

**ALBERTA SECURITIES COMMISSION
NOTICE**

***Blanket Order 45-506 Trades to Employees,
Senior Officers, Directors and Consultants***

April 30, 2002

Today, the Commission issued Blanket Order 45-506 *Trades to Employees, Senior Officers, Directors, and Consultants*. The Blanket Order has been issued to respond to the increasing number of applications for discretionary relief from the prospectus and registration requirements in regard to consultants. The Blanket Order is intended as an interim step. Commission staff expect to revisit the exemptions provided in the Blanket Order and to work with other jurisdictions in an attempt to provide greater harmonization, perhaps through a Multilateral or National Rule.

Statutory Exemptions

The Blanket Order does not remove or amend any of the current prospectus and registration exemptions in the *Securities Act* (Alberta) (the “Act”). The exemptions provided in the Blanket Order are in addition to the statutory exemptions. However, the Commission intends to recommend that the Alberta Legislature consider repealing the current employee exemptions at subsections 86(1)(u) and 131(1)(o) in Fall, 2002.

Key Features of the Blanket Order

The key features of the Blanket Order and the principal ways in which it differs from the existing statutory exemptions and corresponding resale restrictions are summarized below. Refer also to Appendix A to this Notice.

- An exemption has been provided for consultants.
- An issuer may issue securities directly to an employee, senior officer, director, or consultant (a “key person”) or to that key person’s RRSP, RRIF, holding entity, spouse, spouse’s RRSP, and spouse’s RRIF.
- Trades can be made between any of the following – a key person, the key person’s RRSP, RRIF or holding entity or the key person’s spouse, spouse’s RRSP or RRIF.
- An issuer can issue securities to an investor relations person provided that the investor relations person’s compensation is not tied to the volume of trading in the issuer’s securities or the issuer’s stock price.
- Securities issued under the Blanket Order by listed issuers are subject to a seasoning period under section 2.6 of Multilateral Instrument 45-102 *Resale of Securities* (“MI 45-102”).
- Securities issued by unlisted issuers under the Blanket Order to employees and consultants (other than investor relations persons) are also subject to a seasoning period. However, securities issued to directors, senior officers and investor relations persons of unlisted issuers can be subject to either a restricted period or a seasoning period. The securities generally will be subject to only a seasoning period if they are compensation or

incentive securities and the total number issued in the last 12 months is less than 10% of the outstanding securities or, either the plan under which they are issued, or the specific issuance has been approved by a majority of the disinterested shareholders of the issuer.

- The term investor relations persons is defined to include persons other than consultants. The resale restrictions applicable to investor relations persons are the same as those applicable to directors and senior officers.
- A *de minimus* exemption from the dealer registration requirements has been provided to allow the securities of foreign issuers, that are not reporting issuers, to be traded on a foreign market. This exemption parallels the prospectus exemption in section 2.14 of MI 45-102.
- An exemption has been provided for the conversion or exchange of convertible or exchangeable securities issued under the Blanket Order.
- A Form 20, report of trade is required in respect of various trades made under the Blanket Order. However, an alternative monthly or yearly reporting regime is available in certain circumstances for securities issued under a plan.

Responsibilities of Issuers

The Blanket Order permits investor relations persons to obtain securities from an issuer subject to certain restrictions regarding the investor relations person's compensation being tied to trading price or volume of trading of the issuer's securities. Historically, concerns have been expressed with regard to permitting certain investor relations consultants to obtain securities. However, the Commission has now determined that it is appropriate to provide exemptions to permit securities to be issued to investor relations persons. In the event that inappropriate or illegal activities are engaged in by investor relations persons or other key persons, those actions can be addressed through enforcement of existing provisions of Alberta securities laws.

Issuers and their key persons are reminded that the Act prohibits trading on inside information, tipping and market manipulation. In particular, issuers and their key persons are reminded that under the Act, it is generally an offence for:

- any person or company in a "special relationship" with a reporting issuer to purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed
- a reporting issuer or a person or company in a "special relationship" with the reporting issuer to "tip" another person, that is, to inform another person or company (other than where it is necessary in the course of business) of a material fact or material change with respect to the reporting issuer before the material fact or material change has been generally disclosed
- a person or company to make a statement with the intention of effecting a trade that the person or company knows or ought reasonably to know is a misrepresentation
- persons or companies to represent that they are offering to trade in a security at the market price or a price related to the market price, unless they reasonably believe that a market for the security exists that is not made, created or controlled by them, their

employer or an affiliate or by a person or company for whom they are acting in the transaction

- a person or company to directly or indirectly, trade in or purchase a security if the person or company knows or ought reasonably to know that the trade or purchase does one of the following:
 - creates or may result in a false or misleading appearance of trading activity
 - creates or may result in an artificial price, or
 - perpetrates or may perpetrate a fraud.

Issuers should consider educating their key persons regarding these prohibitions. Furthermore, before retaining key persons, issuers should consider investigating the qualifications, experience and past securities regulatory track record of the person or company. Misrepresentations, prohibited transactions and other inappropriate behaviour on the part of an issuer's key persons may create liability not only for the key person but also for the issuer. (Refer to Part 7, sections 146 and 147 and Parts 16 and 17 of the Act.)

Questions

If you have any questions, please contact:

Blaine Young
Legal Counsel
Alberta Securities Commission
400, 300 - 5th Avenue S.W.
Calgary, Alberta, T2P 3C4
Phone: (403) 297-4220
E-mail: blaine.young@seccom.ab.ca

or

Denise Hendrickson
Legal Counsel
Alberta Securities Commission
400, 300 - 5th Avenue S.W.
Calgary, Alberta, T2P 3C4
Phone: (403) 297-2648
E-mail: denise.hendrickson@seccom.ab.ca

Appendix A

