

Canadian Securities Administrators finalize new WKSI rules



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Authors: [Rosalind Hunter](#), [Desmond Lee](#)

On August 28, 2025, the Canadian Securities Administrators (the CSA) published [amendments](#) to National Instrument 44-102 Shelf Distributions and other securities law instruments implementing a permanent expedited shelf prospectus regime (the WKSI Rules) for “well-known seasoned issuers” (WKSIs). The WKSI Rules will come into force on November 28, 2025, subject to receiving expected regulatory approvals. The WKSI Rules build upon the current WKSI pilot program (the Pilot Program) launched on January 4, 2022, that has been broadly adopted by eligible issuers since its introduction. There are a number of important differences between the WKSI Rules and the Pilot Program, which are described in this Update.

Current WKSI Pilot Program

Under the Pilot Program, issuers that meet the WKSI qualifications and satisfy certain conditions are allowed to file a final base shelf prospectus and obtain a receipt for that prospectus on an accelerated basis without first filing a preliminary base shelf prospectus. An issuer that meets the WKSI qualifications and conditions may also omit certain information from its base shelf prospectus, including the number and aggregate dollar amount of securities qualified under the base shelf prospectus, the plan of distribution, and a description of the securities being qualified for distribution other than as necessary to identify the types of securities qualified.

To qualify as a WKSI under the Pilot Program, an issuer must, within 60 days preceding the date the issuer files its base shelf prospectus, either:

- Have outstanding listed equity securities that have a public float of \$500 million (i.e., excluding the value of securities held by persons or companies that are affiliated parties of the issuer), or
- Have distributed at least \$1 billion aggregate amount of non-convertible securities, other than equity securities, under a prospectus in primary offerings for cash in the last three years.

In addition, in order to rely on the Pilot Program, an issuer must, among other requirements, have been a reporting issuer in at least one jurisdiction of Canada for 12 months and have filed all periodic and timely disclosure documents that it is required to have filed in each jurisdiction in which it is a reporting issuer.

Differences from the Pilot Program

The WKSJ Rules are generally consistent with the Pilot Program, but there are several key differences:

- **Prospectus is effective upon filing:** Under the WKSJ Rules, no receipt will be required to be issued by the issuer's principal regulator for a WKSJ base shelf prospectus; instead, a receipt will be deemed to be issued upon filing the prospectus. In contrast, a receipt is required to be issued by the principal regulator for a WKSJ base shelf prospectus under the Pilot Program before it can be used. This change will bring the Canadian WKSJ regime in line with the U.S. WKSJ regime, under which a registration statement filed under the U.S. WKSJ rules becomes automatically effective on filing. The WKSJ Rules will provide issuers and underwriters with transaction timing certainty, as they will not need to wait for a receipt to be issued before launching an offering. We expect that this will facilitate U.S.-style launch procedures where the WKSJ base shelf prospectus is filed immediately prior to public announcement of an equity offering in order to avoid signalling to the market that a potential equity offering is forthcoming, although issuers will need to be certain that they meet the eligibility criteria in order to ensure they have a deemed receipt and a valid prospectus.
- **Extended term:** A WKSJ base shelf prospectus will be effective for up to 37 months from the date the deemed receipt is issued under the WKSJ Rules, subject to compliance with certain requirements. In contrast, a WKSJ base shelf prospectus filed under the Pilot Program (as well as a non-WKSJ base shelf prospectus) is only effective for the 25-month period following the date of the receipt.
- **Annual confirmation:** The WKSJ Rules requires an issuer that has filed a WKSJ base shelf prospectus to annually (within 60 days before the date on which the issuer's audited annual financial statements are required to be filed) confirm it remains a WKSJ and eligible to use the WKSJ Rules. Such confirmation must appear in the issuer's annual information form or in an amendment to the WKSJ base shelf prospectus. If an issuer that has filed a WKSJ base shelf prospectus ceases to be eligible, it must withdraw the WKSJ base shelf prospectus. During periods of market volatility, issuers may find themselves no longer qualified as a WKSJ during the prescribed measurement period because of changes in share price, and therefore may be required to file and clear a non-WKSJ base shelf prospectus as a result of ceasing to qualify as a WKSJ.
- **Amendments not subject to regulatory review:** The WKSJ Rules expressly provide for amendments to a WKSJ base shelf prospectus without issuance of a receipt by the issuer's principal regulator, unlike the Pilot Program, which is silent on such amendments. As is the case with initial WKSJ base shelf prospectus filings, under the WKSJ Rules, a receipt for amendments will be deemed to have been issued, provided that specified conditions are met.
- **Calculation of public float:** While the public equity threshold to be a WKSJ issuer remains unchanged at \$500 million under the WKSJ Rules, there are changes to the method of its

calculation. The WKSJ Rules calculates the public equity threshold using the aggregate market value of the issuer's listed securities (excluding securities held by affiliates and reporting insiders of the issuer), using the simple average of the daily closing price of the securities on the applicable stock exchange for the previous 20 trading days. In contrast, the equity threshold under the Pilot Program is based on the aggregate market value of securities held by non-affiliates using the price at which the securities were last sold in the principal market as of a date within 60 days preceding the filing of a WKSJ base shelf prospectus. The exclusion of securities held by reporting insiders from the calculation of the public float under the WKSJ Rules will impact smaller issuers who have significant shareholders who are reporting insiders. Such issuers will need to determine whether they meet the public float requirement under the WKSJ Rules.

- **Issuer ineligibility:** In addition to the WKSJ eligibility criteria under the Pilot Program, the WKSJ Rules prohibit an issuer from filing a WKSJ base shelf prospectus (or continuing to use a previously-filed WKSJ base shelf at the time of annual confirmation) if within the preceding three years, it or any of its subsidiaries has been convicted of an offence in Canada or abroad related to bribery, deceit, fraud, insider trading, misrepresentation, money laundering, theft or any substantially similar offence, or the subject of an order, decision or settlement agreement that imposes sanctions, conditions or requirements as a result of contravention of laws of Canada or the United States with respect to securities or derivatives. While the scope of penalties and sanctions that would make an issuer ineligible to use the WKSJ Rules is narrower than the CSA initially proposed in the draft amendments they issued for comment in September 2023, certain issuers may not be eligible to file a WKSJ base shelf due to these requirements.

In addition, an issuer will not be WKSJ eligible if, during the preceding three years, a securities regulator in Canada has refused to issue a receipt for a prospectus filed by the issuer, or the issuer has filed and recently abandoned a preliminary prospectus or an amendment to a preliminary prospectus.

- **Exemptive relief:** As part of adopting the WKSJ Rules, the CSA has provided guidance to explain factors staff would consider in connection with an exemptive relief application from any requirements of the WKSJ Rules.

Comparison to the U.S. WKSJ Regime

While the WKSJ Rules will permanently establish a Canadian WKSJ program that closely aligns with the U.S. WKSJ regime created in 2005, there are some notable differences:

- WKSJ eligibility under the WKSJ Rules can be established based on a public float of \$500 million, whereas the public float requirement under the U.S. regime is US\$700 million.
- WKSJ-eligible issuers in the U.S. are permitted to engage in offers of securities prior to filing their WKSJ registration statement, whereas advertising or marketing activities may only be made under the WKSJ Rules after the WKSJ base shelf prospectus has been filed. The bought deal exemption for pre-marketing activities is not available for an offering that will be made using a WKSJ base shelf under the Canadian WKSJ Rules.
- Upon a loss of WKSJ status in the U.S., subject to certain prescribed procedures, the SEC

permits an issuer's continued use of the related WKSI registration statement pending the effectiveness of a post-effective amendment thereto to convert that registration statement into a non-WKSI registration statement. Under the WKSI Rules, issuers losing WKSI status would be precluded from further sales under the related base shelf prospectus until a new non-WKSI base shelf prospectus is filed.

Key takeaways

The implementation of a permanent Canadian WKSI regime is a welcome development that will help promote transaction certainty and even more closely align the Canadian WKSI regime with that of the United States. However, issuers will need to closely consider whether any of the changes to the eligibility criteria under the WKSI Rules will cause them to cease to be able to avail themselves of the WKSI exemptions when they next file a shelf prospectus. Because the WKSI Rules provide that no receipt will be issued by the securities regulators for a WKSI base shelf prospectus, issuers will need to be certain that they meet the eligibility criteria in order to ensure they have a deemed receipt and a valid prospectus. Issuers who are currently WKSI under the Pilot Program but are not WKSI eligible under the WKSI Rules will need to decide whether to try to obtain exemptive relief from the securities regulators to be able to use the WKSI regime for their next shelf prospectus or to simply file and clear a non-WKSI base shelf prospectus. Such issuers who will cease to be a WKSI under the WKSI Rules may also consider filing a new base shelf prospectus prior to the WKSI Amendments coming into force. For clarity, a WKSI shelf filed under the Pilot Program prior to November 28, 2025 will not be subject to the new WKSI Rules, meaning it will not be subject to the annual confirmation requirement and will not need to be withdrawn if the issuer no longer qualifies as a WKSI.