

**THE MANITOBA SECURITIES COMMISSION**

**NOTICE 2000-13**

**NATIONAL INSTRUMENT 62-102  
DISCLOSURE OF OUTSTANDING SHARE DATA**

***THE SECURITIES ACT***

**Notice of Rule**

Take notice that The Manitoba Securities Commission has, pursuant to section 1 of the Rule-Making Procedure Regulation, a regulation under *The Securities Act* (C.C.S.M. c. 50), (the "Act"), published for comment National Instrument 62-102 Disclosure of Outstanding Share Data ("National Instrument 62-102").

National Instrument 62-102 has been published for comment concurrently with National Instrument 62-101 Control Block Distribution Issues. National Instrument 62-103 The Early Warning System and Related Take-over Bid and Insider Reporting Issues has been enacted as a rule in Manitoba on April 12, 2000 pursuant to subsection 2(d) of the Rule-Making Procedure Regulation. In addition, 62-103 has been published for comment on the same date, April 12, 2000, pursuant to section 4, the saving provision, of the Rule-Making Procedure Regulation. National Instruments 62-101, 62-102 and 62-103 are referred to collectively as the Early Warning Instruments.

National Instrument 62-102, an initiative of the Canadian Securities Administrators ("CSA"), is expected to be adopted or has been adopted as a rule in each of British Columbia, Alberta, Manitoba, Ontario and Nova Scotia, as a Commission regulation in Saskatchewan, and as a policy in all other jurisdictions represented by the CSA.

The CSA published for comment a draft of the National Instrument, and the other Early Warning Instruments, in September 1998.<sup>1</sup> During the comment periods on the Early Warning Instruments, the CSA received submissions from a number of commenters. Three commenters commented specifically on National Instrument 62-102. The names of these commenters and the summary of their comments, together with the CSA responses to those comments, are contained in Appendix A of this Notice. Reference should be made to the Notice of Rule for each of National Instruments 62-101 and 62-103 for a summary and discussion of the specific comments on those instruments. In addition, some of the comments related generally to the Early Warning Instruments; those comments are summarized and discussed in the Notice of Rule for National Instrument 62-103.

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<sup>1</sup> In Ontario, at (1998) 21 OSCB 5645.

The version of National Instrument 62-102 published in 1998 is referred to in this Notice as the "1998 Draft".

As the result of consideration of the comments, the CSA have made a number of minor amendments to National Instrument 62-102 and the other Early Warning Instruments. However, as these changes are not material, the CSA are not republishing those instruments for a further comment period.

### **Substance and Purpose of National Instrument 62-102**

The primary purpose of the National Instrument is to ensure reliable public dissemination by reporting issuers of the designation and number or principal amount of outstanding securities of the reporting issuer. Reliable disclosure is essential for the purposes of the early warning requirements and the alternative monthly reporting system, contained in National Instrument 62-103.

### **Summary of Changes to National Instrument 62-102 from the 1998 Draft**

This section describes the substantive changes made in the National Instrument from the 1998 Draft. For a detailed summary of the contents of the 1998 Draft, reference should be made to the notice that was published with the 1998 Draft.

Section 4.1 has been added to provide that the National Instrument comes into force on March 15, 2000.

### **Comments**

**Interested parties in Manitoba are invited to make written submissions with respect to the proposed National Instrument. Submissions received by June 16, 2000 will be considered.**

Submissions and questions should be sent to:

The Manitoba Securities Commission  
c/o Nancy Martin  
Assistant Counsel  
1130-405 Broadway Avenue  
Winnipeg, Manitoba  
R3C 3L6

A diskette containing the submissions (in Wordperfect or DOS) should also be submitted. As securities Legislation in certain provinces requires that a summary of written comments received during the comment period be published, confidentiality cannot be maintained.

**Text of National Instrument 62-102**

The text of the National Instrument follows.

**DATED: April 12, 2000**

## **APPENDIX A**

### **SUMMARY OF COMMENTS RECEIVED ON DRAFT NATIONAL INSTRUMENT 62-102 AND RESPONSE OF THE CANADIAN SECURITIES ADMINISTRATORS**

#### **1. INTRODUCTION**

On September 4, 1998, the Canadian Securities Administrators (the "CSA") published for comment National Instrument 62-102 Disclosure of Share Data. National Instrument 62-102 was published concurrently with National Instrument 62-101 Control Block Distribution Issues and National Instrument 62-103 The Early Warning System and Related Take-over Bid and Insider Reporting Issues.

In this Notice, the version of the National Instrument 62-102 published in September 1998 is called the "1998 Draft" and the version published with this Notice is called the "National Instrument". National Instruments 62-101, 62-102 and 62-103 are collectively called the "Early Warning Instruments".

The CSA received three submissions on the 1998 Draft from the following two commenters:

- Canadian Bankers Association ("CBA")
- The Investment Funds Institute of Canada ("IFIC")
- Simon Romano ("Romano")

Copies of the comment letters may be viewed at the office of Micromedia, 20 Victoria Street, Toronto, Ontario (416) 312-5211 or (800) 387-2689; the office of the British Columbia Securities Commission, 200-865 Hornby Street, Vancouver, British Columbia (604) 899-6660; the office of the Alberta Securities Commission, 410-300 5th Avenue S.W., Calgary, Alberta (403) 297-6454; and the office of the Commission des valeurs mobilières du Québec, Stock Exchange Tower, 800 Victoria Square, 22nd Floor, Montréal, Québec (514) 940-2150.

In addition, the CSA received a number of comments on National Instrument 62-101 and 62-103, which are summarized and discussed in the Notices of Rule for those National Instrument published concurrently with this Notice. A number of the comments related generally to the Early Warning Instruments; reference should be made to the Notice of Rule for National Instrument 62-103, which contains a summary and discussion of those comments.

The CSA have considered the comments received and thank all commenters for providing their comments.

The following is a summary of the comments received, together with the CSA's responses and, where applicable, the proposed changes in response to the comments. Terms used in this summary that are defined in the National Instrument have the meanings ascribed to them in that Instrument.

## **2. COMMENTS**

### ***General***

IFIC, in commenting on the Early Warning Instruments generally, stated that the regime for disclosure of outstanding share data and the reliance that can be placed on that information, is extremely helpful.

### ***Special Warrants and Convertible Securities***

IFIC commented that, since 1996, securities regulatory authorities have allowed securityholders to "look through" special warrants to the actual ownership they represent of a reporting issuer. IFIC recommended that this approach be carried forward in the National Instrument.

### ***CSA Response***

The CSA have not made special provision for special warrants in the National Instrument and believe that outstanding special warrants should be disclosed in accordance with the requirements of section 2.1, thereby ensuring that the information about the number of special warrants outstanding and the number of securities for which they are exercisable is made public.

### ***Investment Funds***

The CBA sought clarification about the applicability of the National Instrument to investment funds.

### ***CSA Response***

The National Instrument will apply to investment funds to the same extent and on the same basis that it will apply to other issuers.

### ***Section 2.1***

Romano stated that paragraph 2.1(1)(b) refers to interim financial statements "sent" to securityholders, and asked whether this takes into account that under National Policy Statement No. 41-related deemed rule or blanket relief, these reports may not need to be sent to all securityholders.

Romano commented that perhaps a reference to "filing" rather than "sent" would be sufficient in this paragraph.

### ***CSA Response***

The CSA do not believe that the proposed change is necessary. It is noted that the provision does not require the supplement to be sent to "all" securityholders.