

NOTICE OF GENERAL ORDER

ONTARIO INSTRUMENT 45-507

***SELF-CERTIFIED INVESTOR PROSPECTUS EXEMPTION
(INTERIM CLASS ORDER)***

October 25, 2022

The Ontario Securities Commission (the **Commission**) has made an order under subsection 143.11(2) of the *Securities Act* (Ontario) (the **Act**) providing relief (the **Prospectus Exemption**) from the requirement to file a prospectus in respect of the distribution in Ontario of securities to Self-Certified Investors (as described below), subject to conditions.

Description of Order

Ontario Instrument 45-507 *Self-Certified Investor Prospectus Exemption (Interim Class Order)* (the **Class Order**) provides that a non-investment fund issuer with a head office in Ontario may rely on the Prospectus Exemption in respect of the distribution of securities to a Self-Certified Investor, or a Self-Certified Investor's permitted designate, provided that certain conditions are met. The aggregate acquisition cost of all securities acquired by a Self-Certified Investor, and any permitted designates, under the Class Order in the calendar year may not exceed \$30,000.

A Self-Certified Investor is an individual who confirms that they:

- (a) hold a Chartered Financial Analyst Charter from the CFA Institute;
- (b) hold a Chartered Investment Manager designation from the Canadian Securities Institute (**CSI**);
- (c) hold a Chartered Business Valuator designation from the CBV Institute;
- (d) hold a Chartered Professional Accountant designation from CPA Canada;
- (e) hold a Certified International Wealth Manager Designation from the CSI;
- (f) were admitted to practice law in a jurisdiction of Canada and at least 1/3 of their practice has involved providing advice respecting financings involving public or private distributions of securities or mergers and acquisitions;
- (g) hold a Master of Business Administration degree with a focus on finance, from a Canadian university or an accredited foreign university;
- (h) hold an undergraduate degree in finance or an undergraduate degree in commerce or business with a major or specialization in finance or investment, from a Canadian university or an accredited foreign university;
- (i) have passed the Canadian Securities Course administered by the CSI;
- (j) have passed the Exempt Market Products Exam administered by the IFSE Institute;
- (k) have passed the Canadian Investment Funds Course Exam administered by the IFSE Institute;
- (l) have passed the Investment Funds in Canada Course Exam administered by the CSI;

- (m) have passed both the Series 7 Exam administered by the Financial Industry Regulatory Authority in the United States of America, and the New Entrants Course Exam administered by the CSI;
- (n) hold the Certified Financial Planner designation from FP Canada;
- (o) hold a Financial Planner or Financial Advisor credential, in good standing, from a credentialing body approved by the Financial Services Regulatory Authority of Ontario under the *Financial Professionals Title Protection Act, 2019*; or
- (p) have management, policy-making, engineering, product or other relevant operational experience at a business that operates in the same industry or sector as the issuer and who, as a result of this experience, are able to adequately assess and understand the risk of investment in the issuer.

Issuers relying on the Prospectus Exemption will be required to file a completed Form 45-106F1 *Report of Exempt Distribution*, together with a completed Confirmation of Qualifying Criteria contained in Annex 1 of the Class Order, within 10 days of the distribution.

Reasons for the Order

In its final report (the **Taskforce Final Report**) dated January 22, 2021, the Capital Markets Modernization Taskforce (the **Taskforce**) acknowledged the importance of capital formation for businesses and recommended that the Commission expand the accredited investor definition to those individuals who have completed and passed relevant proficiency requirements indicating a high degree of understanding of investments and markets.¹

On April 27, 2021, the Ontario government amended the Commission's legislative mandate to include fostering competitive capital markets and capital formation. This expanded mandate provides additional areas of focus for the Commission's operational and policy development activities, as well as its approach to regulatory decisions.

The Commission recognizes that certain individuals possess the necessary business knowledge, through their education or experience, to make an informed investment decision, but may not meet the financial thresholds or other criteria required to qualify as an accredited investor, as defined in the Act and National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**).

Having considered the Taskforce's recommendation and its amended mandate, the Commission intends to explore a regulatory response to expand the accredited investor prospectus exemption. In the interim, the Commission considers that it would be appropriate to create a time-limited prospectus exemption that allows purchasers in Ontario, who may not meet the financial thresholds or other criteria required to qualify as an accredited investor, to invest in issuers provided that they meet other criteria intended to demonstrate financial knowledge, investment knowledge or relevant industry-specific experience and acknowledge that they understand certain investment considerations and risks, and provided they are subject to investment limits.

¹ See Recommendation No. 23 in the Taskforce Final Report, available at <https://www.ontario.ca/document/capital-markets-modernization-taskforce-final-report-january-2021>.

The Class Order is intended to provide access to new sources of capital for issuers in Ontario and increased investment opportunities for investors in Ontario who can adequately assess and understand the risk of investment but who may not meet any of the accredited investor criteria or who are subject to investment limits under other prospectus exemptions.

Issuers are required to report the use of the Prospectus Exemption by filing reports of exempt distribution. The data in these reports can be used by the Commission to determine whether to pursue future amendments to expand the definition of “accredited investor” in NI 45-106 and, if pursued, the scope of these amendments.

The Commission is satisfied that it would not be prejudicial to the public interest to provide, on an interim basis, an exemption from the prospectus requirement subject to the conditions of the Class Order.

Day on Which the Order Ceases to Have Effect

The Class Order comes into effect on October 25, 2022, and remains in effect until the earlier of the following:

- (a) April 25, 2024, unless extended by the Commission; and
- (b) the effective date of an amendment to NI 45-106 that addresses substantially the same subject matter as the Class Order.

Questions

If you have any questions regarding the Class Order, please contact any of the following:

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