

Rule 7d-2 -- Definition of "Public Offering" as Used in Section 7(d) of the Act with Respect to Certain Canadian Tax-Deferred Retirement Savings Accounts

a. *Definitions.* As used in this section:

1. *Canadian law* means the federal laws of Canada, the laws of any province or territory of Canada, and the rules or regulations of any federal, provincial, or territorial regulatory authority, or any self-regulatory authority, of Canada.
2. *Canadian Retirement Account* means a trust or other arrangement, including, but not limited to, a "Registered Retirement Savings Plan" or "Registered Retirement Income Fund" administered under Canadian law, that is managed by the Participant and:
 - i. Operated to provide retirement benefits to a Participant; and
 - ii. Established in Canada, administered under Canadian law, and qualified for tax-deferred treatment under Canadian law.
3. *Eligible Security* means a security issued by a Qualified Company that:
 - i. Is offered to a Participant, or sold to his or her Canadian Retirement Account, in reliance on this section; and
 - ii. May also be purchased by Canadians other than Participants.
4. *Foreign Government* means the government of any foreign country or of any political subdivision of a foreign country.
5. *Foreign Issuer* means any issuer that is a Foreign Government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country, except an issuer meeting the following conditions:
 - i. More than 50 percent of the outstanding voting securities of the issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and
 - ii. Any of the following:
 - A. The majority of the executive officers or directors are United States citizens or residents;
 - B. More than 50 percent of the assets of the issuer are located in the United States; or
 - C. The business of the issuer is administered principally in the United States.
 - iii. For purposes of this definition, the term *resident*, as applied to security holders, means any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.
6. *Participant* means a natural person who is a resident of the United States, or is temporarily present in the United States, and who contributes to, or is or will be entitled to receive the income and assets from, a Canadian Retirement Account.
7. *Qualified Company* means a Foreign Issuer whose securities are qualified for investment on a tax-deferred basis by a Canadian Retirement Account under Canadian law.

8. *United States* means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.
- b. *Public Offering*. For purposes of **section 7(d)** of the Act, the term "public offering" does not include the offer to a Participant, or the sale to his or her Canadian Retirement Account, of Eligible Securities issued by a Qualified Company, if the Qualified Company:
 1. Includes in any written offering materials delivered to a Participant, or to his or her Canadian Retirement Account, a prominent statement that the Eligible Security, and the Qualified Company that issued the Eligible Security, are not registered with the U.S. Securities and Exchange Commission, and that the Eligible Security and the Qualified Company are relying on exemptions from registration.
 2. Has not asserted that Canadian law, or the jurisdiction of the courts of Canada, does not apply in a proceeding involving an Eligible Security.