



**IN THE MATTER OF THE *SECURITIES ACT*  
(S.Y. 2007 c.16 as amended)**

**- and -**

***EXEMPTIONS FOR CERTAIN PRIVATE PLACEMENTS TO  
PERMITTED CLIENTS***

**SUPERINTENDENT'S ORDER 2015/08 Y.S.A.  
(under section 16 of the *Securities Act*)**

**DEFINITIONS**

1. Terms defined in the *Securities Act* ("Act"), National Instrument 14-101 *Definitions*, Multilateral Instrument 33-105 *Underwriting Conflicts* or Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets* (MI 51-105) have the same meaning in this order.
2. In this Order:
  - (a) "designated exchange" means any of
    - (i) NASDAQ OMX;
    - (ii) Borsa Italiana, MTA Tier;
    - (iii) London Stock Exchange, except AIM;
    - (iv) Hong Kong Stock Exchange;
    - (v) Deutsche Börse, except the First Quotation Board and the Entry Standard tier;
    - (vi) Xetra, Prime Standard and General Standard tiers;
    - (vii) SIX Swiss Exchange;
    - (viii) Bourse de Luxembourg, except Euro MTF;
    - (ix) Tokyo Stock Exchange, 1st Section and 2nd Section;
    - (x) Shanghai Stock Exchange;
    - (xi) The Stock Exchange of Thailand, except The Market for Alternative Investment (mai);
    - (xii) National Stock Exchange of India;
    - (xiii) Bombay Stock Exchange;
    - (xiv) Osaka Stock Exchange;
    - (xv) Korea Exchange; and
    - (xvi) Singapore Exchange.
  - (b) "permitted client" means a permitted client as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

**WHEREAS** certain existing provisions of Yukon securities laws impose unnecessary and unintended constraints on private placements to institutional investors.

- (a) Under section 3 of MI 51-105, an issuer that has issued a class of OTC-quoted securities and that does not have a class of securities listed or quoted on certain specified exchanges is a reporting issuer in Yukon in certain circumstances.
- (b) Section 2.1(1) of NI 33-105 prohibits a specified firm registrant from acting either as an underwriter in a distribution of securities in which it is the issuer or selling securityholder or as a direct underwriter in a distribution of securities of or by a connected issuer or a related issuer of the specified firm registrant, unless the distribution is made under a prospectus or another document that contains certain specified information. Further, where the specified information is required to be disclosed by section 2.1(1) of NI 33-105, section 4.1 requires in certain circumstances that a purchaser of securities be given a valuation of the issuer.
- (c) The exemptions from MI 51-105 provided by Blanket Order 51-502 Exemptions from Multilateral Instrument 51-105 Issuers Quoted in the U.S. Over-the-Counter Markets (51-502) do not fully address the unnecessary and unintended constraints.

**AND WHEREAS** the Superintendent of Securities has determined that it would not be prejudicial to the public interest to make the following order.

**IT IS ORDERED** pursuant to section 16 of the *Act*:

1. Superintendent Order 2012/11 Y.S.A. Exemptions from Multilateral Instrument 51-105, issued on August 31, 2012, is hereby revoked.
2. An OTC issuer is exempt from section 3 of MI 51-105 if it would otherwise apply only by reason of the OTC carrying on promotional activities in or from Yukon, or distributing a security to a person resident in Yukon (or both), provided that:
  - (a) the OTC issuer has a class of securities listed on a designated exchange;
  - (b) the OTC issuer does not have any class of securities other than non-convertible debt listed on an exchange or quoted on a quotation and trade reporting system; or
  - (c) all of the following apply:
    - (i) the distribution is exempt from the prospectus requirement;
    - (ii) the promotional activities in or from Yukon are directed only at permitted clients; and
    - (iii) each person in Yukon to which the OTC issuer distributes a security is a permitted client.

3. A person is exempt from sections 2.1(1) and 4.1 of NI 33-105 in connection with a distribution to which both of the following apply:
  - (a) the distribution is exempt from the prospectus requirement; and
  - (b) each person that purchases a security pursuant to the distribution is a permitted client.

DATED at Whitehorse, Yukon, this 31<sup>st</sup> day of August, 2015.

*Fred Pretorius* (original signature on file)

Fred Pretorius  
Yukon Superintendent of Securities  
Yukon Government  
Canada