

ALBERTA SECURITIES COMMISSION

DESIGNATION ORDER

Citation: Re Designation, 2014 ABASC 464

Date: 20141118

Definitions

1. Terms defined in the *Securities Act* (Alberta) (the **Act**) have the same meaning in this Designation Order.
2. "**Restriction**" means either an order issued under section 33, 33.1, 194 or 198 of the Act or an undertaking given to the Alberta Securities Commission (the **Commission**) or to the Executive Director:
 - (a) which was issued or given prior to, and was outstanding on, 31 October 2014; and
 - (b) under which one or more of the following was prohibited or restricted:
 - (i) trading in or purchasing in respect of a security or an exchange contract;
 - (ii) trading in, or trading in or purchasing, securities, exchange contracts, specified securities, or a class of securities or exchange contracts; and
 - (iii) advising in securities or exchange contracts.

Background

3. On 31 October 2014 the *Securities Amendment Act, 2014* came into force and made the following terminological changes to the Act (the **Terminological Changes**):
 - (a) section 2(b) added a new definition, of "derivative", as section 1(n.01) of the Act;
 - (b) section 2(c) repealed section 1(s) of the Act, which defined "exchange contract";
 - (c) reference to "derivative" was substituted for each reference in the Act to "exchange contract";
 - (d) section 2(i) amended the definition of "security" in section 1(ggg) of the Act; and
 - (e) section 4(b) amended section 10 of the Act, granting the Commission authority to designate a derivative to be a security.

Order

4. The Commission, considering that it would not be prejudicial to the public interest to do so in order to ensure continuity in the scope and effect of Restrictions notwithstanding the Terminological Changes, orders under section 10 of the Act, with effect as of 31 October 2014, that for the purpose of a Restriction

- (a) any obligation to make or take future delivery of
 - (i) a commodity,
 - (ii) a security, or
 - (iii) cash if the amount of cash is derived from, or by reference to, a variable, including
 - (A) a price or quote for a commodity or security,
 - (B) an interest rate,
 - (C) a currency exchange rate, or
 - (D) an index or benchmark

is designated not to be a derivative and is designated to be a security;

- (b) any item or thing that is an option, except for an option that was immediately prior to 31 October 2014 an exchange contract, is designated not to be a derivative and is designated to be a security; and
- (c) where a Restriction expressly referred to exchange contracts or a class of exchange contracts, the referenced exchange contracts or class of exchange contracts are designated not to be derivatives and are designated to be securities, and the Restriction shall be read as though those references were to securities or a class of securities respectively.

For the Commission:

“original signed by”

 Tom Cotter
 Vice-Chair

“original signed by”

 Stephen Murison
 Vice-Chair