

**NOTICE OF NATIONAL POLICY 62-201
AND RESCISSION OF NATIONAL POLICY STATEMENT NO. 37
BIDS MADE ONLY IN CERTAIN JURISDICTIONS**

Notice of National Policy

The Commission has adopted National Policy 62-201 Bids Made Only in Certain Jurisdictions and rescinded National Policy Statement No. 37 Take-Over Bids: Reciprocal Cease Trading Orders.

National Policy 62-201 comes into force and National Policy Statement No. 37 is rescinded on August 4, 1997.

Substance and Purpose of National Policy

The purpose of the National Policy is to address the policy concerns that arise from take-over bids or issuer bids that are made to all securityholders of a target company in one or more provinces or territories (referred to in the National Policy and this Notice as a "jurisdiction") but that are not made to securityholders of the target company in one or more other jurisdictions. The National Policy advises that the Canadian securities regulatory authorities in the jurisdictions in which the bid is made may issue cease trade orders in respect of such a bid.

The National Policy is an initiative of the Canadian Securities Administrators (the "CSA") and is being adopted as a policy in all the jurisdictions represented by the CSA. The National Policy is substantially similar to National Policy Statement No. 37 - *Take-Over Bids - Reciprocal Cease Trading Orders*, which it replaces. The only change of substance is the extension of the National Policy to issuer bids.

Terms used in the National Policy that are defined or interpreted in a definition instrument in force in the jurisdiction should be defined or interpreted in accordance with that definition instrument, unless the context otherwise requires.

Background

In the spring of 1985 the CSA published for comment a draft national policy statement on reciprocal cease trading orders. The draft policy reflected the concern of the CSA that securityholders in all jurisdictions have an equal opportunity to participate in a take-over bid. Securityholders are prejudiced and the framework for securities regulation in Canada frustrated if an offeror can avoid the Canadian securities legislation of a particular jurisdiction by making the bid in all other jurisdictions. The more sophisticated securityholders in the excluded jurisdiction are able to tender by moving their securities out of the jurisdiction while the remaining securityholders (usually those with small holdings) simply are not afforded the opportunity to tender. The offeror is thus able to avoid the securities requirements of the excluded jurisdiction without prejudice to the effectiveness of the bid as a whole.

After receiving and reviewing comments on the draft policy the CSA members adopted National Policy Statement No. 37 in the summer of 1986.

Summary of National Policy

The National Policy provides that if a take-over bid or issuer bid is made to securityholders of a target company in one or more jurisdictions, but is not made to securityholders in one or more other jurisdictions, the Canadian securities regulatory authorities in the jurisdictions in which the bid is made may issue cease trade orders in respect of the bid. The Canadian securities regulatory authorities will generally not do so without providing the

offeror an opportunity to address whether the bid offends the public policy considerations reflected in the National Policy and any other relevant considerations. In addition, the National Policy reminds market participants that if there is a minimal number of securityholders in a jurisdiction, the Canadian securities legislation in that jurisdiction may provide an exemption from that jurisdiction's take-over bid or issuer bid requirements, or an offeror may apply for an exemption on the basis that the bid will be made to the securityholders in accordance with requirements of another jurisdiction or foreign jurisdiction, the requirements of which are acceptable to the securities regulatory authority in the jurisdiction to whom the application is made.

Summary of Written Comments Received by the CSA

A draft of the National Policy was published for comment in the Ontario Securities Commission Bulletin on December 6, 1996 ((1996), 19 OSCB 6661). Certain of the other CSA members also published the draft for comment on or about that time. The CSA members received no written submissions with respect to the National Policy and no changes have been made from the draft.

National Policy

National Policy Statement No. 37 is replaced by the National Policy and will be rescinded August 4, 1997. The text of the National Policy follows.

Text of Rescission of National Policy Statement No. 37

The text of the rescission of National Policy Statement No. 37 is:

"National Policy Statement No. 37 entitled "Take-over Bids - Reciprocal Cease Trading Orders" is rescinded."

DATED: July 4, 1997.

NATIONAL POLICY 62-201**BIDS MADE ONLY IN CERTAIN JURISDICTIONS****PART 1 EQUAL TREATMENT OF SECURITYHOLDERS****1.1 Equal Treatment**

- (1) This Policy addresses the policy concerns that arise from take-over bids or issuer bids that are made to all securityholders of a target company in one or more jurisdictions but that are not made to securityholders of the target company in one or more other jurisdictions.
- (2) Each of the securities law statutes in Canada that specifically regulate take-over bids and issuer bids embodies the principle of equal treatment of securityholders of a target company. The Canadian securities regulatory authorities are concerned that the failure to make a bid to securityholders of a target company in one or more jurisdictions if the bid is made to securityholders in other jurisdictions is prejudicial to the interests of securityholders in the excluded jurisdictions. This practice is not consistent with the existing framework of securities regulation in Canada, which aims to ensure that all holders of securities of the target company in Canada are treated equally. In addition, the Canadian securities regulatory authorities are concerned that by not making an offer to securityholders of a target company in a jurisdiction, an offeror may effectively be able to evade the securities law requirements of that jurisdiction while still acquiring the securities held by securityholders in that jurisdiction. If a take-over bid or issuer bid is not made in a jurisdiction, securities of the target company may be easily moved to a jurisdiction in which the bid is made.
- (3) The Canadian securities regulatory authorities are of the view that by adopting this Policy, they are furthering the interests of securityholders in their respective jurisdictions and of a national capital market.

PART 2 CEASE TRADE ORDERS

- 2.1 Cease Trade Orders** - If a take-over bid or issuer bid is made to securityholders of a target company in one or more jurisdictions, but is not made to securityholders in one or more other jurisdictions, the Canadian securities regulatory authorities in the jurisdictions in which the bid is made may issue cease trade orders in respect of the bid. The Canadian securities regulatory authorities will generally not issue a cease trade order without providing the offeror an opportunity to address whether the bid offends the public policy considerations reflected in this Policy and any other relevant considerations.

PART 3 EXEMPTIONS

- 3.1 Exemptions** - If there is a minimal number of securityholders in a jurisdiction, the Canadian securities legislation in that jurisdiction may provide an exemption from that jurisdiction's take-over bid or issuer bid requirements, or an offeror may apply for an exemption on the basis that the bid will be made to the securityholders in accordance with requirements of another jurisdiction or a foreign jurisdiction whose requirements are acceptable to the Canadian securities regulatory authority in the jurisdiction to which the application is made. Generally,

in the latter case, there will be considered to be a minimal number of securityholders in a jurisdiction if the number of registered holders of securities of the class subject to the bid is fewer than 50 and the securities held by the securityholders constitute less than two percent of the outstanding securities of that class.

PART 4

EFFECTIVE DATE

4.1

Effective Date - This National Policy comes into force on August 4, 1997.