

ALBERTA SECURITIES COMMISSION

IN THE MATTER OF THE SECURITIES ACT
(S.A. 1981, C. S-6.1, AS AMENDED) (THE "ACT")

AND

IN THE MATTER OF NATIONAL POLICY STATEMENT NO. 45
- MULTIJURISDICTIONAL DISCLOSURE SYSTEM

ORDER AND RESOLUTION

*(SUBSECTION 116(1), SUBSECTION 123(b)(iii),
SUBSECTION 144(2)(c), SUBSECTION 184(2) OF THE ACT
AND SECTION 4 OF A.S.C. POLICY 7.1)*

1. WHEREAS the Director, Securities Analysis (the "Director") of the Alberta Securities Commission Agency (the "Commission Agency") has made an application to the Alberta Securities Commission Board (the "Commission Board") for the following orders with respect to distributions of securities effected in compliance with National Policy Statement No. 45, entitled "Multijurisdictional Disclosure System", as varied by the Commission Board or the Director (the "Policy"):
 - 1.1 an order pursuant to subsection 116(l) of the Act with respect to distributions of securities and the solicitation of expressions of interest in connection with distributions of securities effected in compliance with the Policy;
 - 1.2 an order pursuant to subsection 116(l) of the Act with respect to trades by issuers in rights to purchase additional securities of their own issue effected in compliance with the Policy;
 - 1.3 an order pursuant to subsection 123(b)(iii) of the Act with respect to the obligation of U.S. issuers (as defined in the Policy) to issue, file and publish a notice of material change as required under section 118 of the Act;
 - 1.4 an order pursuant to subsection 123(b)(iii) of the Act with respect to the delivery by certain U.S. issuers (as defined in the Policy) of financial statements required to be filed pursuant to section 120 and 121 of the Act as required under section 122 of the Act;
 - 1.5 an order pursuant to subsection 123(b)(iii) of the Act with respect to the requirements of U.S. issuers (as defined in the Policy) to prepare financial statements in accordance with generally accepted accounting principles and generally accepted auditing standards and to certify financial statements;
 - 1.6 an order pursuant to subsection 144(2)(c) of the Act with respect to take-over bids and issuer bids effected in compliance with the Policy;
 - 1.7 an order pursuant to subsection 184(2) of the Act with respect to the obligation to hold

meetings of security holders of U.S. Issuers (as defined in the Policy) as required under section 130 of the Act;

- 1.8 an order pursuant to subsection 184(2) of the Act with respect to the solicitation of proxies from holders of voting securities of U.S. issuers (as defined in the Policy) by persons or companies other than the issuer;
 - 1.9 an order pursuant to subsection 184(2) of the Act with respect to the obligation of insiders of U.S. issuers (as defined in the Policy) to file reports under sections 147 and 150 of the Act; and
 - 1.10 a resolution with respect to limitations on underwriting set forth in Alberta Securities Commission Policy 7.1 ("A.S.C. Policy 7.1") for certain distributions of securities affected in compliance with the Policy;
2. AND WHEREAS the Commission Board is of the opinion that to so order will remove unnecessary obstacles to certain cross-border securities transactions;
 3. AND WHEREAS the Commission Board is satisfied that to do so would not be prejudicial to the public interest;
 4. IT IS HEREBY ORDERED pursuant to subsection 116(l) of the Act that section 81 of the Act shall not apply:
 - (a) insofar as section 81 concerns the form and content of a preliminary prospectus and a prospectus filed under section 81 of the Act or communications by an auditor to the Commission Agency in connection with the inclusion in a preliminary prospectus or a prospectus of financial statements not reported on by the auditor, with respect to distributions of securities effected in compliance with the Policy;
 - (b) insofar as section 81 of the Act, together with sections 85 and 89 of the Act, concerns the form and content and circumstances of filing an amendment to a preliminary prospectus or amendment to a prospectus, with respect to distributions of securities effected in compliance with the Policy; and
 - (c) insofar as section 81 of the Act, together with section 97 of the Act, limits the duration of the distribution of securities pursuant to a prospectus, with respect to distributions of securities effected in compliance with the Policy and Rule 415 of the Securities Act of 1933 of the United States;

provided that:

- 4.1 a preliminary prospectus and a prospectus complying with the Policy are filed under

section 81 of the Act pursuant to and in accordance with the requirements and procedures set forth in the Policy;

- 4.2 such preliminary prospectus and prospectus are supplemented and amended, and any amendment to a preliminary prospectus or prospectus complying with the Policy is filed under section 85 and 89 of the Act, pursuant to and in accordance with the requirements and procedures set forth in the Policy; and
 - 4.3 the distribution of securities pursuant to such preliminary prospectus and prospectus otherwise complies with and is subject to the provisions of the Act;
5. AND IT IS FURTHER ORDERED pursuant to subsection 116(l) of the Act that section 81 of the Act shall not apply to the solicitation of expressions of interest with respect to distributions of securities effected in compliance with the Policy prior to the filing of a preliminary prospectus with respect to such securities, provided that:
- 5.1 the issuer of the securities has entered into an enforceable agreement with an underwriter whereby the underwriter has agreed to purchase the securities and which agreement has fixed the terms of the issue and requires the issuer to file with the securities regulatory authority of the jurisdiction selected as the principal jurisdiction, and obtain a receipt from it for, the preliminary prospectus within two business days from the date that the agreement is entered into by the parties thereto and to file with the securities regulatory authorities of all other jurisdictions in Canada in which the distribution is to be made, and obtain a receipt from them for, the preliminary prospectus within three business days from the date that the agreement is entered into by the parties thereto;
 - 5.2 once a receipt for the preliminary prospectus has been obtained, a copy of the preliminary prospectus is forthwith forwarded to any person who has expressed an interest in acquiring the securities;
 - 5.3 no contract of purchase and sale with respect to the securities shall be entered into until such time as the prospectus with respect to such securities has been filed and a receipt obtained for it from the Commission Agency pursuant to the Policy; and
 - 5.4 the Director has not advised the underwriter or the issuer in writing that it is not entitled to rely on the exemption set forth in this paragraph;
6. AND IT IS FURTHER ORDERED pursuant to subsection 116(l) of the Act that section 54 of the Act shall not apply to the trade by an issuer in a right granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right, with respect to trades of such securities effected in compliance with the Policy;

7. AND IT IS FURTHER ORDERED pursuant to subsection 123(b)(iii) of the Act that a U.S. issuer (as defined in the Policy), that has a class of securities listed on the New York Stock Exchange or the American Stock Exchange or quoted on the National Association of Securities Dealers Automated Quotation System shall be exempt from the obligation under section 118 of the Act to issue, file and publish a notice of material change, provided that:
 - 7.1 the issuer complies with the requirements of either such exchange or such system in respect of making public disclosure of material information on a timely basis; and
 - 7.2 any press release of such issuer that discloses a material change in its affairs is forthwith issued in Alberta and filed with the Commission Agency;

8. AND IT IS FURTHER ORDERED pursuant to subsection 123(b)(iii) of the Act that a U.S. issuer (as defined in the Policy) that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 of the United States (the "1934 Act") or is required to file reports pursuant to section 15(d) of the 1934 Act shall be exempt from the obligation under section 122 of the Act to send financial statements required to be filed pursuant to section 120 or 121 of the Act concurrently to each holder of its securities, other than debt instruments, whose last address as shown on the books of the issuer is in Alberta, provided that:
 - 8.1
 - (a) the issuer is a reporting issuer in Alberta solely as the result of distributions of securities effected in compliance with the Policy;
 - (b) the issuer meets the eligibility requirements specified in sections 3.3(1) and (2) of the Policy; or
 - (c) the issuer meets the eligibility requirements specified in sections 3.2(1) - (5) of the Policy and the issuer is a reporting issuer in Alberta solely as the result of distributions of securities that have an Approved Rating (as defined in the Policy) and meet the eligibility requirements of section 3.2(6) of the Policy; and
 - 8.2 the issuer sends to each holder of a class of its securities whose last address as shown on the books of the issuer is in Alberta any financial statements sent by the issuer or its agent to holders of securities of such class resident in the United States at the same time as they are sent to such holders resident in the United States;

9. AND IT IS FURTHER ORDERED pursuant to subsection 123(b)(iii) of the Act that a U.S. issuer (as defined in the Policy) that has a class of securities registered pursuant to section 12 of the 1934 Act or is required to file reports pursuant to section 15(d) of the 1934 Act shall be exempt from:
 - 9.1 the obligation under section 160 of the Regulation to the Act (the "Regulation") to approve financial statements required to be filed under section 121 of the Act;

- 9.2 the obligation under subsection 6(3) of the Regulation to state in the notes to the financial statements which option has been applied in the choice of generally accepted accounting principles; and
 - 9.3 the obligation under subsection 144(2) of the Regulation to prepare an auditor's report in accordance with generally accepted auditing standards;
10. AND IT IS FURTHER ORDERED pursuant to subsection 184(2) of the Act that an issuer that is a U.S. issuer (as defined in the Policy) and has a class of securities registered pursuant to section 12 of the 1934 Act shall be exempt from the obligation under section 130 of the Act;
11. AND IT IS FURTHER ORDERED pursuant to subsection 184(2) of the Act that a person or company that solicits proxies from holders of voting securities of a U.S. issuer (as defined in the Policy) that has a class of securities registered pursuant to section 12 of the 1934 Act shall be exempt from the requirements of section 124 of the Act and Part 12 of the Act, including the requirements of section 162 and Part 12 of the Regulation, except the requirements in section 168 of the Regulation, provided that such person or company:
 - 11.1 complies with the requirements of the 1934 Act and the rules and regulations thereunder relating to proxy statements, proxies and proxy solicitation;
 - 11.2 files with the Commission Agency all materials relating to the meeting that is filed with the Securities and Exchange Commission of the United States (the "SEC") in the manner set forth in the Policy; and
 - 11.3 sends to each holder of such securities whose last address as shown on the books of the issuer is in Alberta all material relating to the meeting that is sent or delivered to holders of such securities resident in the United States;
12. AND IT IS FURTHER ORDERED pursuant to subsection 144(2)(c) of the Act that an offeror making a take-over bid or issuer bid effected in compliance with the Policy shall be exempt from compliance with the following:
 - 12.1 section 134 and 134.1 of the Act, except subsection 134.1(2) where security holders of the offeree issuer whose last address as shown on the books of the issuer is in Canada, as determined in accordance with the Policy, hold 20% or more of any class of securities that is the subject of the bid;
 - 12.2 section 135 of the Act, except the requirement in subsection 135(a) and (b) to deliver the bid to all holders of securities of the class that is subject to the bid whose last address as shown on the books of the offeree issuer is in Alberta;
 - 12.3 section 135.1 of the Act;

- 12.4 section 136 of the Act;
- 12.5 section 137 and 137.1 of the Act, except
 - 12.5.1 the requirement in subsection 137(1) to deliver a take-over bid circular or issuer bid circular to all holders of securities of the class that is subject to the bid whose last address as shown on the books of the offeree issuer is in Alberta,
 - 12.5.2 the requirement in subsection 137(2) to deliver a notice of change to every person or company to whom the circular was required to be delivered and whose securities were not taken up at the date of the occurrence of the change, and
 - 12.5.3 the requirement in subsection 137.1(1) to deliver a notice of variation to every person or company to whom the circular was required to be delivered and whose securities were not taken up at the date of variation;
- 12.6 section 140 of the Act, except the requirement in subsections 140(1) and (2) to file any notice of change or variation;
- 12.7 sections 170 and 171 of the Regulation except with respect to a take-over bid circular in respect of an insider bid or an issuer bid circular where security holders of the offeree issuer whose last address as shown on the books of the issuer is in Canada, as determined in accordance with the Policy, hold 20% or more of any class of securities that is the subject of the bid;
- 12.8 section 177 of the Regulation except any requirement in Form 31 prescribed under such section that is applicable because:
 - 12.8.1 the take-over bid provides that the consideration for the securities of the offeree issuer is to be, in whole or in part, securities of the offeror or other issuer, unless the bid satisfies the eligibility requirements set forth in section 4.4 of the Policy; or
 - 12.8.2 the offeror anticipates that a going private transaction will follow the take-over bid;
- 12.9 section 180 of the Regulation, except any requirement in Form 34 prescribed under such section that is applicable because an issuer bid provides that the consideration for the securities of the issuer is to be, in whole or in part, different securities of the issuer, unless the bid satisfies the eligibility requirements set forth in section 4.4 of the Policy;
- 12.10 section 181.1 of the Regulation;
- 12.11 section 181.3 of the Regulation;

12.12 section 181.9 of the Regulation;

12.13 section 181.92 of the Regulation, except for the requirement therein to file in triplicate a circular or notice required under Part 12 of the Act;

provided that any delivery or filing by the offeror of any take-over bid circular or issuer bid or notice of -change or of variation under the Act shall be made in the circumstances and in the manner set forth in the Policy;

13. AND IT IS FURTHER ORDERED pursuant to subsection 144(2)(c) of the Act that the directors and individual directors and officers of an offeree issuer whose securities are the subject of a take-over bid or issuer bid effected in compliance with the Policy shall be exempt from compliance with the following:

13.1 sections 138,139 and 139.1 of the Act, except

13.1.1 the requirement in subsection 138(1) to deliver a directors' circular to every person or company to whom a take-over bid circular was required to be delivered,

13.1.2 the requirement in subsection 138(5) to deliver a notice of change to every person or company to whom the directors' circular was required to be delivered; and

13.1.3 the requirement in subsection 139(3) to deliver a copy of an individual directors' or officer's circular and a notice of change to every person or company to whom a take-over bid circular was required to be delivered;

13.2 section 140 of the Act, except the requirement in subsection 140(3) to file every directors' circular and every individual director's or officer's circular and any notice of change;

13.3 section 178 of the Regulation;

13.4 section 179 of the Regulation;

13.5 section 181.2 of the Regulation;

13.6 section 181.9 of the Regulation; and

13.7 section 181.92 of the Regulation, except the requirement therein to file in triplicate a circular or notice required under Part 12 of the Act,

provided that:

(a) the directors or individual directors or officers of the offeree issuer, as the case may be, comply with the Policy; and

- (b) any delivery or filing by the directors of the offeree issuer of any directors' circular or notice of change under the Act, or, as the case may be, by an individual director or officer of the offeree issuer of an individual director's or officer's circular or notice of change under the Act, shall be made in the circumstances and in the manner set forth in the Policy;

14. AND IT IS FURTHER ORDERED pursuant to subsection 184(2) of the Act that an insider of a U.S. issuer (as defined in the Policy), that has a class of securities registered pursuant to section 12 of the 1934 Act shall be exempt from the requirements to file reports under sections 147 and 150 of the Act provided that:

14.1 such insider files with the SEC on a timely basis all reports required to be filed with the SEC pursuant to section 16(a) of the 1934 Act and the rules and regulations thereunder;

15. AND IT IS HEREBY RESOLVED pursuant to section 4 of the A.S.C. Policy 7.1 that a distribution of securities of

- (a) a registrant,
- (b) a related issuer, or
- (c) an issuer which has any material indebtedness to the registrant or a related issuer of the registrant and the proceeds of the distribution or any portion thereof, are to be applied against such indebtedness ("Connected Issuer")

effected in compliance with the Policy shall be exempt from the requirements of section 6.2.4 of the A.S.C. Policy 7. 1;

16. AND IT IS FURTHER RESOLVED pursuant to section 4 of the A.S.C. Policy 7.1 that a distribution of securities of a registrant or a related issuer or Connected Issuer effected in compliance with the Policy shall be exempt from the requirements of sections 6.2.5 and 6.2.6 of the A.S.C. Policy 7.1, provided that:

16.1 if the distribution of securities effected in compliance with the Policy is made in both Canada and the United States, the aggregate of the portions of the distribution in Canada and the United States underwritten by at least one independent underwriter (as defined in the Policy) and its affiliates is not less than the aggregate of the portions of the distribution in Canada and the United States underwritten by dealers in respect of which the issuer is a related issuer or Connected Issuer or where a dealer is not a registrant, would be a Connected Issuer if the dealer were a registrant; and

16.2 if the distribution of securities effected in compliance with the Policy is made in Canada only, the aggregate of the portions of the distribution underwritten by at least one independent underwriter and its affiliates is not less than the aggregate of the portions of the distribution underwritten by dealers in respect of which the issuer is a related issuer or

Connected Issuer;

17. AND IT IS FURTHER ORDERED that the Director may permit, require, direct or prohibit any action, exempt from any requirement or accept any document in connection with the matters contained in the Policy of a similar nature as he is entitled to permit, direct, prohibit, exempt or accept, as the case may be, under the Act or the Regulation;
18. AND IT IS FURTHER ORDERED that these orders and resolution shall be effective as and from July 1, 1991

Dated at the City of CALGARY
in the Province of ALBERTA
this 6th day of June, 1991

ALBERTA SECURITIES COMMISSION BOARD