

# ALBERTA SECURITIES COMMISSION

## NOTICE

### Local Consequential Amendments Relating to:

**National Instrument 51-102**  
*Continuous Disclosure Obligations*

and

**National Instrument 71-102**  
*Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*

**December 19, 2003**

This Alberta Securities Commission (the "ASC") Notice supplements the Canadian Securities Administrators ("CSA") Notices issued today concerning the following national instruments:

- National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102") and its related forms and companion policy, and
- National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* ("NI 71-102") and its related companion policy.

In conjunction with implementing NI 51-102, NI 71-102, the ASC has made other changes to current Alberta securities laws and ASC policies (collectively, "Local Changes"), as described below. The Local Changes are in addition to changes to other national instruments, which are discussed in the CSA Notices.

### **Purpose and Effect of Local Changes**

In general, the purpose of the Local Changes is to replace provisions of current Alberta securities laws and policies that apply to continuous disclosure and proxy solicitation as contemplated by the new requirements of NI 51-102 (as varied by NI 71-102 for foreign issuers).

### **June 2002 and June 2003 Notices**

The ASC notices issued concurrently with publication of proposed NI 51-102 and NI 71-102 of June 21, 2002 and June 20, 2003 set out, and invited public comment on, a number of proposed amendments to Alberta securities laws and policies. We received no comments.

### **Securities Act Amendments**

Bill 14, the *Securities Amendment Act, 2003*, received royal assent on May 16, 2003, and certain of its provisions were proclaimed into effect in June, 2003. Proclamation of the remaining provisions, which will reflect the harmonization of CD obligations, was deferred pending implementation of NI 51-102 and NI 71-102. Please refer to the ASC notice dated June 2, 2003

regarding *Proclamation of Securities Amendment Act, 2004 (Bill 14) and Amendments to the Securities Regulation*.

Proclamation of sections 18 to 22, 26 and 33 of the *Securities Amendment Act, 2003* is scheduled for March 30, 2004. Proclamation of sections 23, 24 and 25 is expected to be effective June 1, 2004. This two-stage proclamation reflects the transitional provisions of NI 51-102, which provide that Part 9 (concerning proxy solicitation) will come into effect June 1, 2004 and the other provisions will come into effect March 30, 2004.

### **Repeal of ASC Rules and Forms**

The June 2003 Notice referred to above included a proposal to repeal certain provisions of the *Alberta Securities Commission Rules (General)* (the "ASC Rules") and related ASC forms. This proposal assumed concurrent implementation dates for NI 51-102, NI 71-102 and proposed National Instrument 81-106 *Investment Fund Continuous Disclosure* ("NI 81-106"). NI 81-106 is not, however, being implemented concurrently with the other instruments and accordingly, the ASC Rules and ASC forms are not being repealed at this time. As an interim measure, the ASC has approved Blanket Order 51-507 that exempts reporting issuers to which NI 51-102 applies from compliance with those provisions. The text of the Blanket Order is set out as Schedule A to this Notice.

The Blanket Order effectively limits the application of ASC Rules listed below to investment funds only. This limited retention of these provisions is temporary, however. NI 81-106 is expected to address continuous disclosure requirements for investment funds. Once NI 81-106 is implemented, the provisions of the ASC Rules referred to below and certain related ASC forms are likely to be repealed entirely.

#### *ASC Rules affected by Blanket Order #51-507*

- section 143;
- section 146;
- section 147;
- section 148;
- section 151;
- section 160;
- section 162;
- section 163;
- section 164;
- section 165;
- section 166;
- section 167;
- section 168; and
- section 169.

### **ASC Policies and Orders**

Effective March 30, 2004, the ASC has repealed ASC Policy 6.1 *Interpretation of Sections 184 and 123* [now sections 212 and 151, respectively] - *Applicability to Certain Reporting Issuers* and the Blanket Order to which it relates, ASC Blanket Order 02/25/87 - *Parts 11, 12 and 14 of*

*the Securities Act and Certain Reporting Issuers*. Those instruments provided relief from and pursuant to various statutory and other provisions that, as of March 30, 2004, will either no longer be in force or will have been replaced by provisions in NI 51-102 or NI 71-102.

In conjunction with the implementation of NI 51-102 and NI 71-102, the ASC has also amended ASC Policy 1.2 *Restricted Shares* by:

- (a) repealing section 2.1.1;
- (b) amending section 2.1.5 by striking out the words “reporting issuer disclosure and”;
- (c) amending section 2.5.1 by striking out the portion of the section preceding the words "shall include" and substituting "Directors' circulars";
- (d) repealing section 2.5.2;
- (e) repealing section 2.5.3;
- (f) amending section 2.6.1 by adding "or" after "securities exchange take-over bid circular" and striking out the portion of the section commencing with "or information circular";
- (g) repealing section 3.1; and
- (h) repealing section 3.3.

#### **Further Information**

Please direct your questions concerning implementation in Alberta of NI 51-102, NI 71-102 and the related documents to either of the following:

Mavis Legg  
Manager, Securities Analysis  
Alberta Securities Commission  
Telephone: (403) 297-2663  
E-mail: [mavis.legg@seccom.ab.ca](mailto:mavis.legg@seccom.ab.ca)

Karen Wiwchar  
Senior Legal Counsel  
Alberta Securities Commission  
Telephone: (403) 297-4732  
E-mail: [karen.wiwchar@seccom.ab.ca](mailto:karen.wiwchar@seccom.ab.ca)

**SCHEDULE A**  
**TO**  
**ALBERTA SECURITIES COMMISSION NOTICE**

**Blanket Order #51-507**

**ALBERTA SECURITIES COMMISSION**  
**BLANKET ORDER**

**Section 213 of the *Securities Act***  
**(R.S.A. 2000, c. S-4, as amended)**  
**and National Instrument 51-102**  
***Continuous Disclosure Obligations***

**Background**

- (a) National Instrument 51-102 *Continuous Disclosure Obligations* (“NI 51-102”) has been made an Alberta Securities Commission Rule, effective March 30, 2004.
- (b) Certain amendments to and repeals of provisions of the Act are expected to be proclaimed in force with effect concurrently with the coming into effect of NI 51-102.
- (c) NI 51-102 will apply to reporting issuers other than “investment funds”, as defined in NI 51-102, and is intended to supersede and replace a number of continuous disclosure and proxy solicitation provisions currently contained in the *Securities Act* (Alberta) (the “Act”) and the *ASC Rules (General)* (the “Rules”).
- (d) Under the terms of NI 51-102, Part 9 *Proxy Solicitation and Information Circulars* of NI 51-102 (“Part 9”) will not come into effect until June 1, 2004.
- (e) Proposed National Instrument 81-106 *Investment Fund Continuous Disclosure* (“NI 81-106”) will address continuous disclosure obligations of investment funds, but its implementation is expected to occur after implementation of NI 51-102.
- (f) It is expected that certain continuous disclosure provisions of the Rules (the “Current CD Rules” specified in section 2 of this blanket order) will be repealed with effect upon the later of the implementation of NI 51-102 and the implementation of NI 81-106.
- (g) The Commission considers that it is desirable:

- (i) to permit, from March 30, 2004 to June 1, 2004, reporting issuers to comply with Part 9 instead of with the current provisions of the Act and the Rules concerning proxy solicitation; and
- (ii) from March 30, 2004 until the repeal of the Current CD Rules, to exempt reporting issuers who are subject to NI 51-102 from the Current CD Rules.

## **Order**

IT IS HEREBY ORDERED pursuant to section 213 of the Act that:

### **Permission for interim application of the new proxy requirements**

1. from March 30, 2004 until June 1, 2004 a reporting issuer that is subject to NI 51-102 and that complies with Part 9 is exempt from:
  - (a) sections 155 and 156 of the Act; and
  - (b) the following provisions of the Rules (the “Current Proxy Rules”):
    - (i) section 163;
    - (ii) section 164;
    - (iii) section 165;
    - (iv) section 166;
    - (v) section 167;
    - (vi) section 168; and
    - (vii) section 169;

### **Exemption from Current CD Rules**

2. from March 30, 2004, a reporting issuer that is subject to NI 51-102 is exempt from the Current CD Rules, being the following provisions of the Rules:
  - (a) section 143;
  - (b) section 146;
  - (c) section 147;
  - (d) section 148;
  - (e) section 151;
  - (f) section 160; and

(g) section 162; and

**Permanent exemption from Current Proxy Requirements**

3. from June 1, 2004, a reporting issuer that is subject to NI 51-102 is exempt from the Current Proxy Rules.

DATED at the City of Calgary )  
 )  
in the Province of Alberta ) "original signed by"  
 ) Glenda A. Campbell, Q.C., Vice-Chair  
this 18<sup>th</sup> day of December, 2003 )  
 )  
 ) "original signed by"  
 ) Stephen R. Murison, Vice-Chair  
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