

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA, QUÉBEC, NOVA
SCOTIA, PRINCE EDWARD ISLAND, NEW BRUNSWICK, NEWFOUNDLAND, THE
NORTHWEST TERRITORIES, NUNAVUT AND YUKON TERRITORY

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF CIBC MELLON TRUST COMPANY

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland, the Northwest Territories, Nunavut and the Yukon Territory (collectively, the "Jurisdictions") has received an application from CIBC Mellon Trust Company ("CIBC Mellon"), as an interested company, for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that:

1.1 a reporting issuer, or its equivalent (a "Participating Issuer") be exempted from the requirement of the Legislation that the form of proxy be executed where a proxy is delivered to the Participating Issuer by the Participating Issuer's registered holders of securities, or to CIBC Mellon on behalf of the Participating Issuer, pursuant to the CIBC Mellon Electronic Voting Procedures (as defined below); and,

1.2 intermediaries, as defined in National Policy Statement No. 41 ("NP 41") ("Intermediaries") and Participating Issuers on whose behalf CIBC Mellon receives voting instructions delivered to CIBC Mellon by non-registered holders of securities of a Participating Issuer pursuant to the CIBC Mellon Electronic Voting Procedures be exempt from the requirement of the Legislation that such instructions be written instructions;

2. AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System") the Alberta Securities Commission is the principal regulator for this application;

3. AND WHEREAS CIBC Mellon has represented to the Decision Makers that:

3.1 CIBC Mellon is a trust company organized under the laws of Canada and is fifty per cent owned by each of Canadian Imperial Bank of Commerce and Mellon Bank Canada. It is not a reporting issuer, or its equivalent, in any province or territory of Canada;

3.2 CIBC Mellon is a "service company" for the purposes of NP 41 that provides shareholder communication services as agent for issuers or other persons or companies required by law to communicate with security holders;

3.3 in connection with a meeting of a Participating Issuer's security holders (the "Meeting"), a Participating Issuer and Intermediaries are subject to the requirements of the Legislation with respect to the delivery to the Participating Issuer's registered and non-registered holders of securities (collectively, the "Security Holders") of certain proxy-related materials (the "Proxy-Related Materials") in connection with the Meeting;

3.4 a Participating Issuer and Intermediaries are also subject to the requirements of the Legislation that the form of proxy shall be executed and that voting instructions provided by the Participating Issuer's non-registered holders of securities to Intermediaries be in written form (the "Execution and Writing Requirements");

3.5 CIBC Mellon proposes to offer a Participating Issuer's Security Holders the option of delivering to CIBC Mellon, by electronic means, proxies and voting instructions pursuant to CIBC Mellon's electronic voting service procedures (the "CIBC Mellon Electronic Voting Procedures") in connection with the Meeting;

3.6 the platform for the CIBC Mellon Electronic Voting Procedures is currently provided by Automated Voice Link ("AVL"), a Pennsylvania corporation incorporated in 1991. AVL is the largest supplier of electronic proxy voting services for registered security holders in North America and its clients include transfer agents and proxy service companies serving thousands of corporate and mutual fund clients. AVL specializes in electronic proxy voting by touch-tone telephone and Internet and its system collects and records electronic instructions for tabulation by its clients. Proxy validation and tabulation procedures in connection with the CIBC Mellon Electronic Voting Procedures will be carried out by CIBC Mellon based on data received from AVL;

3.7 the material features of the CIBC Mellon Electronic Voting Procedures are as follows:

3.7.1 CIBC Mellon Electronic Voting Procedures will be offered in addition, and as alternatives, to the current system for recording and reporting Security Holder votes. Security Holders will be advised that they have a choice of methods to communicate their

votes and Security Holders who wish to communicate their proxies and voting instructions in paper form may do so;

3.7.2 instructions to access the CIBC Mellon Electronic Voting Procedures will be delivered to all Security Holders of a Participating Issuer. Security Holders that receive Proxy-Related Materials in electronic format under the CIBC Mellon Electronic Delivery Procedures or in paper format by mail will be provided with a toll-free telephone number and a Web site address for contacting the telephone voting site or voting Web page of the Participating Issuer on the AVL system;

3.7.3 screen-based instructions for Internet voting and verbal instructions for telephone voting will be accessible in the English and French language where the Proxy-Related Materials are available in both languages and will be available twenty-four hours a day during the period from the date the Proxy-Related Materials are delivered to the Participating Issuer's Security Holders in accordance with the Legislation to the date specified in the Proxy-Related Materials as the deadline for the deposit of proxies;

3.7.4 to access the telephone voting site or the voting Web site and to use the CIBC Mellon Electronic Voting Procedures, a Security Holder must initially enter a unique, confidential control number assigned to such Security Holder by CIBC Mellon and set out on the form of proxy or voting instruction form delivered to such Security Holder in connection with a Meeting. At this stage further instructions are provided and, in the case of a voting Web page, the Security Holder may also access the Participating Issuer's Proxy-Related Materials or other disclosure documentation by way of hyperlink from the AVL voting Web site to the Participating Issuer's Web site;

3.7.5 Security Holders are provided, either verbally or on-screen, with the recommendation of the board of directors of the Participating Issuer on each item to be voted upon at the Meeting. Security Holders are given the option of voting as the board recommends on each item or voting separately on each item. Security Holders that elect to vote separately on each item will, in the case of telephone voting, have read to them each item and their corresponding voting options or, in the case of Internet voting, will be required to complete a screen-based ballot that will be displayed;

3.7.6 Security Holders will complete their voting instructions by touch tone phone or by completing on-screen instructions or an on-

screen ballot. Security Holders are requested to verify their voting instructions before causing such instructions to be registered as their vote. Security Holders voting by Internet are presented with a voting summary screen recording their vote and control number that Security Holders may print out as a written record. A Security Holder's vote is recorded on AVL's mainframe. Voting data is transmitted by AVL to CIBC Mellon on a daily basis for validation and tabulation;

3.7.7 subsequent to casting their vote, Security Holders will be able to change their voting instructions for the Meeting by paper or electronic means using the same voting method or a different method from the one used to communicate their original voting instructions. Reconciliation procedures are in place to detect and account for votes communicated by more than one method by the same Security Holder in respect of the same securities. The last valid instruction by any means will be tabulated. Changes to voting instructions will be permitted in accordance with the time periods set out in applicable corporate law and as disclosed in the Proxy-Related Materials;

3.7.8 each voting instruction registered through the CIBC Mellon Electronic Voting Procedures will be recorded. The voting record will contain such details as the account number of the Security Holder (and, in the case of non-registered holders, the relevant Intermediary and corresponding account of the Security Holder at the Intermediary), the control number, date and time of receipt. The record will be retained in electronic format and may be used to generate a written copy in paper format on demand;

3.8 the CIBC Mellon Electronic Voting Procedures do not meet the Writing and Execution Requirements;

3.9 Participating Issuers and Intermediaries receiving and acting in accordance with Proxy-Related Materials in electronic format is consistent with the principles set out in National Policy 11-201—*Delivery of Documents by Electronic Means*, and with the delivery requirements for applicable Proxy-Related Materials under proposed National Instrument 54-101—*Communication with Beneficial Owners of Securities of a Reporting Issuer*;

3.10 the CIBC Mellon Electronic Voting Procedures are functionally equivalent to delivering voting instructions in writing and provide for the use of electronic signatures by use of unique, confidential control numbers, the opportunity to confirm that voting instructions were received correctly, and an electronic record of telephone voting to permit later verification and review;

3.11 the CIBC Mellon Electronic Voting Procedures improve the efficiency and competitiveness of the Canadian system for shareholder communications;

3.12 Canadian and U.S. markets are increasingly interdependent and electronic delivery and voting is already available to Canadian security holders of U.S. issuers;

3.13 the proposed CIBC Mellon Electronic Voting Procedures are well accepted and field-tested in the U.S. market;

4. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

6. THE DECISION of the Decision Makers pursuant to the Legislation is that, with respect to a Meeting:

6.1 a Participating Issuer be exempted from the requirement of the Legislation that the form of proxy be executed where a proxy is delivered by the Participating Issuer's registered holders to the Participating Issuer, or to CIBC Mellon on the Participating Issuer's behalf, pursuant to the CIBC Mellon Electronic Voting Procedures; and

6.2 Intermediaries on whose behalf CIBC Mellon receives voting instructions delivered to CIBC Mellon by a Participating Issuer's non-registered holders pursuant to the CIBC Mellon Electronic Voting Procedures be exempted from the requirement of the Legislation that such instructions be written instructions;

6.3 provided that this MRRS Decision Document shall terminate on the day that is three years after the date hereof.

DATED this 2nd day of April, 2001.

"original signed by"
Stephen P. Sibold, Q.C., Chair

"original signed by"
John W. Cranston, Member

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief granted to an interested company from the requirement that a form of proxy be executed by registered security holders, and from the requirement that voting instructions delivered by non-registered security holders to Intermediaries, as defined in National Policy Statement No. 41, be "written", where certain electronic voting procedures are used in connection with a meeting of security holders.

Applicable Alberta Statutory Provisions

Securities Act, S.A., 1981, c.S-6.1, as amended, s. 185 and National Policy Statement No. 41