ANNEX A

SUMMARY OF CHANGES

The following is a summary of the noteworthy differences between the Proposed Amendments and the Amendments.

No liquidity requirements

The Publication for Comment Materials proposed two different approaches (labelled as Option 1 and Option 2) to conducting ATM distributions.

Option 1 would have limited ATM distributions of a class of securities on each day to 25% of the trading volume of that class on that day (the **25% Daily Cap**) unless the securities were "highly-liquid securities", as defined in the Proposed Amendments.

Option 2 did not impose the 25% Daily Cap or the "highly-liquid securities" requirement.

After considering the comments received, we decided to adopt Option 2.

We note the comments support the view that issuers are not expected to conduct ATM distributions that will have a material impact on the market price of their securities. We further note that the comments support the view that investment dealers, who must underwrite all ATM distributions, are expected to have the experience and expertise in managing orders to limit any negative impact on market integrity, and are also prohibited from engaging in conduct that may disrupt a fair and orderly market.

Our decision to adopt Option 2 is based on reasonable expectations regarding the conduct of market participants. Accordingly, we acknowledge the importance of remaining alert to potential abuses. We intend to monitor ATM distributions, focusing on distributions that may have had a material impact on the price of the issuer's securities where the distribution was not publicly disclosed prior to it being made.

The Publication for Comment Materials also proposed to permit issuers that met the "highly-liquid securities" requirement to report certain information about an ATM distribution on a quarterly rather than a monthly basis. To be consistent with our decision to adopt Option 2, we have also decided to permit all issuers conducting ATM distributions to report on a quarterly basis.

Removal of references to ATM exchange

The Publication for Comment Materials included a condition in paragraph 9.3(1)(f) of the Proposed Amendments that the issuer must distribute the security through an ATM exchange, which was defined as a short form eligible exchange or a marketplace outside of Canada. This condition was inconsistent with the conditions in the existing exemptive relief orders, which only require the issuer to distribute the security through a marketplace.

The intent of the requirement in paragraph 9.3(1)(f) of the Proposed Amendments was to ensure the equity securities of the same class being distributed under the ATM distribution are listed and trading on a short form eligible exchange. Consistent with the existing exemptive relief orders, our intent was that the securities must be distributed through a marketplace. Accordingly, we have removed the definition of an ATM exchange, changed the reference to "ATM exchange" in paragraph 9.3(1)(e) of the Amendments to "marketplace", and added paragraph 9.3(1)(a) of the Amendments requiring that a security of the same class as being distributed is listed and trading over a short form eligible exchange.

Investment funds

The Publication for Comment Materials asked several questions regarding non-redeemable investment funds and mutual funds that are traded on an exchange that are not in continuous distribution. After considering the comments received, we have determined that all non-redeemable investment funds and exchange-traded mutual funds that are not in continuous distribution are able to rely on the Amendments. Mutual funds that are traded on an exchange that are in continuous distribution, and therefore meet the definition of an "ETF" in National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) are also able to rely on the Amendments and would be required to comply with all requirements applicable to an ETF, including the requirement for dealers acting as agents for a purchaser to deliver ETF facts documents under section 3C.2 of NI 41-101. A mutual fund that is traded on an exchange that frequently makes ATM distributions would be considered to be in continuous distribution so must also comply with all ETF requirements.

In response to a comment, we added a requirement in paragraph 9.3(1)(l) of the Amendments that investment funds conducting ATM distributions must include a statement in the prospectus that any ATM distributions will be conducted in accordance with paragraph 9.3(2)(a) of National Instrument 81-102 *Investment Funds*.

Provisions not applicable to ATM distributions

Paragraph 9.2(2)(a) of the Proposed Amendments stated that section 6.7 or a similar provision under securities legislation does not apply to an investment dealer acting as an underwriter in connection with the distribution of a security under an ATM prospectus. This paragraph has been replaced by subsection 9.2(3) of the Amendments. We made this change to improve drafting and for clarification purposes only.