

Local Policy 3.01

Blanket Exemption Orders

Date: May 15, 1992 - **Revoked**

Part I — Subsection 90(4) of the Regulation to The Securities Act

(Order No. 390/86.)

Whereas:

(A) Application has been made to The Manitoba Securities Commission (the "Commission") for an order under section 20 of The Securities Act (the "Act") exempting certain trades from the provisions of subsection 90(4) of Regulation S50-R1, as amended, (the "Regulation") to the Act which require that an Offering Memorandum be provided and contractual rights of rescission and damages granted where an offering made pursuant to the exemption set forth in subsection 90(1) of the Regulation (the "Section 90 Exemption") is concurrently made in another province pursuant to an equivalent or similar exemption under the legislation of that province;

(B) The Section 90 Exemption exempts from the registration and prospectus requirements of section 6 and 35 of the Act trades to individuals, who purchase for investment and not for resale, of securities that have an aggregate acquisition cost of not less than \$97,000;

(C) Subsection 90(4) of the Regulation provides:

" 90(4) Where an issuer who is making an offering of securities in Manitoba in reliance upon subsection (1) is concurrently making an offering of securities in another province of Canada in reliance upon an equivalent or similar exemption contained in applicable securities legislation of that other province, and where in connection with the offering the issuer is permitted or required by that legislation to provide investors with an offering memorandum, the issuer shall,

(a) before making a trade of the securities in Manitoba, provide to each prospective purchaser a copy of the offering memorandum that the issuer provides or is required to provide investors in that other province, and

(b) grant to each purchaser in Manitoba contractual rights of rescission and damages to the same effect as those that are required to be described in Form 26."

(D) The Commission's position is that subsection 90(4) of the regulation was intended to require that, where an offering is made in one or more provinces other than Manitoba in reliance upon an equivalent or similar exemption, an Offering Memorandum be provided and contractual rights of rescission and damages be granted to a purchaser in two situations, namely:

1. Where the legislation of another province in which the offering is being made requires an Offering Memorandum to be provided to investors in that province; or
2. Where the legislation of another province in which the offering is being made does not require an Offering Memorandum to be provided to investors but an Offering Memorandum is nonetheless provided to investors in that province;

(E) Concern has been expressed to the Commission that the subsection 90(4) requirement that an Offering Memorandum be provided and contractual rights of rescission and damages be granted where the issuer is permitted or required by the legislation of that province to provide investors with an Offering Memorandum can be interpreted more broadly, namely:

1. Subsection 90(4) of the Regulation may be interpreted as requiring that an Offering Memorandum be provided and contractual rights of rescission and damages be granted where the legislation of that other province permits an Offering Memorandum to be provided to investors, whether or not an Offering Memorandum is in fact provided to investors in that other province;
2. The use of the word "permitted" in subsection 90(4) of the Regulation may be interpreted as meaning "not prohibited" with the result that an Offering Memorandum would have to be provided and contractual rights of rescission and damages granted unless the use of an Offering Memorandum is prohibited under the legislation of that other province;

(F) The Commission is of the opinion that the possible interpretations referred to in paragraphs (E)1 and (E)2 above are unintended and that it is not prejudicial to the public interest to grant the order requested.

It Is Ordered:

1. THAT trades made pursuant to the provisions of subsection 90(1) of the Regulation to The Securities Act shall be exempt from the provisions of subsection 90(4) of the Regulation to the Act which require that an issuer provide an Offering Memorandum and grant contractual rights of rescission and damages to an investor in Manitoba where an offering is concurrently made by the issuer in another province in Canada in addition to Manitoba under an equivalent or similar exemption to that set forth in subsection 90(1) of the Regulation on condition that:

- (a) the legislation of no other province in Canada in which the offering is concurrently being made requires that an Offering Memorandum be provided to investors; and
- (b) no Offering Memorandum is provided to any investors in any other province in Canada in which the offering is concurrently being made.

By Order Of The Commission

November 19, 1986

Part II — Insider Trading Reports

Whereas:

(A) Section 43 and section 44 of Revised Regulation S50-R1 (the "Regulation") to The Securities Act (the "Manitoba Act") require insiders (the "Insiders") of a corporation as defined in the Act to file a written report with the Manitoba Securities Commission (the "Commission") prepared in accordance with Form 14 or Form 15 of the Regulation, as the case may be;

(B) A uniform form of insider report (the "Uniform Report"), the English and French versions of which are attached as Schedule "A" and Schedule "B" respectively to this order, has been developed as a common report for the insider reporting requirements under the Manitoba Act, the Bank Act, the Canada Business Corporations Act (the "CBCA") and the Securities Acts of the Provinces of British Columbia, Alberta, Saskatchewan, Ontario and Quebec;

(C) The Uniform Report has been approved or is proposed to be approved for use under the Bank Act, the CBCA and the Securities Acts of the Provinces of British Columbia, Alberta, Saskatchewan, Ontario and Quebec (collectively the "Relevant Acts");

(D) It is not practicable at this time to amend the regulations to the Manitoba Act required to permit the filing of the Uniform Report by Insiders who are also required to file insider reports under one or more of the Relevant Acts; however, for the sake of uniformity, the Commission wishes to permit Insiders who are required to file insider reports under the Manitoba Act to do so on the Uniform Report without being in violation of the Manitoba Act if the Insiders:

(i) are required to file insider reports under one or more of the Relevant Acts; and

(ii) are permitted under one or more of the Relevant Acts under which they are required to file insider reports to report on the Uniform Report, whether pursuant to statutory authority or by reason of an order issued by an entity having jurisdiction;

(E) The Commission is of the opinion that it would not be prejudicial to the public interest to make this order.

It Is Ordered:

1. **THAT** an Insider who is required to file insider reports pursuant to the provisions of Part XI of the Manitoba Act and Part IV of the Regulation is exempt from the provisions of section 43 or 44 of the Regulation, as the case may be, insofar as the Regulation requires an Insider to file a report prepared in accordance with Form 14 or Form 15, as the case may be, subject to the following conditions:

(a) the Insider is required to file an insider report under one or more of the Relevant Acts;

(b) the Insider is permitted under one or more of the Relevant Acts under which the Insider is required to file insider reports to report on the Uniform Report, whether pursuant to statutory authority or by reason of an order issued by an entity having jurisdiction; and

(c) the Insider files with the Commission a report prepared in accordance with the Uniform Report.

2. THAT for greater certainty, nothing contained in this order shall be construed as limiting or repealing any order issued by the Commission prior to the date of this order pursuant to subsection 116(1) of the Manitoba Act exempting, in whole or in part, a person or company from the requirements of section 109 of the Manitoba Act, or extending the time, either before or after the expiry of that time, for filing a report under section 109 of the Manitoba Act.

By Order Of The Commission

January 14, 1987

Part III — In the Matter of a Policy of the Toronto Stock Exchange on Small Shareholder Selling and Purchase Arrangements - - Revoked

(Order No. 162/87.)

Whereas:

(A) Application has been made by the Toronto Stock Exchange (the "Exchange") to The Manitoba Securities Commission (the "Commission") for an order pursuant to section 20 of The Securities Act (the "Act") with respect to trades made under small shareholder selling arrangements ("Selling Arrangements") and/or small shareholder purchase arrangements ("Purchase Arrangements") (collectively, the "Arrangements") by companies listed on the Exchange ("Listed Companies") which participate in such Arrangements;

(B) It has been represented to the Commission that:

1. Part XXXI of the Exchange Policy Statements entitled "Policy Statement on Small Shareholder Selling and Purchase Arrangements" was originally passed and enacted by the Board of Governors of the Exchange on April 15, 1986 with effect from such date (the "Original Policy");

2. Under the Original Policy, a Listed Company participating in the Arrangements agreed to pay a fee per odd lot account to firms which were members of the Exchange ("Member Firms") in order to facilitate both the sale of shares on behalf

of odd lot holders and the purchase of a sufficient number of shares on behalf of odd lot holders to constitute a board lot;

3. On November 25, 1986, the Board of Governors of the Exchange adopted an amended Policy (the "Revised Policy") which Revised Policy become effective on November 25, 1986 and a copy of which is attached hereto as Schedule "A"

4. Pursuant to the Revised Policy, Listed Companies are directed to request odd lot holders wishing to participate in Selling Arrangements and/or Purchase Arrangements to either:

(i) place orders under the Arrangements with any Member Firm; or

(ii) transmit orders under the Arrangements directly to the Listed Company or an agent (such as a Member Firm or transfer agent) designated by it;

5. Only persons who are holders of less than one board lot as defined in the General By-Law of the Exchange are eligible to participate in the Arrangements;

6. The procedure described in the Revised Policy constitutes the exclusive method by which a Listed Company may seek the assistance of a Member Firm either to solicit odd lots for sale, or to acquire additional shares to make up a board lot, through the facilities of the Exchange; and

7. The Revised Policy enables Listed Companies to reduce the number of holders of odd lots through participation in the Arrangements described in the said Revised Policy and reduces the commission rates otherwise payable by odd lot holders on the purchase or sale of odd lots;

(C) It would appear that the solicitation by Listed Companies of odd lot holders with respect to participation in the aforesaid Arrangements and all acts, negotiations or conduct engaged in by the Listed Companies or their transfer agents in furtherance of odd lot holder participation in the Arrangements and in accordance with the provisions of the Revised Policy including, but not restricted to, the receipt by Listed Companies or their transfer agents of orders to buy or sell securities on behalf of odd lot holders, constitute trades within the meaning of the Act;

(D) In the opinion of the Commission it would not be prejudicial to the public interest to grant the order requested.

It Is Ordered:

1. **THAT** section 6 of The Securities Act shall not apply to the solicitation by Listed Companies of odd lot holders with respect to participation in the aforesaid Arrangements and all acts, negotiations or conduct engaged in by Listed Companies or their transfer agents in furtherance of odd lot holder participation in the Arrangements and in accordance with the

provisions of the Revised Policy including, but not restricted to, the receipt by Listed Companies or their transfer agents of orders to buy or sell securities on behalf of odd lot holders.

By Order Of The Commission

April 15, 1987

Part IV — In the Matter of a Policy of the Montreal Exchange on Small Shareholders Selling and Purchase Arrangements - Revoked

(Order No. 410/87)

Whereas:

(A) Application has been made on behalf of The Montreal Exchange (the "Exchange") to The Manitoba Securities Commission (the "Commission") for an order pursuant to section 20 of The Securities Act (the "Act") with respect to trades made under small shareholder selling arrangements ("Selling Arrangements") and/or small shareholder purchase arrangements ("Purchase Arrangements") (collectively, the "Arrangements") by companies listed on the Exchange ("Listed Companies") which participate in such Arrangements;

(B) It has been represented to the Commission that:

1. The Exchange adopted on May 26, 1987 Policy I-9 in respect of "Small Shareholder Selling and Purchase Arrangements" (the "Policy"), a copy of which is attached hereto as Schedule "A"
2. Pursuant to the Policy, Listed Companies are directed to request odd lot holders wishing to participate in Selling Arrangements and/or Purchase Arrangements to either:
 - (i) place orders under the Arrangements with any member firm; or
 - (ii) transmit orders under the Arrangements directly to the Listed Company or an agent (such as a member firm or transfer agent) designated by it;
3. Only persons who are holders of less than one board lot as defined in the General By-law of the Exchange are eligible to participate in the Arrangements;
4. The procedure described in the Policy constitutes the exclusive method by which a Listed Company may seek the assistance of a member firm either to solicit odd lots for sale, or to acquire additional shares to make up a board lot, through the facilities of the Exchange; and

5. The Policy enables Listed Companies to reduce the number of holders of odd lots through participation in the Arrangements described in the said Policy and reduces the commission rates otherwise payable by odd lot holders on the purchase or sale of odd lots;

(C) It would appear that the solicitation by Listed Companies of odd lot holders with respect to participation in the aforesaid Arrangements and all acts, negotiations or conduct engaged in by the Listed Companies or their transfer agents in furtherance of odd lot holder participation in the Arrangements and in accordance with the provisions of the Policy including, but not restricted to, the receipt by Listed Companies or their transfer agents of orders to buy or sell securities on behalf of odd lot holders, constitute trades within the meaning of the Act;

(D) In the opinion of the Commission it would not be prejudicial to the public interest to grant the order requested.

It Is Ordered:

1. **THAT** section 6 of The Securities Act shall not apply to the solicitation by Listed Companies of odd lot holders with respect to participation in the aforesaid Arrangements and all acts, negotiations or conduct engaged in by Listed Companies or their transfer agents in furtherance of odd lot holder participation in the Arrangements and in accordance with the provisions of the Policy including, but not restricted to, the receipt by Listed Companies or their transfer agents of orders to buy or sell securities on behalf of odd lot holders.

By Order Of The Commission

October 5, 1987

Part V — Automatic Investment of Dividends or Distributions in Shares or Units of Mutual Funds - Revoked

(Order No. 230/87)

Whereas:

(A) Application has been made by an interested party to The Manitoba Securities Commission (the "Commission") for an order pursuant to section 20 of The Securities Act (the "Act") with respect to trades in shares or units of mutual funds made to shareholders or unitholders who wish the dividends or distributions of income or capital gains attributable to their shares or units to be automatically invested in additional shares or units;

(B) It appears to the Commission that:

1. Many mutual funds permit holders of their shares or units ("Unitholders") to have the dividends or distributions of income and/or capital gains ("Distributions") attributed to the shares or units ("Units") held by them

automatically invested in additional Units of the same mutual fund or section of the mutual funds as the Units to which the Distributions are attributable, such an arrangement being herein referred to as a "Reinvestment Plan";

2. Some mutual funds require Unitholders wishing to participate in their Reinvestment Plans to indicate, in writing, that they wish to do so whereas other mutual funds are established so that their Reinvestment Plans apply to all Unitholders unless they advise the funds, in writing, that they do not wish to participate in the Reinvestment Plan; and

3. There is doubt as to whether trades in Units issued pursuant to Reinvestment Plans are exempt from the requirements of section 6 or 35 of the Act;

(C) The Commission is satisfied that it would not be prejudicial to the public interest to make this order.

It Is Ordered:

THAT pursuant to section 20 of the Act, a trade by a mutual fund of a Unit pursuant to a plan made available by a mutual fund to all holders of Units of the mutual fund which plan permits the Distributions payable in respect of Units of the mutual fund, either at the direction of the Unitholder or automatically unless the Unitholder otherwise directs, to be applied to the purchase from the mutual fund of Units having the same attributes as those Units on account of which such Distributions are payable shall be exempt from the requirements of sections 6 and 35 of the Act, provided that:

1. No sales charge is payable in respect of the trade; and
2. Each participant in the plan receives annually:
 - (a) notice of the right to withdraw from participation in the plan; and
 - (b)
 - (i) notice that a copy of a prospectus of the mutual fund for which a receipt has been issued pursuant to section 35 of the Act within the previous twelve months is available upon request from the mutual fund at the address specified; or
 - (ii) notice that such a prospectus is not available together with a statement of the reason therefor.

By Order Of The Commission

May 25, 1987

Part VI — Interim Financial Statements

(Order No. 94/88)

Whereas:

(A) Section 20 of The Securities Act (the "Act") authorizes The Manitoba Securities Commission (the "Commission") by order to, among other things, exempt any person from all or any provisions of the Act or regulations;

(B) The Commission is of the view that the information contained in the interim financial statements referred to in section 129 of the Act of an issuer (a "Reporting Issuer") that is subject to Part XII of the Act is effectively available to security holders generally by virtue of media coverage and filing with the Commission and stock exchanges at an earlier date than individual delivery by mail can accomplish;

(C) National Policy No. 41 requires Reporting Issuers to deliver the interim financial statements to any security holder of the Reporting Issuer who requests the Reporting Issuer in writing to be placed on a supplemental mailing list (the "Supplemental Mailing List") as defined in National Policy No. 41 maintained by the Reporting Issuer for this purpose, and provides a procedure whereby a security holder can conveniently make such a request;

(D) The Commission is of the opinion that it would not be prejudicial to the public

It Is Ordered:

THAT, pursuant to section 20 of the Act:

1. a Reporting Issuer is exempt from the requirement in section 129 of the Act to deliver the interim financial statements required by section 129 of the Act to security holders, subject to the following conditions:

(i) the Reporting Issuer complies with National Policy Statement No. 41, in particular with respect of the establishment and maintenance of a Supplemental Mailing List as defined in that Policy Statement;

(ii) the Reporting Issuer files its interim financial statements with the Commission as required by section 129 of the Act and concurrently files such statements with all stock exchanges upon which securities of the Reporting Issuer are listed, and issues a press release with the highlights of the information contained in such statements to the financial press;

2. subject to paragraph 4, this order shall be effective in respect of interim financial statements for the fiscal period of the Reporting Issuer ending on or after the first annual meeting of the

security holders of the Reporting Issuer that takes place on or after March 1, 1988 in respect of which meeting the Reporting Issuer complies with National Policy Statement No. 41;

3. this exemption in this order will continue to be in effect in respect of interim financial statements for the fiscal periods of the Reporting Issuer ending on or after each annual meeting of security holders of the Reporting Issuer in respect of which meeting the Reporting Issuer complies with National Policy Statement No. 41;

4.

(a) a Reporting Issuer that wishes to use the exemption provided by this order before its first annual meeting that takes place on or after March 1, 1988 may do so once it has established a Supplemental Mailing List as defined in National Policy Statement No. 41, provided that it otherwise complies with the Policy and this order;

(b) for the purpose of establishing a Supplemental Mailing List, the Reporting holders registered or non-registered, of the classes entitled to receive interim financial statements, a return card permitting the security holder to request to be placed on the Reporting Issuer's Supplemental Mailing List together with an appropriate written explanation to the security holder. The communication to non-registered security holders shall be carried out in accordance with the procedure set out in Part IV of National Policy Statement No. 41, in particular:

(i) determining from the Canadian Depository for Securities Limited ("CDS") and Vancouver Stock Exchange Service Corporation ("VSESC") the intermediaries for whom they hold the relevant classes of securities;

(ii) obtaining a current list of registered nominees;

(iii) delivering search cards to the intermediaries for whom CDS and VSESC hold securities and to the registered nominees appearing on the Reporting Issuer's shareholders' list;

(iv) bulk delivery of return cards and explanatory material to the intermediaries, including the registered nominees, referred to in clause (iii); and

(v) delivery of return cards and explanatory material to non-registered security holders by the intermediaries.

By Order Of The Commission

March 23, 1988

Part VII — Synthetic Securities

(Order No. 273/90)

Whereas:

(A) On June 1, 1988 The Manitoba Securities Commission (the "Commission") issued Order No. 177/88 (the "Blanket Order") under section 20 of The Securities Act (the "Act") exempting, on certain conditions, the primary distribution to the public of Synthetic Securities (as that term is defined in the Blanket Order) from section 37 (formerly section 35) of the Act;

(B) The Commission is of the opinion that it would not be prejudicial to the public interest to revoke the Blanket Order;

It Is Ordered:

1. **THAT**, pursuant to section 20 of the Act, the Blanket Order is hereby revoked.

By Order Of The Commission

September 25, 1990

Part VIII - Insider Trading and Financial Disclosure Reporting Requirements Under the Securities Act

(Order No. 3/89)

Whereas:

(A) On October 19, 1988, The Securities Act (the "Act") was re-enacted into force (the "Reenactment");

(B) Prior to Re-enactment, section 116(2) of the Act read as follows:

"116(2) An insider of a corporation who is subject to this Part by virtue only of sub-clause (i) of clause (a) of section 100 ceases to be subject to this Part if the corporation does not have owners of its equity shares whose last address as shown on the books of the corporation is in the province."

The reference in the said section to section 100 of the Act is in error as it should refer to section 108 of the Act which is the section which contains the relevant definitions for determining whether a person or company is an "insider" or "insider of a corporation" as defined in the Act and thereby becomes subject to Part XI of the Act. This error was not corrected in the Re-enactment;

(C) Prior to Re-enactment, section 131(2) of the Act (subsequent to Re-enactment, section 131(3) of the Act), read as follows:

"131(2) A corporation that is subject to this Part by virtue only of sub-clause (i) of clause (b) of section 118 ceases to be subject to this Part if the corporation does not have owners of its equity shares whose latest address as shown on the books of the corporation is in the province.;"

(D) Section 131(3) of the Act reads as follows:

"131(3) A corporation that is subject to this Part by virtue only of clause (b) of the definition 'corporation' in section 118 ceases to be subject to this Part if the corporation does not have owners of its equity shares whose latest address as shown on the books of the corporation is in the province."

Due to a typographical error, the reference to "clause (b) of the definition 'corporation' in section 118" is incorrect as it should refer to "clause (a) of the definition 'corporation' in section 118";

(E) The Manitoba Securities Commission (the "Commission") is of the opinion that until such time as the Act is amended to correct the aforesaid errors in sections 116(2) and 131(3) of the Act, a blanket exemption order should issue to confer upon persons or companies, as the case may be, the exemptions that otherwise should have been conferred upon such persons or companies if the section references in sections 116(2) and 131(3) of the Act had been correct upon Re-enactment;

(F) The Commission is of the opinion that it would not be prejudicial to the public interest to make this order and it is satisfied in the circumstances of this particular case that there is adequate justification for so doing.

It Is Ordered:

- 1. THAT**, pursuant to section 116(1)(c) of the Act, an insider of a corporation who is subject to Part XI of the Act by virtue only of clause (a) of the definition "corporation" in section 108 of the Act ceases to be subject to Part XI of the Act if the corporation does not have owners of its equity shares whose last address as shown on the books of the corporation is in the province.
- 2. THAT**, pursuant to section 131(1)(c) of the Act, a corporation that is subject to Part XII of the Act by virtue only of clause (a) of the definition "corporation" in section 118 of the Act ceases to be subject to Part XII of the Act if the corporation does not have owners of its equity shares whose latest address as shown on the books of the corporation is in the province.

By Order Of The Commission

January 4, 1989

**Part IX — Section 89 and Form 25 of the Regulation to the Securities Act - Revoked
September 28, 2009**

(Order No. 100/89)

Whereas:

(A) Application has been made to The Manitoba Securities Commission (the "Commission") for an order under section 20 of The Securities Act (the "Act") exempting an issuer (the "Issuer") within the meaning of Part XIII of the Regulation (the "Regulation") to the Act from certain provisions of section 91 of the Regulation where a trade is made pursuant to the exemption set forth in subsection 91(b)(i)(B) or (C) of the Regulation on the basis that the purchaser is an individual who is a "sophisticated purchaser" within the meaning of section 89 of the Regulation;

(B) Section 89 of the Regulation provides, in part, that:

"sophisticated purchaser" means a purchaser who has the financial ability to withstand a loss that might occur as a result of an investment in a security by reason of the fact that,

(i) if the purchaser is an individual, he or she has ...

(B) a minimum net worth of \$50,000.00, exclusive of home, car and furnishings and some income in the last taxation year which would have been taxed at a rate of 50% had it not been for the use by the purchaser or tax shelters, ...;"

(C) Clause 91(b)(i) of the Regulation requires that when a trade is made by an Issuer pursuant to the exemption set forth in subsection 91(b)(i)(B) or (C) of the Regulation on the basis of clause (i)(B) of the definition of a sophisticated purchaser as set forth in section 89 of the Regulation, the Issuer shall obtain from the purchaser a declaration which includes a statement that:

"The purchaser is a sophisticated purchaser and has the financial ability to withstand a loss which might occur as a result of an investment in the securities by reason of the fact that,

(A) The purchaser is an individual and has ...

(II) a minimum net worth of \$50,000.00, exclusive of home, car and furnishings and some income in the last taxation year which would have been taxed at a rate of 50% had it not been for the use by the purchaser of tax shelters ...;"

(D) As a result of amendments to The Income Tax Act (Manitoba) and the Income Tax Act (Canada) the highest marginal rate at which an individual may be taxed is less than 50% and therefore, an individual cannot qualify as a sophisticated purchaser as defined in clause (i)(B) of section 89 of the Regulation;

(E) The Commission is of the opinion that in light of the amendments to The Income Tax Act (Manitoba), it is not prejudicial to the public interest to grant the order requested.

It Is Ordered:

1. **THAT**, pursuant to section 20 of the Act an Issuer relying on the exemption set forth in paragraph 91(b) of the Regulation shall be exempt from the provisions of clause 91(b)(i) of the Regulation to the extent that clause 91(b)(i) of the Regulation requires:

(a) that in respect of sales to sophisticated purchasers who are individuals, that those individuals meet the criteria set forth in clause (i) of the definition of "sophisticated purchaser" in section 89 of the Regulation subject to the condition that each such individual has either,

(i) a minimum net worth of \$250,000, exclusive of home, car and furnishings, or

(ii) a minimum net worth of \$50,000, exclusive of home, car and furnishings and some income in the last taxation year which would have been taxed at the highest marginal rate applicable to individuals under The Income Tax Act (Manitoba) had it not been for the use by the individual of tax shelters;

(b) that the Issuer obtains from each purchaser in Manitoba a declaration prepared and executed in accordance with Form 25 of the Regulation subject to the condition that the Issuer obtains from each purchaser in Manitoba a declaration prepared and executed in accordance with Form 25 of the Regulation containing a statement substantially in the following form in lieu of that set forth in clause 5(ii)(A)(II) thereof:

"(II) a minimum net worth of \$50,000, exclusive of home, car and furnishings and some income in the last taxation year which would have been taxed at the highest marginal rate applicable to individuals under both The Income Tax Act (Manitoba) and the Income Tax Act (Canada) had it not been for the use by the purchaser of tax shelters."

By Order Of The Commission

April 18, 1989

Part X — Government Warrants

(Order No. 53/90)

Whereas:

(A) Section 19(2)(a)(i) of The Securities Act (the "Act") exempts from registration requirements under the Act trades in bonds, debentures or other evidences of indebtedness of, or the payment of the principal and interest of which is guaranteed by, the Government of Canada, the Government of any province of Canada, any municipal corporation in any province of Canada, The City of Winnipeg, The Municipality of Metropolitan Toronto, the Government of the United Kingdom or the Government of the United States of America ("Government Securities");

(B) Section 58(3)(a) of the Act exempts the primary distribution of Government Securities, inter alia, from the application of section 37 of the Act;

(C) There is no provision in the Act exempting trades of warrants ("Government Warrants") to acquire Government Securities from the registration and prospectus requirements under the Act;

(D) The Manitoba Securities Commission (the "Commission") is of the opinion that it is not prejudicial to the public interest to issue this order.

It Is Ordered:

1. **THAT**, pursuant to section 20 of the Act, sections 6 and 37 of the Act shall not apply to trades of Government Warrants issued by an issuer of Government Securities which Government Securities are exempt by virtue of section 19(2)(a)(i) of the Act provided that the securities resulting from the exercise of the said Government Warrants, themselves fall within the same exemption section of the Act as the original issue of Government Securities.
2. **THAT** there shall be no fee on this order.

By Order Of The Commission

March 9, 1990

Part XI — Self-Directed Registered Education Savings Plans - Revoked September 28, 2009

(Order No. 280/90)

Whereas:

(A) Application has been made on behalf of certain interested parties to The Manitoba Securities Commission (the "Commission") for an order pursuant to section 20 of The Securities Act (the "Act") exempting trades made in self-directed education savings plans which have been approved by Revenue Canada, Taxation pursuant to the provisions of the Income Tax Act (Canada) (the "ITA") and which subsequently become registered as a registered education savings plan under the ITA upon the requisite number of subscribers having been obtained (individually, a "Plan", collectively, the "Plans"), from the requirements of section 37 of the Act;

(B) The Plans are structured such that the contributions by a subscriber (the "Subscriber") to a Plan are not pooled with the contributions of other Subscribers, but rather, are deposited into an account in the name of the Subscriber and may be used, at the direction of the Subscriber, to purchase other investments as may be permitted under applicable law (the "Investments");

(C) The Subscriber maintains control and direction over the Plan which enables the Subscriber to direct how the assets of the Plan are to be held, invested or reinvested in a manner similar to self-directed registered retirement savings plans which are not subject to the registration and prospectus requirements of the Act;

(D) In order to qualify for registration as an education savings plan under the ITA prior to February 20, 1990, among other requirements, a promoter was required to file a prospectus with a securities commission in Canada;

(E) It has been proposed in the most recent federal budget that, effective February 20, 1990, a promoter not be required to file a prospectus with a securities commission in Canada in order to obtain registration of an education savings plan under the ITA where the promoter is otherwise exempt from the requirement to do so under applicable securities laws.

(F) The Commission is of the opinion that it would not be prejudicial to the public interest to grant this order.

It Is Ordered:

1. **THAT** pursuant to section 20 of the Act, trades made in a Plan are exempt from section 37 of the Act, provided that:

(a) the application form provided to a Subscriber for the purpose of establishing a Plan includes or is accompanied by a copy of the terms and conditions of the Plan and any additional documentation which may be necessary to provide disclosure of the income tax consequences of investing in a Plan, the responsibilities of the trustee under the Plan, the refund provisions of the Plan, the types of Investments in which the assets of the Plan may be invested or reinvested, the designation of a beneficiary under the Plan, the nature of any payments that may be made by the Plan to a beneficiary or otherwise and any fees and charges associated with investment in the Plan;

(b) that the contributions by a Subscriber to a Plan are not pooled with the contributions of other Subscribers, but rather, are deposited into an account in the name of the Subscriber and may be used at the direction of the Subscriber to purchase Investments.

By Order Of The Commission

October 12, 1990

Part XII — Auditor's Reports on Financial Statements

(Order No. 7/91)

Whereas:

(A) Section 46(1) of The Securities Act (the "Act") reads as follows:

"46(1) Except as otherwise provided in this Act, a prospectus shall contain a report on the financial statements contained therein of a person acceptable to the director who is the auditor of the company or of a subsidiary or is an accountant eligible for appointment as auditor of the company or of a subsidiary and, where financial statements of a business acquired or to be acquired are required or permitted, a report of a person acceptable to the director who is the auditor of the business or is accountant eligible for appointment as such auditor, which report shall be signed by the appropriate auditor or accountant and shall state whether in the opinion of such auditor or accountant the financial statements referred to therein present fairly the financial position of the company, the subsidiary or the business acquired or to be acquired, as the case may be, and the results of their respective operations for the years and periods under review in accordance with the generally accepted accounting principles applied on a consistent basis."

(B) Section 119(2) of the Act reads as follows:

"119(2) The financial statements referred to in section 120 shall be accompanied by a report of the auditor of the corporation who shall state in his report whether in his opinion the financial statements, other than the part thereof that relates to the period referred to in clause 120(1)(b), referred to therein present fairly the financial position of the corporation and the results of its operations for the period under review in accordance with the generally accepted accounting principles applied on a basis consistent with that of the preceding period."

(C) The Canadian Institute of Chartered Accountants (the "CICA") has recently adopted a new form of Auditor's Report on financial statements which no longer require the said Auditor's Report to state that the financial statements that are the subject of such Auditor's Report have been prepared on a basis consistent with the preceding period;

(D) The Commission, by its adoption of National Policy No. 27 in 1972, stated, in part, that it would regard pronouncements by the CICA to the extent set out in the "CICA Handbook" as "generally accepted accounting principles";

(E) The Manitoba Securities Commission (the "Commission") is of the opinion that until such time as the Act is amended to permit the said new form of Auditor's Report to be acceptable pursuant to sections 46(1) and 119(2) of the Act, a blanket exemption order should issue to permit the use of such new form of Auditor's Report;

(F) The Commission is of the opinion that it would not be prejudicial to the public interest to make this order and it is satisfied in this [the] circumstances of this particular case that there is adequate justification for so doing.

It Is Ordered:

1. **THAT**, pursuant to section 20 of the Act, a person preparing a report pursuant to section 46(1) of the Act shall be exempt from the requirement of section 46(1) of the Act that such a report state an opinion whether the financial statements that are the subject of such report have been prepared on a basis consistent with the preceding period, provided that such report is prepared in accordance with generally accepted auditing standards.

2. **THAT**, pursuant to section 131(1)(c) of the Act, a person preparing a report pursuant to section 119(2) of the Act shall be exempt from the requirement of section 119(2) of the Act that such a report state an opinion whether the financial statements that are the subject of such report have been prepared on a basis consistent with the preceding period, provided that such report is prepared in accordance with generally accepted auditing standards.

By Order Of The Commission

January 11, 1991

Part XIII — Lapse Date for Primary Distribution to the Public Pursuant to Initial Prospectuses of National Policy Statement No. 36 Mutual Funds

(Order No. 20/92)

Whereas:

(A) Application has been made by the director of The Manitoba Securities Commission (the "Commission") for an order pursuant to section 20 of The Securities Act (the "Act") exempting mutual funds (the "NP 36 Mutual Funds") using the Simplified Prospectus Qualification System set forth in National Policy Statement No. 36 ("NP 36") from the requirements of section 56 of the Act insofar as section 56 requires an NP 36 Mutual Fund to file a new prospectus with the Commission and obtain a receipt therefor from the director within 20 days of the expiration of a 12 month period running from the date of the issuance of the receipt of the preliminary prospectus relating to the primary distribution to the public of securities of the NP 36 Mutual Fund, subject to certain conditions;

(B) It has been represented to the Commission that:

1. Subsection 37(1) of the Act provides that no person or company shall trade in a security, either on his own account or on behalf of any other person or company, where the trade would be in the course of a primary distribution to the public of the security, until there have been filed with the Commission both a preliminary

prospectus and a prospectus in respect of the offering of the security and receipts therefor obtained from the director;

2. Section 56 of the Act provides that where a primary distribution to the public of a security is in progress twelve months from:

(a) the date of the issuance of the receipt from the preliminary prospectus relating to the security; or

(b) the date of the last prospectus relating to the security filed under section 56;

as the case may be, a new prospectus that complies with Part VII shall be filed with the Commission and a receipt therefor obtained from the director within 20 days from the expiration of the applicable 12 month period or, subject to such terms and conditions as the Commission may require, within such greater number of days as it may permit;

3. The Commission has received application (the "Section 56 Applications"), pursuant to section 56 of the Act from, or on behalf of NP 36 Mutual Funds, requesting extensions of the 12 month period described in section 56 for the primary distribution to the public of securities, in situations where a NP 36 Mutual Fund erroneously calculated the relevant 12 month period in accordance with the provisions of subsection 56(b) of the Act, when the calculation should have been made in accordance with the provisions of subsection 56(a) of the Act;

4. The staff of the Commission have consistently granted the relief sought in connection with the Section 56 Applications;

5. The provisions of section 56 of the Act provide that the 12 month period for a primary distribution to the public of a security of an issuer, pursuant to the initial prospectus of the issuer relating to such distribution, is to be calculated in relation to the date of the issuance of the receipt for the preliminary prospectus relating to the distribution because subsection 43(1) of the Act requires that the currency of the balance sheet of the issuer which forms part of the prospectus is to be calculated from the date of the issuance of the receipt for the preliminary prospectus;

6. The reasoning alluded to in paragraph 5 above is not applicable to NP 36 Mutual Funds because the documents which provide the disclosure required by the Simplified Prospectus Qualification System set forth in NP 36 include the most recent annual audited financial statements and such subsequent annual audited financial statements and unaudited interim financial statements as the NP 36 Mutual Funds are required to file with the Commission during the currency of the annual information form required pursuant to such system;

(C) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

It Is Ordered:

1. **THAT**, pursuant to section 20 of the Act, issuers of securities of NP 36 Mutual Funds, which are subject to the requirements of section 56 of the Act, shall be exempt from the requirements of section 56 of the Act insofar as section 56 requires an NP 36 Mutual Fund to file a new prospectus with the Commission and obtain a receipt therefor from the director within 20 days of the expiration of a 12 month period running from the date of the issuance of the receipt of the preliminary prospectus relating to the primary distribution to the public of securities of the NP 36 Mutual Fund, subject to the condition that in order to rely upon such exemption, a new prospectus of the NP 36 Mutual Fund, that complies with Part VII of the Act, shall be filed with the Commission and a receipt therefor obtained from the director within 20 days from the expiration of a 12 month period running from the date of the initial prospectus relating to the distribution of securities of the NP 36 Mutual Funds.

By Order Of The Commission

January 22, 1992

Part XIV — Dividend Reinvestment and Stock Dividend Plans - Revoked

(Order No. 111/92)

Whereas:

(A) Application has been made by the Director of The Manitoba Securities Commission (the "Commission") for an order pursuant to section 20 of The Securities Act (the "Act") exempting certain trades of securities in connection with certain plans (the "Plans") which have a dividend reinvestment component (the "Dividend Reinvestment-Component") and a securities purchase component (the "Stock Purchase Component") from the requirements of sections 6 and 37 of the Act;

(B) It has been represented to the Commission that:

1. A number of issuers ("Issuers") have implemented Plans which have a Dividend Reinvestment Component which permits securityholders of Issuers to direct that dividends or interest paid in respect of securities of an Issuer be applied to the purchase of additional securities of the Issuer rather than be paid to the securityholder in cash;
2. Clause 19(1)(h)(i) and clause 58(1)(b) of the Act exempt, from the registration and prospectus requirements of the Act respectively, trades made pursuant to the Dividend Reinvestment Component. Clause 191(h)(i) of the Act states, in part, "... registration is not required in respect of ... a trade in a security; (i) of [the

Issuer's] own issue that is distributed or issued by [the Issuer] to holders of its securities as a stock dividend or other distribution out of earnings or surplus". Clause 58(1)(b) of the Act exempts trades referred to in clause 19(1)(h)(i) of the Act from the prospectus requirements of the Act.

3. In addition to the Dividend Reinvestment Component, the Plans also permit securityholders of Issuers to purchase, pursuant to the Cash Purchase Component, a limited number of additional securities of the Issuer for cash;

4. Clause 19(l)(i) and clause 58(1)(b) of the Act exempt from the registration and prospectus requirements of the Act respectively, trades made pursuant to the Cash Purchase Components of the Plans, provided that:

"the [Issuer] has given the commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the [Issuer] on the basis of such additional securities being fully taken up and paid for, and either (i) the commission has not informed the [Issuer] in writing within 10 days of the giving of the notice that it objects to the sale; or (ii) information satisfactory to the commission relating to the securities has been delivered to and accepted by the commission;"

5. Schedule A of the Regulation (the "Regulation") to the Act provides that the fee for filing a notice under clause 19(l)(i) of the Act is \$250.00;

6. The Commission has received applications requesting that trades made pursuant to the Cash Purchase Component of the Plans be exempted from the requirements of sections 6 and 37 of the Act without the Issuers having to file with the Commission the notice required by subsection 19(l)(i) of the Act, and without the Issuers having to pay the \$250.00 fee as set forth in the Regulation;

(C) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

It Is Ordered:

1. **THAT**, pursuant to section 20 of the Act, trades of securities by an Issuer of equity securities pursuant to the Cash Purchase Component of a Plan which is made available by that Issuer to every holder of a class of publicly traded securities of such Issuer whose last address is shown on the books of such Issuer as being in the Province of Manitoba and which Plan:

(a) permits a securityholder of such class of securities to direct that dividends or interest payable in respect of securities of the Issuer's own issue be applied to the purchase from the Issuer of:

(i) publicly traded securities of the Issuer's own issue; or

(ii) other securities of the Issuer's own issue, not referred to in subclause (a)(i), that are redeemable at the option of the holder; and

(b) may include an option permitting a securityholder to purchase by cash payment, securities of the Issuer's own issue referred to in subclause (a)(i) so long as the aggregate number of securities issued pursuant to such option in any financial year of the Issuer does not exceed 2% of the issued and outstanding securities of the class to which the option relates at the commencement of such financial year,

shall be exempt from the provisions of sections 6 and 37 of the Act.

BY ORDER OF THE COMMISSION