process of [insert name of Issuer] under the terms and conditions of the appointment of agent for service of process stated above.

Dated: \_\_\_\_\_  
Signature of Agent

\_\_\_\_\_  
Print name of person signing and, if Agent is not an individual, the title of the person

## APPENDIX D

### **NON-ISSUER FORM OF SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS**

1. Name of issuer (the "Issuer"):  
\_\_\_\_\_
2. Jurisdiction of incorporation, or equivalent, of Issuer:  
\_\_\_\_\_
3. Address of principal place of business of Issuer:  
\_\_\_\_\_
4. Description of securities (the "Securities"):  
\_\_\_\_\_
5. Date of the short form prospectus (the "Short Form Prospectus") under which the Securities are offered:  
\_\_\_\_\_
6. Name of person filing this form (the "Filing Person"):  
\_\_\_\_\_
7. Filing Person's relationship to Issuer:  
\_\_\_\_\_
8. Jurisdiction of incorporation, or equivalent, of Filing Person, if applicable, or jurisdiction of residence of Filing Person:  
\_\_\_\_\_
9. Address of principal place of business of Filing Person:  
\_\_\_\_\_
10. Name of agent for service of process (the "Agent"):  
\_\_\_\_\_
11. Address for service of process of Agent in Canada (which address may be anywhere in Canada):  
\_\_\_\_\_
12. The Filing Person designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the distribution of the Securities made or purported to be made under the Short Form Prospectus, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring the Proceeding.

13. The Filing Person irrevocably and unconditionally submits to the non-exclusive jurisdiction of
- (a) the judicial, quasi-judicial and administrative tribunals of each of the provinces [and territories] of Canada in which the securities are distributed under the Short Form Prospectus; and
  - (b) any administrative proceeding in any such province [or territory], in any Proceeding arising out of or related to or concerning the distribution of the Securities made or purported to be made under the Short Form Prospectus.
14. Until six years after completion of the distribution of the Securities made under the Short Form Prospectus, the Filing Person shall file a new submission to jurisdiction and appointment of agent for service of process in this form at least 30 days before termination of this submission to jurisdiction and appointment of agent for service of process.
15. Until six years after completion of the distribution of the Securities under the Short Form Prospectus, the Filing Person shall file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before a change in the name or above address of the Agent.
16. This submission to jurisdiction and appointment of agent for service of process shall be governed by and construed in accordance with the laws of [insert province or territory of above address of Agent].

Dated: \_\_\_\_\_  
Signature of Filing Person

\_\_\_\_\_  
Print name of person signing and, if the Filing Person is not an individual, the title of the person

#### AGENT

The undersigned accepts the appointment as agent for service of process of [insert name of Filing Person] under the terms and conditions of the appointment of agent for service of process stated above.

Dated: \_\_\_\_\_  
Signature of Agent

\_\_\_\_\_  
Print name of person signing and, if Agent is not an individual, the title of the person

## **FORM 44-101F1**

### **SHORT FORM PROSPECTUS**

#### **INSTRUCTIONS**

(1) *The objective of the short form prospectus is to provide information concerning the issuer that an investor needs in order to make an informed investment decision. This Form sets out specific disclosure requirements that are in addition to the general requirement under securities legislation to provide full, true and plain disclosure of all material facts relating to, and, in Québec, not to make any misrepresentation likely to affect the value or market price of, the securities to be distributed. Certain rules of specific application impose prospectus disclosure obligations in addition to those described in this Form.*

(2) *Terms used and not defined in this Form that are defined or interpreted in the Regulation shall bear that definition or interpretation. Other definitions are set out in National Instrument 14-101 Definitions.*

(3) *In determining the degree of detail required, a standard of materiality should be applied. Materiality is a matter of judgement in the particular circumstance, and should generally be determined in relation to an item's significance to investors, analysts and other users of information. An item of information, or an aggregate of items, is considered material if it is probable that its omission or misstatement would influence or change an investment decision with respect to the issuer's securities. In determining whether information is material, take into account both quantitative and qualitative factors. The potential significance of items should be considered individually rather than on a net basis, if the items have an offsetting effect. This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook.*

(4) *Unless an item specifically requires disclosure only in the preliminary short form prospectus, the disclosure requirements set out in this Form apply to both the preliminary short form prospectus and the short form prospectus. Details concerning the price and other matters dependent upon or relating to price, such as the number of securities being distributed, may be left out of the preliminary short form prospectus, along with specifics concerning the plan of distribution, to the extent that these matters have not been decided.*

(5) *Any information required in a short form prospectus may be incorporated by reference in the short form prospectus, other than confidential material change reports. Clearly identify in a short form prospectus any document incorporated by reference. If an excerpt of a document is incorporated by reference, clearly identify the excerpt in the short form prospectus by caption and paragraph of the document. Any material incorporated by reference in a short form prospectus is required under sections 4.1 and 4.2 of the Regulation to be filed with the short form prospectus unless it has been previously filed.*

(6) *The disclosure must be understandable to readers and presented in an easy to read format. The presentation of information should comply with the plain language principles listed in section 4.2 of Policy Statement to Regulation 44-101 respecting Short Form Prospectus Distributions adopted by the Autorité des marchés financiers pursuant to decision no. 2005-PDG-0388 dated December 13, 2005. If technical terms are required, clear and concise explanations should be included.*

(7) *No reference need be made to inapplicable items and, unless otherwise required in this Form,*

*negative answers to items may be omitted.*

*(8) Where the term "issuer" is used, it may be necessary, in order to meet the requirement for full, true and plain disclosure of all material facts, and in Québec, disclosure of all material facts likely to affect the value or the market price of the securities to be distributed, to also include disclosure with respect to the issuer's subsidiaries and investees. If it is more likely than not that a person or company will become a subsidiary or investee, it may be necessary to also include disclosure with respect to the person or company.*

*(9) An issuer that is a special purpose entity may have to modify the disclosure items to reflect the special purpose nature of its business.*

*(10) If disclosure is required as of a specific date and there has been a material change or change that is otherwise significant in the required information subsequent to that date, present the information as of the date of the change or a date subsequent to the change instead.*

*(11) If the term "class" is used in any item to describe securities, the term includes a series of a class.*

*(12) Disclosure in a preliminary short form prospectus or short form prospectus must be consistent with Regulation 51-101 respecting Standards of Disclosure for Oil and Gas Activities approved by Ministerial Order no. 2005-15 dated August 2, 2005 if the issuer is engaged in oil and gas activities (as defined in Regulation 51-101).*

*(13) Forward-looking information included in a short form prospectus must comply with section 4A.2 of Regulation 51-102 respecting Continuous Disclosure Obligations and must include the disclosure described in section 4A.3 of Regulation 51-102 respecting Continuous Disclosure Obligations. In addition to the foregoing, FOFI or a financial outlook, each as defined in Regulation 51-102 respecting Continuous Disclosure Obligations, included in a short form prospectus must comply with Part 4B of Regulation 51-102 respecting Continuous Disclosure Obligations. If the forward-looking information relates to an issuer or other entity that is not a reporting issuer, section 4A.2, section 4A.3 and Part 4B of Regulation 51-102 respecting Continuous Disclosure Obligations apply as if the issuer or other entity were a reporting issuer.*

## **Item 1 Cover Page Disclosure**

### **1.1 Required Language**

State in italics at the top of the cover page the following:

"No securities regulatory authority has expressed an opinion about these securities and it is an offence to claim otherwise."

### **1.2 Preliminary Short Form Prospectus Disclosure**

Every preliminary short form prospectus shall have printed in red ink and italics on the top of the cover page the following, with the bracketed information completed:

"A copy of this preliminary short form prospectus has been filed with the securities regulatory authority[ies] in [each of/certain of the provinces/provinces and territories of Canada] but has not yet become

final for the purpose of the sale of securities. Information contained in this preliminary short form prospectus may not be complete and may have to be amended. The securities may not be sold until a receipt for the short form prospectus is obtained from the securities regulatory authority[ies]."

#### **INSTRUCTION**

*Issuers shall complete the bracketed information by*

*(a) inserting the names of each jurisdiction in which the issuer intends to offer securities under the short form prospectus;*

*(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or*

*(c) identifying the filing jurisdictions by exception (i.e., every province of Canada or every province and territory of Canada, except [excluded jurisdiction]).*

### **1.3 Disclosure Concerning Documents Incorporated by Reference**

State the following in italics on the cover page, with the first sentence in bold type and the bracketed information completed:

*"Information has been incorporated by reference in this prospectus from documents filed with securities commissions or similar authorities in Canada. Copies of the documents incorporated herein by reference may be obtained on request without charge from the secretary of the issuer at [insert complete address and telephone number], and are also available electronically at [www.sedar.com](http://www.sedar.com). [Insert if the offering is made in Québec - "For the purpose of the Province of Québec, this simplified prospectus contains information to be completed by consulting the permanent information record. A copy of the permanent information record may be obtained without charge from the secretary of the issuer at the above-mentioned address and telephone number and is also available electronically at [www.sedar.com](http://www.sedar.com)."]*

### **1.4 Basic Disclosure about the Distribution**

State the following, immediately below the disclosure required under sections 1.1, 1.2 and 1.3, with the bracketed information completed:

**"[PRELIMINARY] SHORT FORM PROSPECTUS**

**[INITIAL PUBLIC OFFERING OR NEW ISSUE AND/OR SECONDARY OFFERING]**

**(Date)**

**[Name of Issuer]**

**[number and type of securities qualified for distribution under the short form prospectus, including any options or warrants, and the price per security] "**

### **1.5 Name and Address of Issuer**

State the full corporate name of the issuer or, if the issuer is an unincorporated entity, the full name under which the entity exists and carries on business and the address(es) of the issuer's head and

registered office.

## 1.6 Distribution

(1) If the securities are being distributed for cash, provide the information called for below, in substantially the following tabular form or in a note to the table:

<b>Price to public</b>	<b>Underwriting discounts or commissions</b>	<b>Proceeds to issuer or selling security holders</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>
Per security		
Total		

(2) If there is an over-allotment option, describe the terms of the option and the fact that the short form prospectus qualifies both the grant of the option and the issuance or transfer of securities that will be issued or transferred if the option is exercised.

(3) If the distribution of the securities is to be on a best efforts basis, provide totals for both the minimum and maximum subscriptions, if applicable.

(4) If debt securities are distributed at a premium or a discount, state in bold type the effective yield if held to maturity.

(5) Disclose separately those securities that are underwritten, those under option and those to be sold on a best efforts basis and, in the case of a best efforts distribution, the latest date that the distribution is to remain open.

(6) In column (b) of the table, disclose only commissions paid or payable in cash by the issuer or selling security holder and discounts granted. Set out in a note to the table

(a) commissions or other consideration paid or payable by persons or companies other than the issuer or selling security holder;

(b) consideration other than discounts granted and cash paid or payable by the issuer or selling security holder, other than securities described in section 1.10 below; and

(c) any finder's fees or similar required payment.

(7) If a security is being distributed for the account of a selling security holder, state the name of the selling security holder and a cross-reference to the applicable section in the short form prospectus where further information about the selling security holder is provided. State the portion of expenses of the distribution to be borne by the selling security holder and, if none of the expenses of the distribution are being borne by the selling security holder, include a statement to that effect and discuss the reasons why this is the case.

## 1.7 Non-Fixed Price Distributions

If the securities are being distributed at non-fixed prices, disclose

- (a) the discount allowed or commission payable to the underwriter;
- (b) any other compensation payable to the underwriter and, if applicable, that the underwriter's compensation will be increased or decreased by the amount by which the aggregate price paid for the securities by the purchasers exceeds or is less than the gross proceeds paid by the underwriter to the issuer or selling security holder;
- (c) that the securities to be distributed under the short form prospectus will be distributed, as applicable, at
  - (i) prices determined by reference to the prevailing price of a specified security in a specified market,
  - (ii) market prices prevailing at the time of sale, or
  - (iii) prices to be negotiated with purchasers;
- (d) that prices may vary as between purchasers and during the period of distribution;
- (e) if the price of the securities is to be determined by reference to the prevailing price of a specified security in a specified market, the price of the specified security in the specified market at the latest practicable date;
- (f) if the price of the securities will be the market price prevailing at the time of sale, the market price at the latest practicable date; and
- (g) the net proceeds or, if the distribution is to be made on a best efforts basis, the minimum amount of net proceeds, if any, to be received by the issuer or selling security holder.

## 1.8 Reduced Price Distributions

If an underwriter wishes to be able to decrease the price at which securities are distributed for cash from the initial offering price disclosed in the short form prospectus, include in bold type a cross-reference to the section in the short form prospectus where disclosure concerning the possible price decrease is provided.

## 1.9 Market for Securities

- (1) Identify the exchange(s) and quotation system(s), if any, on which securities of the issuer of the same class as the securities being distributed are traded or quoted and the market price of those securities as of the latest practicable date.
- (2) Disclose any intention to stabilize the market and provide a cross-reference to the section in the short form prospectus where further information about market stabilization is provided.

(3) If no market for the securities being distributed under the short form prospectus exists or is to exist after the distribution, state the following in bold type:

"There is no market through which these securities may be sold and purchasers may not be able to resell securities purchased under the short form prospectus. This may affect the pricing of the securities in the secondary market, the transparency and availability of trading prices, the liquidity of the securities, and the extent of issuer regulation. See Risk Factors."

**1.10 Underwriter(s)**

(1) State the name of each underwriter.

(2) If applicable, comply with the requirements of Regulation 33-105 respecting Underwriting Conflicts approved by Ministerial Order no. 2005-14 dated August 2, 2005 for cover page prospectus disclosure.

(3) If an underwriter has agreed to purchase all of the securities being distributed at a specified price and the underwriter's obligations are subject to conditions, state the following, with the bracketed information completed:

"We, as principals, conditionally offer these securities, subject to prior sale, if, as and when issued by [name of issuer] and accepted by us in accordance with the conditions contained in the underwriting agreement referred to under Plan of Distribution."

(4) If an underwriter has agreed to purchase a specified number or principal amount of the securities at a specified price, state that the securities are to be taken up by the underwriter, if at all, on or before a date not later than 42 days after the date of the receipt for the short form prospectus.

(5) If there is no underwriter involved in the distribution, provide a statement in bold type to the effect that no underwriter has been involved in the preparation of the short form prospectus or performed any review of the contents of the short form prospectus.

(6) Provide the following tabular information:

<b>Underwriters' Position</b>	<b>Maximum size or number of securities held</b>	<b>Exercise period/ Acquisition date</b>	<b>Exercise price or average acquisition price</b>
Over-allotment option			
Compensation option			
Any other option granted by issuer or insider of issuer			
Total securities under			

option
Other compensation securities

## INSTRUCTIONS

(1) *Estimate amounts, if necessary. For non-fixed price distributions that are being made on a best efforts basis, disclosure of the information called for by the table may be set forth as a percentage or a range of percentages and need not be set forth in tabular form.*

(2) *If debt securities are being distributed, express the information as a percentage.*

### 1.11 International Issuers

If the issuer, a selling security holder, a credit supporter of the securities being distributed under the short form prospectus or a promoter of the issuer is incorporated, continued or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada state the following on the cover page or under a separate heading elsewhere in the short form prospectus, with the bracketed information completed:

"The [issuer, selling security holder, credit supporter and/or promoter] is incorporated, continued or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada. Although [the issuer, selling security holder, credit supporter and/or promoter] has appointed [name(s) and address(es) of agent(s) for service] as its agent(s) for service of process in [list jurisdictions] it may not be possible for investors to collect from [the issuer, selling security holder, credit supporter or promoter] judgments obtained in Canadian courts predicated on the civil liability provisions of securities legislation."

### 1.12 Restricted Securities

If the securities being distributed are restricted securities and the holders of the securities do not have the right to participate in a takeover bid made for other equity securities of the issuer, disclose that fact.

### 1.13 Earnings Coverage Ratios

If any of the earnings coverage ratios required to be disclosed under section 6.1 is less than one-to-one, disclose this fact in bold type.

## Item 2 Summary Description of Business

### 2.1 Summary of Description of Business

Provide a brief summary on a consolidated basis of the business carried on and intended to be carried on by the issuer.

## Item 3 Consolidated Capitalization

### **3.1 Consolidated Capitalization**

Describe any material change in, and the effect of the material change on, the share and loan capital of the issuer, on a consolidated basis, since the date of the issuer's financial statements most recently filed in accordance with the applicable CD rule, including any material change that will result from the issuance of the securities being distributed under the short form prospectus.

## **Item 4 Use of Proceeds**

### **4.1 Proceeds**

State the estimated net proceeds to be received by the issuer or selling security holder or, in the case of a non-fixed price distribution or a distribution to be made on a best efforts basis, the minimum amount, if any, of net proceeds to be received by the issuer or selling security holder from the sale of the securities distributed. If the short form prospectus is used for a special warrant or similar transaction, state the amount that has been received by the issuer of the special warrants or similar securities on the sale of the special warrants or similar securities.

### **4.2 Principal Purposes**

- (1) Describe in reasonable detail and, if appropriate, using tabular form, each of the principal purposes, with approximate amounts, for which the net proceeds will be used by the issuer. If the closing of the distribution is subject to a minimum subscription, provide disclosure of the use of proceeds for the minimum and maximum subscriptions.
- (2) If more than 10 percent of the net proceeds will be used to reduce or retire indebtedness and the indebtedness was incurred within the two preceding years, describe the principal purposes for which the proceeds of the indebtedness were used and, if the creditor is an insider, associate or affiliate of the issuer, identify the creditor and the nature of the relationship to the issuer and the outstanding amount owed.

## **Item 5 Plan of Distribution**

### **5.1 Disclosure of Market Out**

If securities are distributed by an underwriter that has agreed to purchase all of the securities at a specified price and the underwriter's obligations are subject to conditions, include a statement in substantially the following form, with the bracketed information completed and with modifications necessary to reflect the terms of the distribution:

"Under an agreement dated [insert date of agreement] between [insert name of issuer or selling security holder] and [insert name(s) of underwriter(s)], as underwriter[s], [insert name of issuer or selling security holder] has agreed to sell and the underwriter[s] [has/have] agreed to purchase on [insert closing date] the securities at a price of [insert offering price], payable in cash to [insert name of issuer or selling security holder] against delivery. The obligations of the underwriter[s] under the agreement may be terminated at [its/their] discretion on the basis of [its/their] assessment of the state of the financial markets and may also be terminated upon the occurrence of certain stated events. The underwriter[s] [is/are], however, obligated to take up and pay for all of the securities if any of the securities are purchased under

the agreement.".

## **5.2 Best Efforts Offering**

Outline briefly the plan of distribution of any securities being distributed other than on the basis described in section 5.1.

## **5.3 Determination of Price**

Disclose the method by which the distribution price has been or will be determined and, if estimates have been provided, explain the process for determining the estimates.

## **5.4 Over-Allotments**

If the issuer, a selling security holder or an underwriter knows or has reason to believe that there is an intention to over-allot or that the price of any security may be stabilized to facilitate the distribution of the securities, disclose this information.

## **5.5 Minimum Distribution**

If a minimum amount of funds is required under the issue and the securities are to be distributed on a best efforts basis, state the minimum amount required to be raised and the maximum that could be raised. Also indicate that the distribution will not continue for a period of more than 90 days after the date of the receipt for the short form prospectus if subscriptions representing the minimum amount of funds are not obtained within that period, unless each of the persons and companies who subscribed within that period has consented to the continuation. State that during that period funds received from subscriptions will be held by a depository who is a registrant, bank or trust company and if the minimum amount of funds is not raised, the funds will be returned to the subscribers unless the subscribers have otherwise instructed the depository.

## **5.6 Reduced Price Distributions**

If an underwriter wishes to be able to decrease the price at which securities are distributed for cash from the initial offering price disclosed in the short form prospectus and thereafter change, from time to time, the price at which securities are distributed under the short form prospectus in accordance with the procedures permitted by the Regulation, disclose that, after the underwriter has made a reasonable effort to sell all of the securities at the initial offering price disclosed in the short form prospectus, the offering price may be decreased, and further changed from time to time, to an amount not greater than the initial offering price disclosed in the short form prospectus and that the compensation realized by the underwriter will be decreased by the amount that the aggregate price paid by purchasers for the securities is less than the gross proceeds paid by the underwriter to the issuer or selling security holder.

## **5.7 Listing Application**

If application has been made to list or quote the securities being distributed, include a statement in substantially the following form with the bracketed information completed:

"The issuer has applied to [list/quote] the securities distributed under this short form prospectus on [name of exchange or other market]. [Listing/Quotation] will be subject to the issuer fulfilling all the listing

requirements of [name of exchange or other market].".

## **5.8 Conditional Listing Approval**

If application has been made to list or quote the securities being distributed and conditional listing approval has been received, include a statement in substantially the following form, with the bracketed information completed:

"[name of exchange or other market] has conditionally approved the [listing/quotation] of these securities. [Listing/Quotation] is subject to the [name of the issuer] fulfilling all of the requirements of the [name of exchange or market] on or before [date], [including distribution of these securities to a minimum number of public security holders.]".

## **5.9 Constraints**

If there are constraints imposed on the ownership of securities of the issuer to ensure that the issuer has a required level of Canadian ownership, describe the mechanism, if any, by which the level of Canadian ownership of the securities of the issuer will be monitored and maintained.

# **Item 6 Earnings Coverage Ratios**

## **6.1 Earnings Coverage Ratios**

(1) If the securities being distributed are debt securities having a term to maturity in excess of one year or are preferred shares, disclose the following earnings coverage ratios adjusted in accordance with subsection (2):

1. The earnings coverage ratio based on the most recent 12 month period included in the issuer's current annual financial statements. If there has been a change in year end and the issuer's most recent financial year is less than nine months in length, also disclose the earnings coverage calculation for its old financial year. If the issuer's financial year is less than 12 months in length, the earnings coverage should be calculated on an annualized basis.

2. The earnings coverage ratio based on the 12 month period ended on the last day of the most recently completed period for which interim financial statements of the issuer have been, or are required to have been, incorporated by reference into the short form prospectus.

(2) Adjust the ratios referred to in subsection (1) to reflect

(a) the issuance of the securities being distributed under the short form prospectus, based on the price at which these securities are expected to be distributed;

(b) in the case of a distribution of preferred shares, the issuance of all preferred shares issued since the date of the annual or interim financial statements, and

(i) the repurchase, redemption or other retirement of all preferred shares

(ii) repurchased, redeemed, or otherwise retired since the date of the annual or interim

financial statements and of all preferred shares to be repurchased, redeemed, or otherwise retired from the proceeds to be realized from the sale of securities under the short form prospectus;

(c) the issuance of all long-term financial liabilities, as defined in accordance with the issuer's GAAP;

(d) the repayment, redemption or other retirement of all long-term financial liabilities, as defined in accordance with the issuer's GAAP, since the date of the annual or interim financial statements and all long-term financial liabilities to be repaid or redeemed from the proceeds to be realized from the sale of securities distributed under the short form prospectus; and

(e) the servicing costs that were incurred, or are expected to be incurred, in relation to the adjustments.

(3) If the issuer is distributing, or has outstanding, debt securities that are accounted for, in whole or in part, as equity, disclose in notes to the ratios required under subsection (1)

(a) that the ratios have been calculated excluding the carrying charges for those securities that have been reflected in equity in the calculation of the issuer's interest and dividend obligations;

(b) that if those securities had been accounted for in their entirety as debt for the purpose of calculating the ratios required under subsection (1), the entire amount of the annual carrying charges for those securities would have been reflected in the calculation of the issuer's interest and dividend obligations; and

(c) the earnings coverage ratios for the periods referred to in subsection (1), calculated as though those securities had been accounted for as debt.

(4) If the earnings coverage ratio is less than one-to-one, disclose in the prospectus the dollar amount of the earnings required to achieve a ratio of one-to-one.

(5) If the short form prospectus includes a pro forma income statement, calculate the pro forma earnings coverage ratio and disclose it in the prospectus.

#### *INSTRUCTIONS*

(1) *Cash flow coverage may be disclosed but only as a supplement to earnings coverage and only if the method of calculation is fully disclosed.*

(2) *Earnings coverage is calculated by dividing an entity's earnings (the numerator) by its interest and dividend obligations (the denominator).*

(3) *For the earnings coverage calculation*

(a) *the numerator should be calculated using consolidated net income before interest and income taxes;*

(b) *imputed interest income from the proceeds of a distribution should not be added to the numerator;*

(c) an issuer may also present, as supplementary disclosure, a coverage calculation based on earnings before discontinued operations and extraordinary items;

(d) for distributions of debt securities, the appropriate denominator is interest expense determined in accordance with the issuer's GAAP, after giving effect to the new debt issue and any retirement of obligations, plus the amount of interest that has been capitalized during the period;

(e) for distributions of preferred shares

(i) the appropriate denominator is dividends declared during the period, together with undeclared dividends on cumulative preferred shares, after giving effect to the new preferred share issue, plus the issuer's annual interest requirements, including the amount of interest that has been capitalized during the period, less any retirement of obligations, and

(ii) dividends should be grossed-up to a before-tax equivalent using the issuer's effective income tax rate; and

(f) for distributions of both debt securities and preferred shares, the appropriate denominator is the same as for a preferred share issue, except that the denominator should also reflect the effect of the debt being offered pursuant to the short form prospectus.

(4) The denominator represents a pro forma calculation of the aggregate of an issuer's interest obligations on all long-term debt and dividend obligations (including both dividends declared and undeclared dividends on cumulative preferred shares) with respect to all outstanding preferred shares, as adjusted to reflect

(a) the issuance of all long-term debt and, in addition in the case of an issuance of preferred shares, all preferred shares issued, since the date of the annual or interim financial statements;

(b) the issuance of the securities that are to be distributed under the short form prospectus, based on a reasonable estimate of the price at which these securities will be distributed;

(c) the repayment or redemption of all long-term debt since the date of the annual or interim financial statements, all long-term debt to be repaid or redeemed from the proceeds to be realized from the sale of securities under the short form prospectus and, in addition, in the case of an issuance of preferred shares, all preferred shares repaid or redeemed since the date of the annual or interim financial statements and all preferred shares to be repaid or redeemed from the proceeds to be realized from the sale of securities under the short form prospectus; and

(d) the servicing costs that were incurred, or will be incurred, in relation to the above adjustments.

(5) In certain circumstances, debt obligations may be classified as current liabilities because such obligations, by their terms, are due on demand, are due within one year, or are callable by the creditor. If the issuer is distributing, or has outstanding, debt securities that are classified as current liabilities, disclose

(a) in the notes to the ratios required under subsection 6.1(1) that the ratios have been calculated excluding the carrying charges for those debt securities reflected as current liabilities;

(b) that if those debt securities had been classified in their entirety as long term debt for the

*purposes of calculating the ratios under subsection 6.1(1), the entire amount of the annual carrying charges for such debt securities would have been reflected in the calculation of the issuer's interest and dividend obligations; and*

*(c) the earnings coverage ratios for the periods referred to in subsection 6.1(1), calculated as though those debt securities had been classified as long term debt.*

*(6) For debt securities, disclosure of earnings coverage shall include language similar to the following:*

*"[Name of the issuer]'s interest requirements, after giving effect to the issue of [the debt securities to be distributed under the short form prospectus], amounted to \$• for the 12 months ended •. [Name of the issuer]'s earnings before interest and income tax for the 12 months then ended was \$•, which is • times [name of the issuer]'s interest requirements for this period."*

*(7) For preferred share issues, disclosure of earnings coverage shall include language similar to the following:*

*"[Name of the issuer]'s dividend requirements on all of its preferred shares, after giving effect to the issue of [the preferred shares to be distributed under the short form prospectus], and adjusted to a before-tax equivalent using an effective income tax rate of •%, amounted to \$• for the 12 months ended •. [Name of the issuer]'s interest requirements for the 12 months then ended amounted to \$•. [Name of the issuer]'s earnings before interest and income tax for the 12 months ended • was \$•, which is • times [name of the issuer]'s aggregate dividend and interest requirements for this period."*

*(8) If the earnings coverage ratio is less than one-to-one, disclose the dollar amount of the coverage deficiency (i.e. the dollar amount of earnings required to attain a ratio of one-to-one).*

*(9) Other earnings coverage calculations may be included as supplementary disclosure to the required earnings coverage calculations outlined above as long as their derivation is disclosed and they are not given greater prominence than the required earnings coverage calculations.*

## **Item 7 Description of Securities Being Distributed**

### **7.1 Equity Securities**

If equity securities are being distributed, state the description or the designation of the class of the equity securities and describe all material attributes and characteristics that are not described elsewhere in a document incorporated by reference in the short form prospectus including, as applicable,

- (a) dividend rights;
- (b) voting rights;
- (c) rights upon dissolution or winding up;
- (d) pre-emptive rights;
- (e) conversion or exchange rights;

- (f) redemption, retraction, purchase for cancellation or surrender provisions;
- (g) sinking or purchase fund provisions;
- (h) provisions permitting or restricting the issuance of additional securities and any other material restrictions; and
- (i) provisions requiring a securityholder to contribute additional capital.

## **7.2 Debt Securities**

If debt securities are being distributed, describe all material attributes and characteristics of the indebtedness and the security, if any, for the debt that are not described elsewhere in a document incorporated by reference in the short form prospectus, including

- (a) provisions for interest rate, maturity and premium, if any;
- (b) conversion or exchange rights;
- (c) redemption, retraction, purchase for cancellation or surrender provisions;
- (d) sinking or purchase fund provisions;
- (e) the nature and priority of any security for the debt securities, briefly identifying the principal properties subject to lien or charge;
- (f) provisions permitting or restricting the issuance of additional securities, the incurring of additional indebtedness and other material negative covenants including restrictions against payment of dividends and restrictions against giving security on the assets of the issuer or its subsidiaries and provisions as to the release or substitution of assets securing the debt securities;
- (g) the name of the trustee under any indenture relating to the debt securities and the nature of any material relationship between the trustee or any of its affiliates and the issuer or any of its affiliates; and
- (h) any financial arrangements between the issuer and any of its affiliates or among its affiliates that could affect the security for the indebtedness.

## **7.3 Asset-backed Securities**

If asset-backed securities are being distributed, describe

- (a) the material attributes and characteristics of the asset-backed securities, including
  - (i) the rate of interest or stipulated yield and any premium,
  - (ii) the date for repayment of principal or return of capital and any circumstances in which payments of principal or capital may be made before such date, including any redemption or pre-payment obligations or privileges of the issuer and any events that may trigger early liquidation or amortization of the

underlying pool of financial assets,

(iii) provisions for the accumulation of cash flows to provide for the repayment of principal or return of capital,

(iv) provisions permitting or restricting the issuance of additional securities and any other material negative covenants applicable to the issuer,

(v) the nature, order and priority of the entitlements of holders of asset-backed securities and any other entitled persons or companies to receive cash flows generated from the underlying pool of financial assets, and

(vi) any events, covenants, standards or preconditions that may reasonably be expected to affect the timing or amount of payments or distributions to be made under the asset-backed securities, including those that are dependent or based on the economic performance of the underlying pool of financial assets;

(b) information on the underlying pool of financial assets, for the period from the date as at which the following information was presented in the issuer's current AIF to a date not more than 90 days before the date of the issuance of a receipt for the preliminary short form prospectus, of

(i) the composition of the pool as of the end of the period,

(ii) income and losses from the pool for the period, presented on at least an annual basis or such shorter period as is reasonable given the nature of the underlying pool of assets, and

(iii) the payment, prepayment and collection experience of the pool for the period on at least an annual basis or such shorter period as is reasonable given the nature of the underlying pool of assets;

(c) the type or types of the financial assets, the manner in which the financial assets originated or will originate and, if applicable, the mechanism and terms of the agreement governing the transfer of the financial assets comprising the underlying pool to or through the issuer, including the consideration paid for the financial assets;

(d) any person or company who

(i) originated, sold or deposited a material portion of the financial assets comprising the pool, or has agreed to do so,

(ii) acts, or has agreed to act, as a trustee, custodian, bailee or agent of the issuer or any holder of the asset-backed securities, or in a similar capacity,

(iii) administers or services a material portion of the financial assets comprising the pool or provides administrative or managerial services to the issuer, or has agreed to do so, on a conditional basis or otherwise, if

(A) finding a replacement provider of the services at a cost comparable to the cost of the current provider is not reasonably likely,

(B) a replacement provider of the services is likely to achieve materially worse results than the current provider,

(C) the current provider of the services is likely to default in its service obligations because of its current financial condition, or

(D) the disclosure is otherwise material,

(iv) provides a guarantee, alternative credit support or other credit enhancement to support the obligations of the issuer under the asset-backed securities or the performance of some or all of the financial assets in the pool, or has agreed to do so, or

(v) lends to the issuer in order to facilitate the timely payment or repayment of amounts payable under the asset-backed securities, or has agreed to do so;

(e) the general business activities and material responsibilities under the asset-backed securities of a person or company referred to in paragraph (d);

(f) the terms of any material relationships between

(i) any of the persons or companies referred to in paragraph (d) or any of their respective affiliates, and

(ii) the issuer;

(g) any provisions relating to termination of services or responsibilities of any of the persons or companies referred to in paragraph (d) and the terms on which a replacement may be appointed; and

(h) any risk factors associated with the asset-backed securities, including disclosure of material risks associated with changes in interest rates or prepayment levels, and any circumstances where payments on the asset-backed securities could be impaired or disrupted as a result of any reasonably foreseeable event that may delay, divert or disrupt the cash flows dedicated to service the asset-backed securities.

#### **INSTRUCTIONS**

*(1) Present the information required under paragraph (b) in a manner that will enable a reader to easily determine whether, and the extent to which, the events, covenants, standards and preconditions referred to in clause (a)(vi) have occurred, are being satisfied or may be satisfied.*

*(2) If the information required under paragraph (b) is not compiled specifically from the underlying pool of financial assets, but is compiled from a larger pool of the same assets from which the securitized assets are randomly selected such that the performance of the larger pool is representative of the performance of the pool of securitized assets, then an issuer may comply with paragraph (b) by providing the information required based on the larger pool and disclosing that it has done so.*

*(3) Issuers are required to summarize contractual arrangements in plain language and may not merely restate the text of the contracts referred to. The use of diagrams to illustrate the roles of, and the relationship among, the persons and companies referred to in paragraph (d) and the contractual arrangements underlying the asset-backed securities is encouraged.*

#### **7.4 Derivatives**

If derivatives are being distributed, describe fully the material attributes and characteristics of the derivatives, including

- (a) the calculation of the value or payment obligations under the derivatives;
- (b) the exercise of the derivatives;
- (c) the settlement of exercises of the derivatives;
- (d) the underlying interest of the derivatives;
- (e) the role of a calculation expert in connection with the derivatives;
- (f) the role of any credit supporter of the derivatives; and
- (g) the risk factors associated with the derivatives.

#### **7.5 Other Securities**

If securities other than equity securities, debt securities, asset-backed securities or derivatives are being distributed, describe fully the material attributes and characteristics of those securities.

#### **7.6 Special Warrants, etc.**

If the short form prospectus is used to qualify the distribution of securities issued upon the exercise of Special Warrants or other securities acquired on a prospectus-exempt basis, disclose that holders of such securities have been provided with a contractual right of rescission and provide the following disclosure in the prospectus:

"In the event that a holder of a Special Warrant, who acquires a [*identify underlying security*] of the issuer upon the exercise of the Special Warrant as provided for in this short form prospectus, is or becomes entitled under applicable securities legislation to the remedy of rescission by reason of this short form prospectus or any amendment thereto containing a misrepresentation, such holder shall be entitled to rescission not only of the holder's exercise of its Special Warrant(s) but also of the private placement transaction pursuant to which the Special Warrant was initially acquired, and shall be entitled in connection with such rescission to a full refund of all consideration paid to the [*underwriter or issuer, as the case may be*] on the acquisition of the Special Warrant. In the event such holder is a permitted assignee of the interest of the original Special Warrant subscriber, such permitted assignee shall be entitled to exercise the rights of rescission and refund granted hereunder as if such permitted assignee was such original subscriber. The foregoing is in addition to any other right or remedy available to a holder of the Special Warrant under applicable securities legislation or otherwise at law."

#### **INSTRUCTION**

*If the short form prospectus is qualifying the distribution of securities issued upon the exercise of securities other than Special Warrants, replace the term "Special Warrant" with the type of the security being*

*distributed.*

## **7.7 Restricted Securities**

(1) If the issuer has outstanding, or proposes to distribute under the short form prospectus, restricted securities, or securities that are directly or indirectly convertible into or exercisable or exchangeable for restricted securities or subject securities, provide a detailed description of:

(a) the voting rights attached to the restricted securities and the voting rights, if any, attached to the securities of any other class of securities of the issuer that are the same or greater on a per security basis than those attached to the restricted securities;

(b) any significant provisions under applicable corporate and securities law that do not apply to the holders of the restricted securities but do apply to the holders of another class of equity securities, and the extent of any rights provided in the constating documents or otherwise for the protection of holders of restricted securities; and

(c) any rights under applicable corporate law, in the constating documents or otherwise, of holders of restricted securities to attend, in person or by proxy, meetings of holders of equity securities of the issuer and to speak at the meetings to the same extent that holders of equity securities are entitled.

(2) If holders of restricted securities do not have all of the rights referred to in subsection (1) the detailed description referred to in that subsection shall include, in bold type, a statement of the rights the holders do not have.

(3) If the issuer is required to include the disclosure referred to in subsection (1), state the percentage of the aggregate voting rights attached to the issuer's securities that will be represented by restricted securities after giving effect to the issuance of the securities being offered.

## **7.8 Modification of Terms**

Describe provisions as to modification, amendment or variation of any rights or other terms attached to the securities being distributed. If the rights of holders of securities may be modified otherwise than in accordance with the provisions attached to the securities or the provisions of the governing statute relating to the securities, explain briefly.

## **7.9 Ratings**

If the issuer has asked for and received a stability rating, or if the issuer receives any other kind of rating, including a provisional rating, from one or more approved rating organizations for the securities being distributed and the rating or ratings continue in effect, disclose

(a) each security rating, including a provisional rating or stability rating, received from an approved rating organization;

(b) the name of each approved rating organization that has assigned a rating for the securities to be distributed;

(c) a definition or description of the category in which each approved rating organization rated the

securities to be distributed and the relative rank of each rating within the organization's classification system;

(d) an explanation of what the rating addresses and what attributes, if any, of the securities to be distributed are not addressed by the rating;

(e) any factors or considerations identified by the approved rating organization as giving rise to unusual risks associated with the securities to be distributed;

(f) a statement that a security rating or a stability rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time by the rating organization; and

(g) any announcement made by, or any proposed announcement known to the issuer to be made by, an approved rating organization that the organization is reviewing or intends to revise or withdraw a rating previously assigned and required to be disclosed under this paragraph.

## **7.10 Other Attributes**

(1) If the rights attaching to the securities being distributed are materially limited or qualified by the rights of any other class of securities, or if any other class of securities ranks ahead of or equally with the securities being distributed, include information about the other securities that will enable investors to understand the rights attaching to the securities being distributed.

(2) If securities of the class being distributed may be partially redeemed or repurchased, state the manner of selecting the securities to be redeemed or repurchased.

### *INSTRUCTION*

*This Item requires only a brief summary of the provisions that are material from an investment standpoint. The provisions attaching to the securities being distributed or any other class of securities do not need to be set out in full. They may, in the issuer's discretion, be attached as a schedule to the prospectus.*

## **Item 8 Selling Security Holder**

### **8.1 Selling Security Holder**

If any of the securities being distributed are to be distributed for the account of a security holder, state the following:

1. The name of the security holder.
2. The number or amount of securities owned by the security holder of the class being distributed.
3. The number or amount of securities of the class being distributed for the account of the security holder.
4. The number or amount of securities of the issuer of any class to be owned by the security holder after the distribution, and the percentage that number or amount represents of the total outstanding.

5. Whether the securities referred to in paragraph 2, 3 or 4 are owned both of record and beneficially, of record only, or beneficially only.

## **Item 9 Mineral Property**

### **9.1 Mineral Property**

If a material part of the proceeds of the distribution is to be expended on a particular mineral property and if the current AIF does not contain the disclosure required under section 5.4 of Form 51-102F2, Annual Information Form, of Regulation 51-102 respecting Continuous Disclosure Obligations for the property or that disclosure is inadequate or incorrect due to changes, disclose the information required under section 5.4 of Form 51-102F2.

## **Item 10 Significant Acquisitions**

### **10.1 Significant Acquisitions**

(1) Describe any acquisition

(a) that the issuer has completed within 75 days prior to the date of the short form prospectus;

(b) that is a significant acquisition for the purposes of Part 8 of Regulation 51-102 respecting Continuous Disclosure Obligations or would be if it were not a reverse takeover, as defined in Regulation 51-102 respecting Continuous Disclosure Obligations; and

(c) for which the issuer has not yet filed a business acquisition report under Regulation 51-102 respecting Continuous Disclosure Obligations.

(2) Describe any proposed acquisition that

(a) has progressed to a state where a reasonable person would believe that the likelihood of the acquisition being completed is high; and

(b) would be a significant acquisition for the purposes of Part 8 of Regulation 51-102 respecting Continuous Disclosure Obligations or would be if it were not a reverse takeover, as defined in Regulation 51-102 respecting Continuous Disclosure Obligations, if completed as of the date of the short form prospectus.

(3) If disclosure about an acquisition or proposed acquisition is required under subsection (1) or (2), include financial statements or other information of the acquisition or proposed acquisition if

(a) the acquisition or proposed acquisition is a reverse takeover; or

(b) the acquisition or proposed acquisition is not a reverse takeover but the inclusion of the financial statements is necessary for the short form prospectus to contain full, true and plain disclosure of all material facts relating to, and in Québec disclosure of all material facts likely to affect the value or the market price of, the securities being distributed.

## INSTRUCTIONS

(1) For the description of the acquisition or proposed acquisition, include the information required by sections 2.1 through 2.6 of Form 51-102F4, Business Acquisition Report, of Regulation 51-102 respecting Continuous Disclosure Obligations. For a proposed acquisition, modify this information as necessary to convey that the acquisition is not yet completed.

(2) The requirement of subsection (3) must be satisfied by including either

(i) the financial statements or other information required by Part 8 of Regulation 51-102 respecting Continuous Disclosure Obligations for significant acquisitions, or

(ii) satisfactory alternative financial statements or other information.

## Item 11 Documents Incorporated by Reference

### 11.1 Mandatory Incorporation by Reference

(1) In addition to any other document that an issuer may choose to incorporate by reference, specifically incorporate by reference in the short form prospectus, by means of a statement in the short form prospectus to that effect, the documents set forth below:

1. The issuer's current AIF, if it has one.

2. The issuer's current annual financial statements, if any, and related MD&A.

3. The issuer's interim financial statements most recently filed or required to have been filed under the applicable CD rule in respect of an interim period, if any, subsequent to the financial year in respect of which the issuer has filed its current annual financial statements or has included annual financial statements in the short form prospectus, and the related interim MD&A.

4. If, before the prospectus is filed, financial information about the issuer for a financial period more recent than the period for which financial statements are required under paragraphs 2 and 3 is publicly disseminated by, or on behalf of, the issuer through news release or otherwise, the content of the news release or public communication.

5. Any material change report, except a confidential material change report, filed under Part 7 of Regulation 51-102 respecting Continuous Disclosure Obligations or Part 11 of Regulation 81-106 respecting Investment Fund Continuous Disclosure since the end of the financial year in respect of which the issuer's current AIF is filed.

6. Any business acquisition report filed by the issuer under Part 8 of Regulation 51-102 respecting Continuous Disclosure Obligations for acquisitions completed since the beginning of the financial year in respect of which the issuer's current AIF is filed, unless the issuer

(a) incorporated the BAR by reference into its current AIF, or

(b) incorporated at least 9 months of the acquired business or related businesses operations into the issuer's most recent audited financial statements.

7. Any information circular filed by the issuer under Part 9 of Regulation 51-102 respecting Continuous Disclosure Obligations or Part 12 of Regulation 81-106 respecting Investment Fund Continuous Disclosure since the beginning of the financial year in respect of which the issuer's current AIF is filed.

8. Any other disclosure document which the issuer has filed pursuant to an undertaking to a provincial or territorial securities regulatory authority since the beginning of the financial year in respect of which the issuer's current AIF is filed.

9. Any other disclosure document of the type listed in paragraphs 1 through 7 which the issuer has filed pursuant to an exemption from any requirement under the applicable CD rule since the beginning of the financial year in respect of which the issuer's current AIF is filed.

(2) In the statement incorporating the documents listed in subsection (1) by reference in a short form prospectus, clarify that the documents are not incorporated by reference to the extent their contents are modified or superseded by a statement contained in the short form prospectus or in any other subsequently filed document that is also incorporated by reference in the short form prospectus.

#### **INSTRUCTIONS**

*(1) Paragraph 4 of subsection (1) requires issuers to incorporate only the news release or other public communication through which more recent financial information is released to the public. However, if the financial statements from which the information in the news release has been derived have been filed, then the financial statements must be incorporated by reference.*

*(2) Issuers must provide a list of the material change reports and business acquisition reports required under paragraphs 5 and 6 of subsection (1), giving the date of filing and briefly describing the material change or acquisition, as the case may be, in respect of which the report was filed.*

*(3) Any material incorporated by reference in a short form prospectus is required under sections 4.1 and 4.2 of the Regulation to be filed with the short form prospectus unless it has been previously filed.*

#### **11.2 Mandatory Incorporation by Reference of Future Documents**

State that any documents, of the type described in section 11.1, if filed by the issuer after the date of the short form prospectus and before the termination of the distribution, are deemed to be incorporated by reference in the short form prospectus.

#### **11.3 Issuers without a Current AIF or Current Annual Financial Statements**

(1) If the issuer does not have a current AIF or current annual financial statements and is relying on the exemption in subsection 2.7(1) of the Regulation, include the disclosure, including financial statements, that would otherwise have been required to have been included in a current AIF and current annual financial statements under section 11.1.

(2) If the issuer does not have a current AIF or current annual financial statements and is relying on the exemption in subsection 2.7(2) of the Regulation, include the disclosure, including financial statements,

provided in accordance with Item 14.2 or 14.5 of Form 51-102F5, Information Circular, of Regulation 51-102 respecting Continuous Disclosure Obligations in the information circular referred to in paragraph 2.7(2)(b) of the Regulation.

#### **INSTRUCTION**

*If an issuer is required to include disclosure under subsection (2), it must include the historical financial statements of any issuer that was a party to the reorganization and any other information contained in the information circular that was used to construct financial statements for the issuer.*

### **11.4 Significant Acquisition for Which No Business Acquisition Report is Filed**

(1) If the issuer has,

(a) since the beginning of the most recently completed financial year in respect of which annual financial statements are included in the short form prospectus; and

(b) more than 75 days prior to the date of filing the preliminary short form prospectus;

completed a transaction that would have been a significant acquisition for the purposes of Part 8 of Regulation 51-102 respecting Continuous Disclosure Obligations if the issuer had been a reporting issuer at the time of the transaction, and the issuer has not filed a business acquisition report in respect of the transaction, include the financial statements and other information in respect of the transaction that is prescribed by Form 51-102F4, Business Acquisition Report, of Regulation 51-102 respecting Continuous Disclosure Obligations.

(2) If the issuer was exempt from the requirement to file a business acquisition report in respect of a transaction because the disclosure that would normally be included in a business acquisition report was included in another document, include that disclosure in the short form prospectus.

#### **INSTRUCTION**

*Disclosure required by section 11.3 or 11.4 to be included in the short form prospectus may be incorporated by reference from another document or included directly in the short form prospectus.*

## **Item 12 Additional Disclosure for Issues of Guaranteed Securities**

### **12.1 Credit Supporter Disclosure**

Provide disclosure about each credit supporter, if any, that has provided a guarantee or alternative credit support for all or substantially all of the payments to be made under the securities to be distributed, by complying with the following:

1. If the credit supporter is a reporting issuer and has a current AIF, incorporating by reference into the short form prospectus all documents that would be required to be incorporated by reference under Item 11 if the credit supporter were the issuer of the securities.

2. If the credit supporter is not a reporting issuer and has a class of securities registered under

section 12(b) or 12(g) of the 1934 Act, or is required to file reports under section 15(d) of the 1934 Act, incorporating by reference into the short form prospectus all 1934 Act filings that would be required to be incorporated by reference in a Form S-3 or Form F-3 registration statement filed under the 1933 Act if the securities distributed under the short form prospectus were being registered on Form S-3 or Form F-3.

3. If neither paragraph 1 nor paragraph 2 applies to the credit supporter, providing directly in the short form prospectus the same disclosure that would be contained in the short form prospectus through the incorporation by reference of the documents referred to in Item 11 if the credit supporter were the issuer of the securities and those documents had been prepared by the credit supporter.

4. Providing such other information about the credit supporter as is necessary to provide full, true and plain disclosure of all material facts concerning, and in Québec, disclosure of all material facts likely to affect the value or the market price, of the securities to be distributed, including the credit supporter's earnings coverage ratios under Item 6 as if the credit supporter were the issuer of the securities.

## **Item 13 Exemptions for Certain Issues of Guaranteed Securities**

### **13.1 The Issuer is a Wholly Owned Subsidiary of the Credit Supporter**

Despite Items 6 and 11, an issuer is not required to incorporate by reference into the short form prospectus any of its documents under paragraphs 1 through 4, 6 and 7 of subsection 11.1(1) or include in the short form prospectus its earnings coverage ratios under section 6.1, if

(a) a credit supporter has provided full and unconditional credit support for the securities being distributed;

(b) the credit supporter satisfies the criterion in paragraph 2.4(1)(b) of the Regulation;

(c) the securities being distributed are non-convertible debt securities, non-convertible preferred shares, or convertible debt securities or convertible preferred shares that are convertible, in each case, into securities of the credit supporter;

(d) the issuer is a direct or indirect wholly owned subsidiary of the credit supporter;

(e) no other subsidiary of the credit supporter has provided a guarantee or alternative credit support for all or substantially all of the payments to be made under the securities being distributed; and

(f) the issuer includes the following information in the short form prospectus:

(i) if

(A) the issuer has no operations or only minimal operations that are independent of the credit supporter, and

(B) the impact of any subsidiaries of the credit supporter on a combined basis, excluding the issuer, on the consolidated financial results of the credit supporter is minor,

a statement that the financial results of the issuer are included in the consolidated financial

results of the credit supporter, or

(ii) for the periods covered by the credit supporter's financial statements included in the short form prospectus under section 12.1, consolidating summary financial information for the credit supporter presented with a separate column for each of the following:

- (A) the credit supporter,
- (B) the issuer,
- (C) any other subsidiaries of the credit supporter on a combined basis,
- (D) consolidating adjustments, and
- (E) the total consolidated amounts.

### **13.2 The Issuer and One or More Subsidiary Credit Supporters are Wholly Owned Subsidiaries of the Parent Credit Supporter**

Despite Items 6, 11 and 12, an issuer is not required to incorporate by reference into the short form prospectus any of its documents under paragraphs 1 through 4, 6 and 7 of subsection 11.1(1), include in the short form prospectus its earnings coverage ratios under section 6.1, or include in the short form prospectus the disclosure of one or more subsidiary credit supporters required by section 12.1, if

(a) a parent credit supporter and one or more subsidiary credit supporters have each provided full and unconditional credit support for the securities being distributed;

(b) the parent credit supporter satisfies the criterion in paragraph 2.4(1)(b) of the Regulation;

(c) the guarantees or alternative credit supports are joint and several;

(d) the securities being distributed are non-convertible debt securities, non-convertible preferred shares, or convertible debt securities or convertible preferred shares that are convertible, in each case, into securities of the parent credit supporter;

(e) the issuer and each subsidiary credit supporter is a direct or indirect wholly owned subsidiary of the parent credit supporter; and

(f) the issuer includes the following information in the short form prospectus:

(i) if

(A) each of the issuer and each subsidiary credit supporter has no operations or only minimal operations that are independent of the parent credit supporter, and

(B) the impact of any subsidiaries of the parent credit supporter on a combined basis, excluding the issuer and all subsidiary credit supporters, on the consolidated financial results of the parent credit supporter is minor,

a statement that the financial results of the issuer and all subsidiary credit supporters are included in the consolidated financial results of the parent credit supporter, or

(ii) for the periods covered by the parent credit supporter's financial statements included in the short form prospectus under section 12.1, consolidating summary financial information for the parent credit supporter presented with a separate column for each of the following:

- (A) the parent credit supporter,
- (B) the issuer,
- (C) each subsidiary credit supporter on a combined basis,
- (D) any other subsidiaries of the parent credit supporter on a combined basis,
- (E) consolidating adjustments, and
- (F) the total consolidated amounts.

### **13.3 One or More Credit Supporters are Wholly Owned Subsidiaries of the Issuer**

Despite Item 12, an issuer is not required to include in the short form prospectus the disclosure required by section 12.1 for one or more credit supporters if

(a) one or more credit supporters have each provided full and unconditional credit support for the securities being distributed;

(b) if there is more than one credit supporter, the guarantee or alternative credit supports are joint and several;

(c) the securities being distributed are non-convertible debt securities or non-convertible preferred shares;

(d) each credit supporter is a direct or indirect wholly owned subsidiary of the issuer; and

(e) the issuer includes the following information in the short form prospectus:

(i) if

(A) the issuer has no operations or only minimal operations that are independent of the credit supporter(s), and

(B) the impact of any subsidiaries of the issuer on a combined basis, excluding the credit supporter(s) but including any subsidiaries of the credit supporter(s) that are not themselves credit supporters, on the consolidated financial results of the issuer is minor,

a statement that the financial results of the credit supporter(s) are included in the consolidated financial results of the issuer, or

(ii) for the periods covered by the issuer's financial statements included in the short form prospectus under Item 11, consolidating summary financial information for the issuer, presented with a separate column for each of the following:

- (A) the issuer,
- (B) the credit supporters on a combined basis,
- (C) any other subsidiaries of the issuer on a combined basis,
- (D) consolidating adjustments, and
- (E) the total consolidated amounts.

#### *INSTRUCTIONS*

##### *(1) Summary Financial Information*

*(a) Summary financial information includes the following line items:*

- (i) sales or revenues;*
- (ii) income from continuing operations before extraordinary items;*
- (iii) net earnings;*
- (iv) current assets;*
- (v) non-current assets;*
- (vi) current liabilities; and*
- (vii) non-current liabilities.*

*(b) Despite instruction (1)(a), if GAAP permits the preparation of an entity's balance sheet without classifying assets and liabilities between current and non-current then the following items may be omitted from the entity's summary financial information if alternative meaningful financial information is provided which is more appropriate to the industry:*

- (i) current assets;*
- (ii) non-current assets;*
- (iii) current liabilities; and*
- (iv) non-current liabilities.*

*(c) An entity's annual or interim summary financial information must be derived from the entity's financial information underlying the corresponding consolidated financial statements of the issuer or parent*

*credit supporter included in the short form prospectus.*

*(d) The parent entity column should account for investments in all subsidiaries under the equity method.*

*(e) All subsidiary entity columns should account for investments in non-credit supporter subsidiaries under the equity method.*

*(2) For the purposes of Item 13, an entity is considered to be a wholly owned subsidiary if the parent entity owns voting securities representing 100 per cent of the votes attached to the outstanding voting securities of the subsidiary.*

*(3) For the purposes of Item 13, the impact of subsidiaries, on a combined basis, on the financial results of the parent is minor if each item of the summary financial information of the subsidiaries, on a combined basis, represents less than 3% of the total consolidated amounts.*

*(4) For the purposes of Item 13, "parent credit supporter" means a credit supporter of which the issuer is a subsidiary and "subsidiary credit supporter" means a credit supporter that is a subsidiary of the parent credit supporter.*

## **Item 14 Relationship between Issuer or Selling Securityholder and Underwriter**

### **14.1 Relationship between Issuer or Selling Securityholder and Underwriter**

If the issuer or selling security holder is a connected issuer or related issuer of an underwriter of the distribution, or if the issuer or selling security holder is also an underwriter, comply with the requirements of Regulation 33-105 respecting Underwriting Conflicts.

#### **INSTRUCTION**

*For the purposes of section 14.1, "connected issuer" and "related issuer" have the same meanings as in Regulation 33-105 respecting Underwriting Conflicts.*

## **Item 15 Interest of Experts**

### **15.1 Names of Experts**

Name each person or company

(a) who is named as having prepared or certified a statement, report or valuation in the short form prospectus or an amendment to the short form prospectus, either directly or in a document incorporated by reference; and

(b) whose profession or business gives authority to the statement, report or valuation made by the person or company.

## 15.2 Interest of Experts

For each person or company referred to in section 15.1, provide the disclosure that would be required under section 16.2 of Form 51-102F2, Annual Information Form, of Regulation 51-102 respecting Continuous Disclosure Obligations as of the date of the short form prospectus, as if that person or company were a person or company referred to in section 16.1 of Form 51-102F2.

## 15.3 Exemption

Sections 15.1 and 15.2 do not apply to a person or company if the disclosure regarding that person or company required under section 15.2 is already disclosed in the issuer's current AIF.

## Item 16 Promoters

### 16.1 Promoters

(1) For a person or company that is, or has been within the three years immediately preceding the date of the preliminary short form prospectus, a promoter of the issuer or of a subsidiary of the issuer state, to the extent not disclosed elsewhere in a document incorporated by reference in the short form prospectus,

(a) the person or company's name;

(b) the number and percentage of each class of voting securities and equity securities of the issuer or any of its subsidiaries beneficially owned, directly or indirectly, or over which control is exercised by the person or company;

(c) the nature and amount of anything of value, including money, property, contracts, options or rights of any kind received or to be received by the promoter, directly or indirectly, from the issuer or from a subsidiary of the issuer, and the nature and amount of any assets, services or other consideration received or to be received by the issuer or a subsidiary of the issuer in return; and

(d) for an asset acquired within the three years before the date of the preliminary short form prospectus, or to be acquired, by the issuer or by a subsidiary of the issuer from a promoter

(i) the consideration paid or to be paid for the asset and the method by which the consideration has been or will be determined,

(ii) the person or company making the determination referred to in subparagraph (i) and the person or company's relationship with the issuer, the promoter, or an affiliate of the issuer or of the promoter, and

(iii) the date that the asset was acquired by the promoter and the cost of the asset to the promoter.

(2) If a promoter of the issuer has been a director, executive officer or promoter of any person or company during the 10 years ending on the date of the preliminary short form prospectus, that while that person was acting in that capacity,

(a) was the subject of a cease trade or similar order, or an order that denied the person or company access to any exemptions under provincial or territorial securities legislation, for a period of more than 30 consecutive days, state the fact and describe the basis on which the order was made and whether the order is still in effect;

(b) was subject to an event that resulted, after the director, executive officer or promoter ceased to be a director, executive officer or promoter, in the company or person being subject to a cease trade or similar order or an order that denied the relevant company or person access to any exemption under securities legislation, for a period of more than 30 consecutive days, state the fact and describe the basis on which the order was made and whether the order is still in effect; or

(c) within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or been subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets, state the fact.

(3) Describe the penalties or sanctions imposed and the grounds on which they were imposed or the terms of the settlement agreement and the circumstances that gave rise to the settlement agreement, if a promoter has been subject to

(a) any penalties or sanctions imposed by a court relating to provincial or territorial securities legislation or by a provincial or territorial securities regulatory authority or has entered into a settlement agreement with a provincial or territorial securities regulatory authority; or

(b) any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor in making an investment decision.

(4) Despite subsection (3), no disclosure is required of a settlement agreement entered into before December 31, 2000 unless the disclosure would likely be considered important to a reasonable investor in making an investment decision.

(5) If a promoter of the issuer has, within the 10 years before the date of the preliminary short form prospectus, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency, or was subject to or instituted any proceedings, arrangement or compromise with creditors, or had a receiver, receiver manager or trustee appointed to hold the assets of the promoter, state the fact.

## **Item 17 Risk Factors**

### **17.1 Risk Factors**

Describe the factors material to the issuer that a reasonable investor would consider relevant to an investment in the securities being distributed.

#### ***INSTRUCTION***

*Issuers may cross-reference to specific risk factors relevant to the securities being distributed that are discussed in their current AIF.*

## **Item 18 Other Material Facts**

### **18.1 Other Material Facts**

Give particulars of any material facts about the securities being distributed that are not disclosed under any other items or in the documents incorporated by reference into the short form prospectus and are necessary in order for the short form prospectus to contain full, true and plain disclosure of all material facts relating to, and in Québec not to make any misrepresentation likely to affect the value or market price of, the securities to be distributed.

## **Item 19 Exemptions from the Regulation**

### **19.1 Exemptions from the Regulation**

List all exemptions from the provisions of the Regulation, including this Form, granted to the issuer applicable to the distribution or the short form prospectus, including all exemptions to be evidenced by the issuance of a receipt for the short form prospectus pursuant to section 8.2 of the Regulation.

## **Item 20 Statutory Rights of Withdrawal and Rescission**

### **20.1 General**

Include a statement in substantially the following form, with the bracketed information completed:

"Securities legislation in [certain of the provinces [and territories] of Canada/the Province of [insert name of local jurisdiction, if applicable]] provides purchasers with the right to withdraw from an agreement to purchase securities. This right may be exercised within two business days after receipt or deemed receipt of a prospectus and any amendment. [In several of the provinces/provinces and territories,] [T/t]he securities legislation further provides a purchaser with remedies for rescission [or [, in some jurisdictions,] damages] if the prospectus and any amendment contains a misrepresentation or is not delivered to the purchaser, provided that the remedies for rescission [or damages] are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province [or territory]. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province [or territory] for the particulars of these rights or consult with a legal adviser."

### **20.2 Non-fixed Price Offerings**

In the case of a non-fixed price offering, replace, if applicable in the jurisdiction in which the short form prospectus is filed, the second sentence in the legend in section 20.1 with a statement in substantially the following form:

"This right may only be exercised within two business days after receipt or deemed receipt of a prospectus and any amendment, irrespective of the determination at a later date of the purchase price of the securities distributed."

## **Item 21 Certificates**

### **21.1 Officers, Directors and Promoters**

Include a certificate in the following form

"This short form prospectus, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by the securities legislation of [insert name of each jurisdiction in which qualified]. [Insert if offering made in Québec - "For the purpose of the Province of Québec, this simplified prospectus, together with documents incorporated herein by reference and as supplemented by the permanent information record, contains no misrepresentation that is likely to affect the value or the market price of the securities to be distributed."]"

signed by

(a) the chief executive officer and the chief financial officer or, if no such officers have been appointed, a person acting on behalf of the issuer in a capacity similar to a chief executive officer and a person acting on behalf of the issuer in a capacity similar to that of a chief financial officer,

(b) on behalf of the board of directors of the issuer, any two directors of the issuer duly authorized to sign, other than the persons referred to in paragraph (a), and

(c) any person or company who is a promoter of the issuer.

### **21.2 Underwriters**

If there is an underwriter, include a certificate in the following form signed by the underwriter or underwriters who, with respect to the securities being distributed, are in a contractual relationship with the issuer or selling security holders:

"To the best of our knowledge, information and belief, this short form prospectus, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by the securities legislation of [insert name of each jurisdiction in which qualified]. [Insert if offering made in Québec - "For the purpose of the Province of Québec, to our knowledge, this simplified prospectus, together with documents incorporated herein by reference and as supplemented by the permanent information record, contains no misrepresentation that is likely to affect the value or the market price of the securities to be distributed."]"

### **21.3 Related Credit Supporters**

If disclosure concerning a credit supporter is prescribed by section 12.1, including if a credit supporter is exempt from the requirements of section 12.1 under section 13.2 or 13.3, and the credit supporter is a related credit supporter, an issuer shall include a certificate of the related credit supporter in the form required in section 21.1 signed by

(a) the chief executive officer and the chief financial officer or, if no such officers have been appointed, a person acting on behalf of the related credit supporter in a capacity similar to a chief executive

officer and a person acting on behalf of the related credit supporter in a capacity similar to that of a chief financial officer; and

(b) on behalf of the board of directors of the related credit supporter, any two directors of the related credit supporter duly authorized to sign, other than the persons referred to in paragraph (a).

#### **INSTRUCTION**

*For the purposes of section 21.3, "related credit supporter" means a credit supporter of the issuer that is an affiliate of the issuer.*

#### **21.4 Amendments**

(1) Include in an amendment to a short form prospectus that does not restate the short form prospectus the certificates required under sections 21.1, 21.2 and, if applicable, section 21.3 with the reference in each certificate to "this short form prospectus" omitted and replaced by "the short form prospectus dated [insert date] as amended by this amendment".

(2) Include in an amended and restated short form prospectus the certificates required under sections 21.1, 21.2 and, if applicable, section 21.3 with the reference in each certificate to "this short form prospectus" omitted and replaced by "this amended and restated short form prospectus".

#### **21.5 Date of Certificates**

The date of certificates in a preliminary short form prospectus, a short form prospectus or an amendment to a preliminary short form prospectus or short form prospectus shall be within three business days before the date of filing the preliminary short form prospectus, short form prospectus or amendment, as applicable.

Décision 2000-C-0701 -- 14 novembre 2000

Décision 2001-C-0394 -- 14 août 2001

Bulletin hebdomadaire : 2001-08-17, Vol. XXXII n° 33

Décision 2005-PDG-0356 -- 15 novembre 2005

Bulletin de l'Autorité : 2005-12-16, Vol. 2 n° 50

M.O. 2005-24, 30 November 2005, G.O. December 14, 2005

#### **Modification**

Décision 2001-C-0392 -- 14 août 2001

Bulletin hebdomadaire : 2001-08-17, Vol. XXXII n° 33

Décision 2005-PDG-0226 -- 1<sup>er</sup> août 2005

Bulletin de l'Autorité : 2005-08-26, Vol. 2 n° 34

M.O. 2005-17, 2 August 2005, G.O. August 24, 2005

## Modifications

Décision 2006-PDG-0222 -- 12 décembre 2006

Bulletin de l'Autorité : 2007-01-05, Vol. 4 n° 1

A.M. 2006-05, 13 décembre 2006, G.O. 27 décembre 2006

Décision 2007-PDG-0210 -- 30 novembre 2007

Bulletin de l'Autorité : 2008-01-11, Vol. 5 n° 1

A.M. 2007-09, 14 décembre 2007, G.O. 27 décembre 2007

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