

**NATIONAL INSTRUMENT 62-101  
CONTROL BLOCK DISTRIBUTION ISSUES**

**PART 1        DEFINITIONS**

**1.1            Definitions - In this Instrument**

"control block distribution" means a trade to which the provisions of securities legislation listed in Appendix A apply; and

"information circular requirement" means the requirement, under some circumstances, to deliver an information circular under Policy Statement Q-12 Secondary Distribution through Solicitations under the *Securities Act* (Quebec).

**1.2            Interpretation - Terms defined or interpreted in National Instrument 62-103 The Early Warning System and Related Take-over Bid and Insider Reporting Issues and used in this Instrument have the respective meanings ascribed to them in National Instrument 62-103.**

**PART 2        PROSPECTUS EXEMPTION**

**2.1            Prospectus Exemption**

(1)    The prospectus requirement, and in Quebec only, the information circular requirement, does not apply to a control block distribution of securities issued by a reporting issuer made by an eligible institutional investor if

(a)    the eligible institutional investor

(i)    has filed the reports required under the early warning requirements or Part 4 of National Instrument 62-103 for the reporting issuer in connection with the current securityholding percentage of the eligible institutional investor in classes of voting and equity securities of the reporting issuer,

(ii)   does not have knowledge of any material fact or material change with respect to the reporting issuer that has not been generally disclosed,

- (iii) does not receive in the ordinary course of its business and investment activities knowledge of any material fact or material change with respect to the reporting issuer that has not been generally disclosed, and
  - (iv) either alone or together with any joint actors, does not possess effective control of the reporting issuer;
- (b) there are no directors or officers of the reporting issuer who were, or could reasonably be seen to have been, selected, nominated or designated by the eligible institutional investor or any joint actor;
  - (c) the control block distribution is made in the ordinary course of business or investment activity of the eligible institutional investor;
  - (d) if the trade was not a control block distribution, the securities would not be subject to any requirements of securities legislation requiring them to be held for a specified period of time; and
  - (e) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the control block distribution.
- (2) An eligible institutional investor that makes a distribution in reliance on subsection (1) shall file a letter within 10 days after the distribution that describes the date and size of the distribution, the market on which it was made and the price at which the securities being distributed were sold.

## 2.2

### **Pledges**

- (1) For purposes of a distribution of securities by a pledgee, the period of time referred to in the provision of securities legislation set out in Appendix B is considered to commence on the date that the pledgor acquired the securities being distributed.

- (2) If a pledgee is distributing securities, then for the purposes of the provisions of securities legislation set out in Appendix C
  - (a) a reference to a "seller" or "vendor" shall be construed as a reference to the pledgee; and
  - (b) the pledgee shall be considered to have held the securities being distributed for the applicable time period provided for in that provision.

**PART 3 EXEMPTION**

**3.1 Exemption**

- (1) The regulator or the securities regulatory authority may grant an exemption to this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

**PART 4 EFFECTIVE DATE**

**4.1 Effective Date** - This Instrument comes into force on \_\_\_\_\_, 2000.

**NATIONAL INSTRUMENT 62-101**  
**APPENDIX A**  
**CONTROL BLOCK DISTRIBUTIONS**

| <b>JURISDICTION</b>  | <b>SECURITIES LEGISLATION REFERENCE</b>   |
|----------------------|---|
| ALBERTA              | Clause 1(f)(iii) of the <i>Securities Act</i> (Alberta)   |
| BRITISH COLUMBIA     | Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (British Columbia)                              |
| MANITOBA             | Paragraph 1(b) of the definition of "primary distribution to the public" contained in subsection 1(1) of the <i>Securities Act</i> (Manitoba)               |
| NEW BRUNSWICK        | Paragraph (b) of the definition of "primary distribution to the public" contained in section 1 of the <i>Security Frauds Prevention Act</i> (New Brunswick) |
| NEWFOUNDLAND         | Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Newfoundland)   |
| NOVA SCOTIA          | Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Nova Scotia)  |
| ONTARIO              | Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (Ontario)                                       |
| PRINCE EDWARD ISLAND | Clause 1(b.1)(iii) of the <i>Securities Act</i> (Prince Edward Island)  |
| QUEBEC               | Policy Statement Q-12 Security Distribution through Solicitations under the <i>Securities Act</i> (Quebec)  |
| SASKATCHEWAN         | Subclause 2(1)(r)(iii) of <i>The Securities Act, 1988</i> (Saskatchewan)  |

**NATIONAL INSTRUMENT 62-101  
APPENDIX B**

| <b>JURISDICTION</b> | <b>SECURITIES LEGISLATION REFERENCE</b>                                    |
|---------------------|--|
| ALBERTA             | Subparagraph 112(1)(d)(iii) of the <i>Securities Act</i> (Alberta)         |
| BRITISH COLUMBIA    | Subparagraph 128(d)(iii) of the <i>Securities Rules</i> (British Columbia) |
| NEWFOUNDLAND        | Subsection 73(18) of the <i>Securities Act</i> (Newfoundland)              |
| ONTARIO             | Subsection 3.11(1) of Rule 45-501 Exempt Distributions                     |
| SASKATCHEWAN        | Subclause 81(10)(b)(iii) of <i>The Securities Act, 1988</i> (Saskatchewan) |

**NATIONAL INSTRUMENT 62-101**  
**APPENDIX C**

| <b>JURISDICTION</b> | <b>SECURITIES LEGISLATION REFERENCE</b>                                      |
|---------------------|--|
| NEWFOUNDLAND        | Subsection 73(19) of the <i>Securities Act</i> (Newfoundland)                |
| ONTARIO             | Subsection 3.11(2) of Rule 45-501 Exempt Distributions                       |
| SASKATCHEWAN        | Subclause 81(10)(b)(iv) of <i>The Securities Act, 1988</i><br>(Saskatchewan) |

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