



VIA E-MAIL: comments@osc.gov.on.ca

January 22, 2026

Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Financial and Consumer Services Commission of New Brunswick
Manitoba Securities Commission
Nova Scotia Securities Commission
Ontario Securities Commission
Financial and Consumer Services Division, Department of Justice and Public Safety, Prince Edward Island
Office of the Superintendent of Securities, Newfoundland and Labrador
Office of the Superintendent of Securities, Northwest Territories
Office of the Superintendent of Securities, Nunavut
Office of the Yukon Superintendent of Securities

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor, Box 55
Toronto, Ontario M5H 3S8

Re: CSA Multilateral Notice and Request for Comment – Proposed Multilateral Instrument 45-111 *Self-Certified Investor Prospectus Exemption* and Proposed Companion Policy 45-111 *Self-Certified Investor Prospectus Exemption* and Proposed Consequential Amendments to National Instrument 45-106 *Prospectus Exemptions* and National Instrument 45-102 *Resale of Securities* and Proposed Consequential Changes to Companion Policy 45-106CP *Prospectus Exemptions* (the Consultation)

OVERVIEW

The Portfolio Management Association of Canada (**PMAC**) is pleased to have the opportunity to submit the following comments on the above-noted Consultation. We appreciate your consideration of this letter submitted after the deadline.

PMAC represents over 330 investment management firms registered to do business in Canada as portfolio managers with the members of the CSA. PMAC's members encompass both large and small firms managing total assets in excess of \$4 trillion as fiduciaries for

institutional and private client portfolios. PMAC's mission statement is "advancing standards". We are consistently supportive of measures that elevate standards in the industry, enhance transparency, improve investor protection, and benefit the capital markets as a whole.

KEY RECOMMENDATIONS

- 1. Harmonize the self-certified investor prospectus exemption among the participating jurisdictions**
- 2. Implement an investment limit of \$30,000 annually**
- 3. Monitor the use of the exemption to determine whether it achieves the desired outcomes and appropriately mitigates risks to investors**

These key recommendations are discussed in further detail below.

GENERAL COMMENTS

We applaud the participating jurisdictions for taking steps to harmonize the self-certified investor prospectus exemption among them. We believe that making the eligibility criteria and the application of the exemption consistent among jurisdictions will result in less confusion, improved compliance with the exemption and ultimately will improve outcomes for registrants, issuers and investors.

Clients of fiduciary portfolio managers benefit from strong investor protection, given that investments are made in the client's best interest by a qualified advising representative. This is recognized in NI 45-106 *Prospectus Exemptions (NI 45-106)*, where higher investment limits apply to eligible investors who have obtained advice from a registered adviser, and managed accounts advised by a registered portfolio manager generally qualify as accredited investors.

Nonetheless, in our view, it is appropriate to look to factors such as knowledge, experience, education and professional credentials to determine eligibility for the prospectus exemptions, rather than narrowly focusing on wealth. We are of the view that wealth alone does not indicate an investor's sophistication or investment knowledge.

Harmonization

A single harmonized exemption will reduce regulatory burden for registrants. For registrants operating in multiple Canadian jurisdictions, similar policies, procedures and administrative requirements can be applied across Canada. It will be easier for firms to determine whether clients qualify for the exemption and to document their eligibility. Training of advisers and monitoring compliance will also be simplified.

Capital raising

The proposed changes have the potential to increase investment opportunities for investors, which are currently only available to institutional investors, accredited investors or Canadians participating in pension plans. Investments in the exempt market may provide these investors with opportunities for portfolio diversification and positive returns. This initiative may also expand the number of potential investors in the exempt market, resulting in opportunities to support capital raising and innovation.

Investor protection

It is critical to strike a balance between these opportunities and the significant risks attached to investing in the exempt market. With proper guardrails, these investments may be suitable for certain investors who do not meet the accredited investor definition. It is imperative that appropriate protections and parameters be implemented to ensure that all investors are properly educated and protected when investing in the exempt market.

In our view, this includes a modest monetary investment limit (we recommend \$30,000 annually), and we also suggest a recommendation that investors obtain advice from a qualified registrant before investing. For example, the proposed Form 45-111F2 *Acknowledgment of Risks (45-111F2)* includes the following statement at the end: “*If you have any doubts, seek qualified investment advice or reconsider your investment*” (emphasis added). We believe this statement could be enhanced to make it a more general recommendation to investors to seek qualified investment advice, rather than reserving this recommendation only for investors experiencing doubt.

Registrant proficiency

It is clear that prospectus exemptions may be poorly understood by investors and registrants, and therefore we urge the participating jurisdictions to proceed with caution with respect to any expansion of the availability of exemptions and investment limits. Investment professionals must have the proficiency necessary to understand the unique nature of the exempt market securities they are recommending, to assess their suitability for individual clients, and be capable of explaining these products to their clients. The Ontario Securities Commission (**OSC**) Registration, Inspections and Examinations (**RIE**) Division 2025 Annual Report noted the improper reliance on and misuse of prospectus exemptions as a recurring compliance deficiency among registrant firms.¹ This included inappropriate reliance on the eligible investor exemption, exceeding relevant annual investment limits, and inadequate documentation. According to the report, this “raised some significant concentration and other suitability concerns”. These findings are troubling, and indicate that additional training and oversight is required by registrants and regulators alike to ensure that prospectus exemptions are being used appropriately.

¹ See [Registration, Inspections and Examinations Division 2025 Annual Report](#) at p. 30

We believe that it may be difficult for registrants to ascertain whether the investors qualify for the self-certified exemption in some cases, and that additional guidance will be needed to assist registrants and issuers with this assessment. This is especially true for the criteria that include a work experience component, and category (g) which includes an “accredited degree from a university” focusing on the industry of the issuer. It may be difficult for a registrant or issuer to determine what educational or work experience in the various categories will qualify the investor for the exemption.

While we agree that the participating jurisdictions should proceed with the proposal, we urge them to carefully and continuously monitor the use of the exemption to determine whether it achieves the desired outcomes and appropriately mitigates risks to investors. Any changes needed should be identified and swiftly implemented.

RESPONSE TO CONSULTATION QUESTIONS

1. The FCAA received feedback in its July 2024 survey on the FCAA General Order that the annual investment limit of \$30,000 per investor under the FCAA General Order was too low. The OSC, as part of the OSC TestLab Initiative, received feedback that the annual investment limit of \$30,000 under OI 45-507 is too low and that the associated legal and compliance costs incurred by issuers are a disincentive for businesses to accept smaller cheques and for exempt market dealers to facilitate these transactions. We have proposed a higher investment limit under the Proposed Instrument. The Qualifying Criteria in the Proposed Instrument are intended to “demonstrate financial and investment knowledge” and in this way can be viewed as a form of investment sophistication and a rational extension from the Accredited Investor Exemption. However, in setting a limit on investment under the Proposed Instrument, we recognized that a policy rationale for the Accredited Investor Exemption is ability to withstand loss. Purchasers investing under the Proposed Instrument are likely not accredited investors and can be assumed to have annual income of less than \$200,000.

- a. Is the aggregate annual investment limit of \$50,000 appropriate?

We agree that the exemption must be subject to an investment limit. We believe that a \$30,000 limit is appropriate for individuals who do not qualify for the accredited investor exemption. The data cited to indicate that the threshold is too low is only from the issuer perspective. It is not clear whether the TestLab considered the implications for non-accredited investors investing more than \$30,000 annually in the exempt market. We believe that a \$30,000 limit will better protect investors while still expanding capital formation opportunities for issuers. An alternative could be to add an income threshold to permit an investment up to \$50,000, but we believe this would complicate the exemption and would not achieve the goal of providing a knowledge and experience-based alternative to the accredited investor exemption. We encourage the participating jurisdictions to consider the existing accredited investor and eligible investor criteria in NI 45-106, s. 1.1, to determine appropriate investment limits and inform any potential income and wealth thresholds.

b. Are additional or alternative conditions necessary to specifically address an investor's ability to withstand loss?

Although the Consultation is considering criteria other than financial criteria, we believe that the ability to withstand loss remains a significant consideration, especially given that the targeted investors do not qualify for accredited investor status. Therefore, we suggest that the concept of "ability to withstand loss" be added to Form 45-111F2, and that a modest investment limit of \$30,000 annually is more appropriate. Any consideration of a higher investment limit should be tied to income or other financial criteria.

In our view, the "eligible investor" concept in NI 45-106, s. 1.1, is instructive. This prospectus exemption applies if the investor meets certain financial criteria, similar to the accredited investor exemption.² The investment limits for an eligible investor are in ss. 2.9(2) and (2.1). Depending on the jurisdiction, the investment is limited to between \$10,000 and \$30,000 for eligible investors. In Alberta, New Brunswick, Nova Scotia, Ontario, Quebec and Saskatchewan, the limit increases to \$100,000 if the investor receives advice from a registrant that the investment is suitable.

We believe that the self-certified investor exemption could build upon the financial criteria for an eligible investor, to reflect the concept of "ability to withstand loss" – for example, if the investor meets the financial criteria of an "eligible investor" in NI 45-106, s. 1.1, *in addition to* the self-certified investor criteria, the investment limit could be increased to \$50,000 (or higher, if they receive advice from a portfolio manager that the investment is suitable, similar to the eligible investor exemption).

2. To rely on the Proposed Instrument, a purchaser will be required to provide a completed Form 45-111F2 confirming that they understand the risks of the investment. Form 45-111F2 is intended to provide a streamlined and plain language summary of those risks. Are there other material risks that an investor should confirm they understand before making an investment under the Proposed Instrument?

We are not certain that the concept of liquidity is fully captured. Although the form references resale and valuation, it does not explicitly address how illiquidity may affect an investor's ability to exit or otherwise realize value from the investment.

References to "registered dealer" could be expanded to include registered "adviser" throughout the proposed instrument, companion policy, and the forms.

² The criteria include (i) net assets, alone or with a spouse exceed \$400,000; (ii) net income before taxes in excess of \$75,000 in the last 2 years with an expectation that this income level will be exceeded in the current year; or (iii) net income before taxes, alone or with a spouse, in excess of \$125,000 in the 2 most recent years, with an expectation to exceed that level in the calendar year.

3. Form 45-111F3 Information to Understand before Making an Investment (Form 45-111F3) is intended to educate the purchaser on the risks of private market investments. This form does not require certification by the purchaser. Should we require an issuer to provide the purchaser with Form 45-111F3 prior to their investment, as a condition of the exemption? Is Form 45-111F3, which also acts as a plain language educational tool, a necessary addition in light of the inclusion of Form 45-111F2?

There is a requirement in section 3 (d) for the issuer to provide the purchaser with the Form 45-111F3 *Information to Understand before Making an Investment (45-111F3)*. We agree with this requirement and with the contents of the Form 45-111F3. We agree that the form should be certified by the purchaser; in the absence of a purchaser acknowledgment requirement, there is a meaningful risk that the disclosure will not be provided by the issuer. Maintaining a signed form on record would also support the issuer (or registrant) by providing a documented record of compliance, in the event of a dispute.

4. In consultations, some stakeholders suggested that we should include individuals with experience or education that is not of a financial or investment nature, but that is relevant to the industry of the issuer in which they propose to invest. This resulted in the addition of proposed employment history criteria (a) to the Qualifying Criteria. For example, it was suggested that we allow a young professional with a computer science degree to invest in a software technology company or an individual with a petroleum engineering designation to invest in an oil and gas company. However, we have also heard concerns that those types of educational criteria would not adequately address investor protection concerns, because the investor may not appreciate the financial or investment considerations important to investing even if they understand the industry of the issuer.

- a. Do you agree with the addition of criteria (a) to the Qualifying Criteria?

We agree with the addition of criteria (a) to the Qualifying Criteria; however, it is not clear how the registrant would determine whether the experience qualifies as “relevant operational experience” and what employment would be considered the “same industry or sector as the issuer”. It would be helpful for the participating jurisdictions to provide guidance as to how this assessment should be made. Moreover, given that such experience will vary widely, we believe it would be prudent to keep the investment limit at \$30,000 annually. A “young professional” may not be able to withstand a greater loss. ³

³ While young professionals might have more time to recover from their losses, they might also miss out on, or experience delays in, key milestones as a result of a major loss - e.g., purchase of a new home - which could detrimentally affect their financial wealth and security throughout their life.

- b. Should the required five-year time frame for qualifying employment experience in criteria (a) be modified to better reflect the depth of experience needed to assess investment risk?

We believe that, in most cases, five years is the appropriate time frame, in the types of roles that are described in the proposed instrument.

- c. Are there other conditions to criteria (a) that might help to ameliorate the risks that the investor may not appreciate the financial and investment considerations of the investment?

We have no comment on this question.

- 5. Under the rules of the Financial Conduct Authority in the United Kingdom (UK FCA), “self-certified sophisticated investors” are permitted to certify that they meet certain criteria to gain access to offerings of unlisted securities, including:
 - i. (i) Having worked, in the previous two years, in private equity or in the provision of financing for small and medium enterprises, and
 - ii. (ii) Having been a director, in the previous two years, of a company with an annual turnover of at least £1 million.

The Participating Jurisdictions have proposed new Qualifying Criteria (b) and (c) based on the UK FCA self-certified sophisticated investor categories set out above.

- a. Do you agree that these proposed criteria are suitable for our markets

We agree that working in a venture capital or private equity business in a decision-making capacity for at least one year would provide the requisite experience. We suggest that the wording used in criteria (a) be added to criteria (b): “and, as a result of this experience, is able to adequately assess and understand the risk of investing in the issuer”.

- b. Is \$500,000 an appropriate annual revenue benchmark for Qualifying Criteria (c)? If not, would \$1M or another amount be an appropriate minimum annual revenue for this criteria?

We are generally in favour of harmonizing with international standards where possible, which tends to reduce regulatory burden and make Canadian markets more comparable and more competitive internationally. We encourage the participating jurisdictions to evaluate the experience in the U.K. to determine the effectiveness of the FCA’s £1 million threshold. Unless there is a compelling reason to deviate from the FCA requirement, a threshold of at least CAD \$1M would be more in line with international requirements.⁴

We suggest that the wording used in criteria (a) also be added to criteria (c): “and, as a result of this experience, is able to adequately assess and understand the risk of investing in the issuer”.

⁴ We note that as of the date of this letter, UK 1M GBP = ~ CAD \$1.862M

6. Qualifying Criteria Enhancements: In addition to the above, we seek further comment on Form 45-111F1:

- a. At least five years of employment experience is required for criteria (a) to (c). Meanwhile, at least two years of legal practice experience is required under criteria (d). Should the time frame or experience requirements differ between the lawyer category, under criteria (d), and individuals in the business categories, under criteria (a) to (c), or should a uniform standard be applied across the criteria?

We believe a uniform, 5-year standard should be applied across these categories. A lawyer practicing law for two years may not have gained the necessary decision-making and strategic experience to qualify for the exemption. We do not believe a lawyer with minimal experience would be more qualified than an individual in a senior industry role to invest in the exempt market.

- b. Criteria (d) applies to lawyers who have practiced law in a Canadian jurisdiction for at least 24 months where their practice has included providing advice in respect of financings involving distributions of securities, or mergers and acquisition transactions. Should different criteria be required (e.g., percentage of practice and/or years of practising)? If so, what minimum level of experience is appropriate?

We agree that experience in the distribution of securities or with mergers and acquisitions transactions may provide some assurance that the lawyer is knowledgeable about the investment process, and maybe with investment risks. We believe it would be difficult to determine a percentage of practice and therefore, as noted above, we believe that five years would be a more appropriate time frame – this would account for the fact that the lawyer may not have spent the majority of their practice on relevant transactions. We believe that involvement in securities regulatory work would also represent relevant experience (such as working for a regulatory body or advising investors, registrants or issuers in regulatory compliance).

- c. With respect to criteria (g), the Proposed Instrument requires that an investor certify they hold an accredited degree with a focus or specialization directly related to the industry or sector in which the issuer operates, thereby demonstrating an ability to assess and understand the investment risk. Do you consider linking this educational qualification strictly to the issuer's industry or sector to be an effective measure of an investor's investment knowledge? Should the scope of acceptable degrees be broadened to include interdisciplinary or related fields, or are there alternative approaches we should consider to better capture the relevant expertise?

It is not clear to us that a degree related to the industry of the issuer necessarily indicates an ability to assess and understand the investment risk. Moreover, as noted above, we believe that criteria (g) will be difficult for registrants to assess, and we did not find the examples provided in the proposed companion policy to be helpful – more fulsome guidance would be beneficial.

- d. The Proposed Instrument contemplates that an individual who has passed the examinations set out in criteria (o), (p) or (q) can qualify to be a Self-Certified Investor. Should criteria (o), (p) and (q) also include a minimum income requirement or minimum period of employment for an individual to qualify to be a Self-Certified Investor?

We do not believe that the self-certified investor exemption should be tied to income, unless the investment limit is raised beyond \$30,000 annually. We agree that a minimum (5 year) period of employment in the relevant sector would better demonstrate that the individual understands the investment risk and has the ability to withstand a loss. We also note that an individual currently or previously registered as an advising or dealing representative already qualifies as an accredited investor under NI 45-106.

- e. Most of the Qualifying Criteria focus on financial and investment education and experience. Are there additional Qualifying Criteria that should be included under the Proposed Instrument? Are there other designations or courses that would provide an investor with relevant financial and investment education and should be included?

We have no comment on this question.

- 7. In Ontario, as part of the OSC TestLab Initiative, the OSC introduced the Self-Certified Investor Reporting Exemption, which allows issuers relying on OI 45-507 to report use of the prospectus exemption using an alternative streamlined report of exempt distribution (the Alternative RED). This alternative reporting mechanism was introduced, in part, because OI 45-507 requires that all issuers, including private issuers, report reliance on the Order. To date, no issuer that has relied on OI 45-507 has chosen to file the Alternative RED. The Participating Jurisdictions are not proposing to adopt the Alternative RED for two reasons. First, as a result of the proposed amendment to NI 45-106 to include Self-Certified Investors in the list of purchasers that can purchase under the Private Issuer Exemption, requiring an Alternative RED would mean that a private issuer that distributes securities to Self-Certified Investors would impose a new reporting obligation on the private issuer, which could be a disincentive to the private issuer to offer securities to Self-Certified Investors. Second, most issuers that relied on OI 45-507, also relied on other prospectus exemptions such as the Accredited Investor Exemption and the family, friends and business associates exemption in section 2.6.1 of NI 45-106. In these circumstances, issuers are required to report using Form 45-106F1 Report of Exempt Distribution and we observed that they reported the distributions to Self-Certified Investors on those forms.

Is there any practical value in allowing issuers to use the Alternate RED if issuers are required to report reliance on other prospectus exemptions using Form 45-501F1? Is the Alternative RED a potential source of confusion for issuers?

In our view, all reports of exempt distribution (not just for self-certified investors) should only be required to be filed within 30 days after the end of each calendar year in which the

distribution occurs, similar to investment funds (see s. 6.2(3) of NI 45-106). As we noted in our comments on the OSC Statement of Priorities 2026-27:

PMAC encourages the OSC to review the filing frequency and fee structure for Form 45-106F1 Report of Exempt Distribution with a view to reducing unnecessary regulatory burden while maintaining investor protection. Under the current framework, most non-investment fund issuers must file a report within 10 days of each exempt distribution and pay a fee with each filing. For issuers that raise capital on an ongoing basis, this results in repeated filings, cumulative fees, and significant administrative effort, even though the information reported is largely duplicative and changes little from one filing to the next.

...

The requirement to file Form 45-106F1 within 10 calendar days following the date of the distribution represents a significant burden, especially to smaller issuers. It is not clear to our members how the detailed information is being used and whether these frequent filings are truly necessary. Members have indicated that the timeframe is difficult to meet, given that the products are often illiquid, and pricing may not be available until several days following the distribution. This only leaves a very short period of time to compile the information and complete the filing, especially if there is a statutory holiday that falls within the period. A longer filing period such as an annual filing would significantly reduce the regulatory burden for these issuers.

ADDITIONAL COMMENTS

We note that the definition of “permitted designate” in s. 1 covers an individual’s RRSP, RRIF or TFSA; we are unsure whether other account types, such as RDSPs, FHSAs and others were deliberately omitted, or whether they should be added. We also note that high risk and illiquid securities may not be appropriate for such accounts.

Section 3 (h) includes a proposed issuer record retention requirement of 8 years. This is not aligned with the record retention requirement in NI 31-103, 11.6(1)(a), which is 7 years. We wonder whether there is a reason to deviate from the more common 7-year retention period, and if not, recommend changing the requirement to 7 years.

CONCLUSION

In conclusion, we recommend that the participating jurisdictions harmonize the self-certified investor prospectus exemption, implement an annual investment limit of \$30,000, and actively monitor the use of the exemption to assess whether it achieves its intended objectives, while appropriately mitigating risks to investors. Taken together, these measures would help promote regulatory consistency, enhance investor protection, and support the responsible development of private market opportunities.

We appreciate the opportunity to provide our comments and would welcome continued engagement as these proposals are considered. If you have any questions regarding the comments set out above, please do not hesitate to contact Katie Walmsley at (416) 504-7018 or Victoria Paris at (416) 802-4347.

Yours truly,

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