

CANADIAN SECURITIES ADMINISTRATORS NOTICE NO. 4

BOUGHT DEALS

In July 1992, the Corporate Finance Committee of the Investment Dealers Association of Canada (the "IDA") provided the Canadian Securities Administrators (the "CSA") with specific proposals to modify the equity bought deal financing technique (the "IDA Proposals"). The CSA published the IDA Proposals in August 1992, together with a CSA Notice requesting comments on bought deals, generally, and on the IDA Proposals in particular. The IDA Proposals suggested that the CSA, among other things, mandate that there be a notional "six-hour" delay period between the filing of a press release announcing a bought deal and the signing of an underwriting agreement in respect of the transaction so that investment dealers could solicit expressions of interest from investors, particularly individual investors, during the interim period in order to make an informed decision on the size and price of the offering.

During and subsequent to the comment period, in addition to reviewing and analyzing the comment letters, the CSA undertook a review of bought deals and the issues raised by the IDA Proposals, including the study of current bought deal practices, pre-marketing activities, retail investor participation in securities offerings, cost of capital, dealer risk in bought deals and the competitiveness and efficiency of the Canadian capital markets.

In June 1993, the CSA published a notice that summarized the conclusions of staff of each of the CSA on the legality of "pre-marketing activities" in the context of bought deals. Concurrent with the publication of that notice, the CSA published an additional notice with respect to the six-hour delay period proposed by the IDA. The CSA stated that, in light of the legal conclusions regarding pre-marketing activities reached by their respective staff, the CSA were offering interested parties a further opportunity to comment on the IDA Proposals and, in particular, on the necessity or desirability of the six-hour delay period proposed by the IDA.

During this period, no additional comment was received. However, the IDA by letter dated September 16, 1993, has stated that its Board of Directors approved a recommendation of its Corporate Finance Committee (the "Committee") in respect of the IDA's position on proposals to modify bought deals. The Committee is quoted in the IDA letter as stating

"...that change as fundamental as shifting to the six-hour rule should now be deferred one year, and reconsidered at that time, while the industry determines whether the implementation of the pre-marketing rule is sufficient to address concerns which led the IDA to make its recommendations on the bought deal".

The CSA have concluded that they are not prepared to propose any change to the bought deal financing technique at this time. Among the factors that influenced this decision were: (i) the most recently expressed position of the IDA, (ii) the views of issuers as expressed in response to the initial CSA Notice, (iii) the virtual absence of comment by institutional, mutual fund and retail investors, and (iv) the inadequacy of the evidence to substantiate the assertion that

retail investors have been adversely affected by the current practice respecting bought deals. The CSA have resolved to monitor the activities of underwriters, issuers and investors as they relate to bought deals over the next twelve month period and at the conclusion of that period (or sooner, if it is appropriate) to revisit the issue of whether any changes are required to the bought deal financing technique.

September 22, 1993