

NATIONAL POLICY No. 30
PROCESSING OF "SEASONED PROSPECTUSES"

The Administrators wish, in the interests of all concerned with the prospectus filing process, to endeavour to accelerate the review procedure where feasible. A number of issuers file prospectuses on a repetitive basis, or have prospectuses continuously in effect. The Administrators believe that processing of these prospectuses is one area in which the review procedure may be accelerated, particularly where the prospectuses are prepared in accordance with the high standard of care that is necessary to ensure compliance with statutory requirements.

For this purpose, a preliminary prospectus is a "seasoned prospectus" if it qualifies securities of:

- (a) a mutual fund refiling an already current prospectus;
- (b) any other issuer, apart from junior mining and oil exploration companies and other issuers of a speculative nature, which has filed a prospectus, the final receipt for which was dated not more than two years prior to the date of the preliminary receipt for the current issue.

To assist in the effort to accelerate processing of these prospectuses, when a preliminary prospectus that is a seasoned prospectus is filed, it should be accompanied by an extra copy thereof marked to show which sections did not appear in the preceding prospectus of the same issuer and, as to the other sections, to show where additions, deletions, or changes have been made. The prospectus should be accompanied by a certificate or certificates of lawyers, accountants, or other responsible persons. These certificates should, alone or together, refer to the entire prospectus and confirm that the markings accurately indicate the information they purport to indicate as to the relationship between the content of the newly filed prospectus and the previous prospectus of the same issuer.

The Administrators recognize that preparation of the extra marked copy and the accompanying certificate will involve some inconvenience for those responsible for filings, but the Administrators anticipate that resultant improvement in prospectus review procedures will compensate for this inconvenience.

This policy is applicable to filings made on or after December 5, 1978.

MEMORANDUM

From: The Ontario Securities Commission

To: The Director and Staff of the Commission

Re: "SEASONED PROSPECTUSES"

During the October meeting of the Canadian Securities Administrators, National Policy No. 30 was adopted, providing certain special procedures for the filing of "seasoned prospectuses". The policy requests that such prospectuses be accompanied, when filed, by copies showing where additions, changes or deletions have been made from the most recently filed prospectuses of the same issuer. The purpose of this memorandum is to outline the procedure that the Commission considers to be appropriate for the processing of seasoned prospectuses by our staff.

Section 61 of the Securities Act sets out certain situations in which the Director is under an obligation to refuse issuance of a final prospectus receipt. By definition, no prospectus will be a seasoned prospectus unless a final receipt for an earlier prospectus of the same issuer has been issued within the two preceding years. In the view of the Commission, experience indicates that situations are rare in which a seasoned prospectus contains a deficiency that is sufficiently serious to require that the Director reject the prospectus pursuant to section 61. These few situations ordinarily involve a matter that is quickly apparent from the newly-filed prospectus.

In view of the foregoing, the Commission suggests that upon receipt of a preliminary prospectus that is a seasoned prospectus and is accompanied by the material referred to in National Policy No. 30, the material be assigned to a qualified analyst who would conduct an examination sufficient to indicate whether any apparent change has developed since the prior filing which is of a nature to indicate that a problem may arise under section 61. The examination should, for example, include:

- S changes in disclosure from the prior prospectus;
- S attributes of the new issue of securities if different in a material respect from those qualified under the prior prospectus;
- S the significance of any material changes in financial position or of interest and asset coverage;
- S any material reorganization or non-arm's length transaction since the preceding final receipt; and

S any other relevant matters that expeditiously become apparent.

If any significant concern arises from this examination, then a full prospectus review should be conducted.

The Commission anticipates, and recognizes, that the examination outlined above will be comparatively limited, involving less detailed comments on at least some seasoned prospectuses than would be the case under current practice. In the Commission's judgement, this procedure will satisfy the responsibilities arising under the Act and will recognize that principal responsibility rests on those responsible for the preparation and filing of the prospectus. Further, the Commission anticipates that adoption of the procedure will contribute to a more effective use of our resources.

Copies of this memorandum are being supplied to the other securities administrators in Canada, with whom it has already been discussed. Where Ontario is designated as the principal jurisdiction for a seasoned prospectus being filed under National Policy No. 1, Ontario's comments thereon should be prefaced with a specific statement that the prospectus is a "seasoned prospectus", when these comments are transmitted to other jurisdictions. They will then assume that the prospectus has received only the limited review contemplated by this memorandum, unless the contrary is specifically stated.