

CANADIAN SECURITIES ADMINISTRATORS NOTICE 62-301

Implementation of the Zimmerman Amendments Governing the Conduct of Take-over and Issuer Bids

Amendments governing the conduct of take-over bids and issuer bids under securities legislation (colloquially known as the "Zimmerman Amendments") are intended to come into effect on March 31, 2001.

Background

On May 13, 1996 a committee of the Investment Dealers Association of Canada (the "Zimmerman Committee") commissioned to review take-over and issuer bid time limits issued its report setting out 14 recommendations. The Zimmerman Committee recommended, among other things, lengthening the minimum bid time periods to permit the target company and its shareholders more time to consider the bid and to seek other offers as well as giving offerors the option of commencing a take-over bid by way of advertisement.

The Canadian Securities Administrators (the "CSA") agreed to adopt the recommendations and established a committee to develop uniform wording for amendments in the eight jurisdictions with take-over and issuer bid provisions in their securities legislation. The committee completed its work in late 1997 and the first legislative amendments were passed in Alberta and British Columbia in 1998. The Zimmerman Amendments were subsequently passed in Ontario and Saskatchewan in 1999 and are either under consideration (in Quebec) or awaiting introduction in the other jurisdictions (Manitoba, Nova Scotia and Newfoundland).

The full text of the Zimmerman Amendments and consequential rule amendments in the case of British Columbia and Alberta, were published:

- in British Columbia: on June 19, 1998 (by NIN#98/28) and consequential rule amendments were published on August 21, 1998 (by NIN#98/51),
- in Alberta: on February 19, 1999 at 8 ASCS 397 and consequential rule amendments were published for comment on October 30, 1998 at 7 ASCS 3955 and in final form on February 19, 1999 at 8 ASCS 397,
- in Ontario: on December 24, 1999 at 22 OSCB 8395

and can be found on the following websites:

- British Columbia Securities Commission: www.bsc.bc.ca
- Alberta Securities Commission: www.albertasecurities.com
- Saskatchewan Securities Commission: www.ssc.gov.sk.ca/rules
- Ontario Securities Commission: www.osc.gov.on.ca

Implementation

The British Columbia, Alberta, Saskatchewan and Ontario Securities Commissions have asked their respective governments to proclaim the Zimmerman Amendments so that they come into effect March 31, 2001.

The Manitoba, Nova Scotia and Newfoundland Securities Commissions intend to implement the Zimmerman Amendments by way of blanket order as an interim measure pending passage of the necessary legislative amendments to implement the Zimmerman Amendments in each of the jurisdictions.

Interested parties should refer to the following websites for the full text of the particular blanket order:

- Manitoba Securities Commission: www.msc.gov.mb.ca
- Nova Scotia Securities Commission: www.gov.ns.ca/nssc/
- Newfoundland Securities Commission: www.nf.ca/gsl/cca/s/

The Commission des valeurs mobilières du Québec (the "CVMQ") is not in a position to implement the Zimmerman Amendments until such time as the legislative amendments necessary to implement the Zimmerman Amendments in Quebec have been passed. Interested parties should consult the CVMQ website (www.cvmq.com) for the CVMQ Notice on the status of the Zimmerman Amendments in Quebec.

In the event that the legislative amendments necessary to implement the Zimmerman Amendments in Quebec are not proclaimed by March 31, 2001, two take-over/issuer bid regimes will exist in Canada. Therefore, if a bid involves offeree shareholders in both Quebec and a jurisdiction that has implemented the Zimmerman Amendments, it will be necessary for bidders and targets to comply with both regimes.

Wherever differences between the regimes exist, the more onerous rules must be complied with. For example:

- a bid that is commenced by the delivery of the bid to security holders must, if made in both Quebec and a Zimmerman jurisdiction, allow at least 35 days from the date of the bid during which securities may be deposited to the bid.
- In the event that a bid is commenced in a Zimmerman jurisdiction by way of advertisement, bidders should indicate that the bid will not be made in Quebec, and is not capable of being accepted in Quebec, until such time as it is mailed to shareholders resident in Quebec.
- A bid must permit securities deposited to the bid to be withdrawn at any time prior to such securities being taken up by the offeror and a director's circular shall be prepared and delivered by the board of directors of an offeree issuer within 10 days of the date of the bid.

Parties must also keep in mind that:

- the "date" of the bid for securities law purposes may differ between the two regimes since the date of the bid could be the date that it is first advertised in a Zimmerman jurisdiction, while in Quebec the date of the bid will continue to be the date that it is mailed to offeree shareholders in Quebec.
- any securities taken up by an offeror under a bid must be paid for by the offeror as soon as possible, and in any event not more than three calendar days after expiry of the bid if it is made in Quebec, notwithstanding that the requirement in the Zimmerman jurisdictions is three business days.

Transition

If a bid is commenced prior to March 31, 2001 but is scheduled to expire after the implementation of the Zimmerman Amendments, the pre-Zimmerman bid rules will apply. The Zimmerman Amendments will apply in the Zimmerman jurisdictions to any bid commenced on or after March 31, 2001.

Questions regarding implementation of the Zimmerman Amendments may be directed to any of:

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