

A.SC NOTICE 6

CLARIFICATION OF HOLD PERIODS FOR FLOW-THROUGH SECURITIES

1. INTRODUCTION

1.1 The Alberta Securities Commission (the “Commission”) has recently received various applications made pursuant to section 116 of the Alberta Securities Act (the “Act”) , where the applicant is issuing so-called “flow-through shares” pursuant to certain statutory exemptions at section 107(1) of the Act and sought clarification as to the commencement of the hold periods at section 109(3) of the Act. The questions that have most commonly been asked are:

1.1.1 When should the hold period at section 109(3) commence?

1.1.2 Should such a hold period commence from the date of acceptance of an investor’s subscription for the securities or should it commence upon the actual issuance of the “flow-through shares”?

1.2 In order to clarify this situation, the Commission has seen fit to issue this notice.

2. THE POSITION OF THE COMMISSION

2.1 The Commission takes the position that where an issuer proposes, pursuant to a statutory exemption at section 107(1) of the Act, to issue securities consisting of a right (the “Right”) to acquire another class of securities (the “Flow-Through Securities”) of that issuer, where the Flow-Through Securities would be issued upon the issuer incurring qualifying resources expenditures, the hold period that would be applicable to those Flow-Through Securities pursuant to section 109(3) of the Act commences from the date that the investor’s subscription of the Right is accepted by the issuer.

2.2 This position is taken by the Commission since it is of the opinion that an investor makes only one investment decision. That decision is made at the time the investor subscribes for his securities. He need make no further investment decision when the Flow-Through Securities are issued to him since the basis on which these Flow-Through Securities are to be issued should be set out in an offering memorandum that would be sent to him by the issuer in conjunction with the use of the section 107(1) exemptions.

3. CONCLUSION

3.1 As a result of this notice, most issuers utilizing any of the exemptions at section 107(1) of the Act in distributing Flow-Through Securities should not need

clarification of the commencement of the hold periods at section 109(3) of the Act. For those issuers that may still require clarification of the commencement of such hold periods, the Commission will entertain applications under section 116 of the Act.

- 3.2 Issuers should be aware that other jurisdictions may take a different position to that of the Commission in their treatment of Flow-Through Securities.

Effective date: March 15, 1987