

THE SECURITIES ACT

)

Order No. 3276

)

Section 95(2) and 95(3)

)

March 28, 2001

**IN THE MATTER OF CERTAIN TAKE-OVER BIDS AND ISSUER BIDS:
GOVERNING THE CONDUCT OF TAKE-OVER AND ISSUER BIDS
BLANKET ORDER**

WHEREAS:

(A) Application has been made by the Director, Legal and Enforcement (the "Director") of The Manitoba Securities Commission (the "commission") to the commission pursuant to subsection 95(2) and 95(3) of *The Securities Act* (Manitoba), C.C.S.M., c. S50 (the "Act") for an order varying specified time periods set out in Part IX of the Act and exempting a person or company making a take-over bid or an issuer bid (the "offeror") from complying with subsection 90(1) and section 91 of the Act.

(B) On May 13, 1996 a committee of the Investment Dealers Association of Canada commissioned to review take-over and issuer bid time limits issued its report (the "Zimmerman Report") setting out 14 recommendations.

(C) In response to the Zimmerman Report, the Canadian Securities Administrators (the "CSA") agreed to adopt the recommendations relating to take-over bids and issuer bids. These changes are to take effect on March 31, 2001. The Director is making the Application to harmonize Manitoba's requirements with the requirements of other CSA jurisdictions.

(D) The Act presently requires the offeror of issuer bids and take-over bids to comply with clauses 86(b), (c), (d), (j), subsection 90(1) and section 91.

(E) The Commission is of the opinion that it would not be prejudicial to the public interest to make this Order and is satisfied that there is adequate justification for so doing.

IT IS ORDERED:

1. THAT pursuant to subsection 95(2) of the Act:

(a) the 21 day time period set out in subsection 86(b) of the Act is varied to 35 days;

(b) the 21 day time period set out in subsection 86(c) of the Act is varied to 35 days;

(c) the 21 day time period set out in subsection 86(d)(i) of the Act is varied to an unlimited number of days;

(d) the 45 day period set out in subsection 86(d)(iii) of the Act is varied to three business days after the securities have been taken up; and

(e) the three day period set out in subsection 86(j) of the Act is varied to three business days;

(f) the 10 day time period set out in subsection 90(1) of the Act is varied to 15 days;

2. THAT, pursuant to subsection 95(3) of the Act, an offeror is exempt from clause 86(l) of the Act if the offeror has waived any term or condition of a bid and extends the bid in circumstances where the right of withdrawal conferred by subclause 86(d)(ii) of the Act is applicable.

3. THAT, pursuant to subsection 95(3) of the Act, an offeror is exempt from the requirements contained in subsection 91 of the Act on condition that the offeror comply with section 1 of this Order and on further condition that the offeror comply with the following:

Commencement of take-over bid

91(1) A take-over bid may be commenced in accordance with either subsection (2) or subsection (7) below.

Commencement by delivery

91(2) A take-over bid may, and an issuer bid shall, be commenced by delivering the bid to the security holders referred to in subsection 86(a) of the Act in accordance with subsection (6) below.

Filing and delivery to offeree issuer

91(3) If a bid is commenced under subsection (2) above, the bid shall be filed and, in the case of a take-over bid, delivered to the offeree issuer's principal office on the same day as, or as soon as practicable after, the bid is delivered under subsection (2) above.

Notice of change or variation

91(4) A notice of change or variation in respect of a bid shall be filed and, in the case of a take-over bid, delivered to the offeree issuer's principal office on the same day as, or as soon as practicable after, the notice of change or variation is delivered to holders of securities of the offeree issuer.

Directors' circulars

91(5) Every directors' circular and every individual director's circular or officer's circular or any related notice of change that is delivered to security holders of an offeree issuer shall be filed and shall be delivered to the offeror's principal office on the day the directors' circular or individual director's or officer's circular or the notice of change is delivered to the holders of securities of the offeree issuer, or as soon as practicable thereafter.

Delivery and date of bid, etc.

91(6) A take-over bid or issuer bid, a take-over bid circular, an issuer bid circular, a directors' circular, an individual director's or officer's circular and every notice of change or variation in any such bid or circular shall be mailed by prepaid first class mail or delivered by personal delivery or in such other manner as the Director may approve to the intended recipient and any bid, circular or notice so mailed or delivered shall be deemed to have been delivered and, subject to subsections (8) and (9) below, shall be deemed conclusively for the purposes of Part IX of the Act and the regulations to have been dated as of the date on which it was so mailed or delivered to all or substantially all of the persons or companies entitled to receive it.

Commencing take-over bid by advertisement

91(7) An offeror may commence a take-over bid by publishing an advertisement containing a brief summary of the bid in at least one major daily newspaper of general and regular paid circulation in Manitoba, or by disseminating the advertisement in a prescribed manner, if,

(a) on or before, the date of first publication or first dissemination of the advertisement, the offeror, or a person or company acting on its behalf, files the bid and delivers it to the offeree issuer's principal office, and files the advertisement;

(b) on or before, the date of first publication or first dissemination of the advertisement, the offeror, or a person or company acting on its behalf, requests from the offeree issuer a list of the security holders referred to in subsection 86(a) of the Act; and

(c) within two business days of the receipt by or on behalf of the offeror of a list of the security holders referred to in clause 86(a) of the Act, the bid is delivered to those security holders in accordance with subsection (6) above.

Date bid commenced by advertisement

91(8) If a take-over bid is commenced in accordance with subsection (7) above, the bid shall be deemed conclusively for the purposes of Part IX of the Act and the regulations to have been dated as of the date of first publication or first dissemination of the advertisement referred to in subsection (7) above.

Notice of change or variation in a bid commenced by advertisement

91(9) If a take-over bid is advertised in accordance with subsection (7), and the offeror or a person or company acting on its behalf has complied with clauses 7 (a) and (b) but has not yet delivered the bid under clause 7 (c), a change or variation in the bid prior to the date on which the bid is delivered to security holders in accordance with clause 7 (c) that is advertised in a manner provided under subsection (7) shall be deemed conclusively for the purposes of this Part

(Part IX) of the Act and the regulations to have been dated as of the date of first publication or first dissemination of the advertisement relating to the change or variation if,

(a) the advertisement contains a brief summary of the change or variation;

(b) on or before the date of first publication or first dissemination of the advertisement relating to the change or variation, the offeror, or a person or company acting on its behalf, files the notice of change or variation and delivers it to the offeree issuer's principal office, and files such advertisement; and; and

(c) within two business days of the receipt by or on behalf of the offeror of a list of the security holders referred to in clause 86(a) of the Act, the bid and notice of change or variation is delivered to those security holders in accordance with subsection 89(2) of the Act or 89(4) of the Act, as applicable, and subsection (6) above.

Non-application of subsection 91(4)

91(10) If an offeror, or person or company acting on its behalf, satisfies the requirements of subsection (9) above, the notice of change or variation shall not be required to be filed and delivered under subsection (4) above.

4. THAT, this Order shall become effective on March 31, 2001.

BY ORDER OF THE COMMISSION

Douglas R. Brown
Director, Legal and Enforcement