

**NOTICE OF RULE AND COMPANION POLICY**  
**RULE 45-501, COMPANION POLICY 45-501CP, RULE 72-501,**  
**COMPANION POLICY 72-501CP AND POLICY 45-601**

**AND**

**RESCISSION OF ASC NOTICE 7**

**Notice of Rules and Policies**

The Commission has

- C made Rule 72-501 entitled Distributions to Purchasers Outside Alberta and adopted Companion Policy 72-501CP
- C has made Rule 45-501 entitled System for Shorter Holder Period for Issuers Filing an AIF (the "SHAIF System") and adopted Companion Policy 45-501
- C adopted Policy 45-601 entitled Distributions Outside Alberta (the "Distribution Policy") and
- C rescinded ASC Notice 7 - Distribution of Securities Outside Alberta ("Notice 7").

These rules and policies were published for comment as draft Rule 45-501 and Companion Policy 45-501CP in the Weekly Summary for the week ending December 15, 1997. The notice also advised that the British Columbia Securities Commission was adopting a similar approach to the issue of offshore distributions, which was implemented in late November, 1997 by way of an interim local policy, an interpretation note and two blanket orders. One of the blanket orders established a system for a shorter hold period for issuers meeting certain requirements, including filing an AIF, (the "BC SHAIF System") that is substantially similar to the SHAIF System provided for under Rule 45-501.

The British Columbia Securities Commission will be concurrently adopting a local policy and revised blanket order which will replace the interim local policy and current BC SHAIF blanket order as well as a new blanket order which provides for a registration and registration exemption for distributions of securities to purchasers outside British Columbia similar to the exemption provided for in section 3.1 of Rule 72-501. The revised blanket order contains revisions to the BC SHAIF System.

This is an important initiative resulting from the Letter of Accord between the Commission and the British Columbia Securities Commission<sup>1</sup>.

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<sup>1</sup> Published in the ASC Weekly Summary for the week ending December 13, 1996

**Effective Date**

Rules 45-501 and 72-501 come into force and Notice 7 is rescinded on [**October 1, 1998**].

**Purpose of Rule 72-501 and Companion Policy 72-501CP**

The purpose of Rule 72-501 is to regulate certain distributions to purchasers outside of Alberta by issuers located in Alberta. The exemptions provided under the rule are intended to facilitate Eurobond offerings by Alberta issuers as well as distributions of securities to purchasers outside Alberta by issuers whose securities are listed on an recognized exchange. The purpose of the companion policy is to provide guidance as to the interpretation of the rule.

**Purpose of Rule 45-501 and Companion Policy 45-501CP**

The purpose of Rule 45-501 is to establish a system for a shorter hold period for issuers meeting certain requirements, including the filing of an AIF. The companion policy provides guidance as to the interpretation of Rule 45-501 and the operation of the SHAIFF system.

**Purpose of Policy 45-601**

Policy 45-601 sets out the Commission's views on when a distribution to purchasers outside of Alberta will be a distribution in Alberta and therefore subject to the Securities Act. This discussion was previously found in Part 2 of the draft companion policy previously published for comment. This discussion has been set out in a separate policy as it has wider application than to distributions of securities under the exemptions provided under Rule 45-501.

**Written Comment Received by the Commission**

The comment period expired on February 16, 1998. Five comment letters were received. In response to the comments received, certain revisions have been incorporated into the rule and companion policy. The Commission has also had the benefit of questions and comments received by the British Columbia Securities Commission since the implementation of the SHAIFF System.

**Changes to Part 3 of Rule 72-501 - Exemptions from the Registration and Prospectus Requirements of the Act for Distributions to Purchasers Outside of Alberta**

Section 3.1 of Rule 72-501 now provides for both a registration and prospectus exemption for distributions of securities to purchasers outside of Alberta. The exemption is primarily intended to facilitate private placements by Alberta issuers made primarily in another jurisdiction.

This exemption is only available to issuers whose securities are listed on a recognized exchange (as defined in section 1.1 of the rule). Issuers who wish to rely on this exemption must also be able to satisfy the other conditions of section 3.1 of the rule. In addition to the requirement to legend the certificates representing the securities, the issuer should consider whether to take any of the steps or precautions discussed in Policy 45-601 to keep the securities from being subsequently resold to Alberta residents until after the expiry of the hold period set out in section 3.2 of Policy 72-501.

### **Changes to the SHAIIF System under Rule 45-501**

The changes are mostly of a technical nature and are intended to provide greater clarification on certain aspects of the SHAIIF system, such as filing and review procedures for AIFs and determining and maintaining eligibility under the system. The most significant changes to the system include:

Definition of Qualifying Issuer - Draft Rule 45-501 established certain revenue and thresholds for the purposes of meeting the definition of “qualified issuer”. Rule 45-501 clarifies the expenditure tests based on the issuer’s consolidated financial statements for the most recent year end.

Alternative Form of AIF - Rule 45-501 expands the range of documents that can be used as an AIF and clarifies that an AIF filed under OSC Policy Statement No. 5.10 will be accepted as an AIF. Rule 45-502 also allows a prospectus received by the Executive Director, other than a prospectus filed with the Alberta Stock Exchange under Rule 45-601 - Junior Capital Pool Offerings, to be used as a Current AIF. In addition, an issuer may elect to use (i) a prospectus filed and received in another Canadian jurisdiction, other than a prospectus filed with the Vancouver Stock Exchange under the Vancouver Stock Exchange’s Policy 30 - “Venture Capital Pool Companies” (the “VSE Policy”), and (ii) an information circular filed and accepted by the Alberta Stock Exchange in connection with a “major transaction” under the JCP Rule or by the Vancouver Stock Exchange in connection with a “qualifying transaction” under the VCP Policy, as an alternative form of AIF.

Substantive Transaction - If an issuer has made a substantial transaction between the date of its most recent AIF and the date of a distribution of securities, the issuer is required under section 3.6 of Rule 45-501 to file a material change report disclosing the substantial transaction and its effect on the business of the issuer. Section 3.10 of the companion policy discusses what the Commission considers a substantial transaction.

**Future Initiatives**

As indicated in news releases issued by the Canadian Securities Administrators in April, June and September, 1997 and January, 1998, the Canadian Securities Administrators are studying the feasibility of an integrated disclosure system. The SHAIF System is an important step towards a proposal for an integrated disclosure system, which would simplify the process of distributing securities and give issuers the option of qualifying private placements to eliminate hold periods.

Staff of the Commission have also been working with staff of the other Canadian jurisdictions to develop a national approach to offshore distributions and harmonization of hold periods in order to address some of the inconsistencies between provinces in these areas.

These future initiatives may necessitate amendments to the rules and policies.