

**NATIONAL INSTRUMENT 62-101
CONTROL BLOCK DISTRIBUTION ISSUES**

“PART 1 DEFINITIONS

“1.1 Definitions

In this Instrument:

‘control block distribution’ means a trade to which the provisions of securities legislation listed in Appendix A apply; and

‘information circular requirement’ means the requirement, under some circumstances, to deliver an information circular under Policy Statement Q-12 Secondary Distribution through Solicitations under the *Securities Act* (Quebec).

“1.2 Interpretation

Terms defined or interpreted in National Instrument 62-103 The Early Warning System and Related Take-over Bid and Insider Reporting Issues and used in this Instrument have the respective meanings ascribed to them in National Instrument 62-103.

“PART 2 PROSPECTUS EXEMPTION

“2.1 Prospectus Exemption

(1) The prospectus requirement, and in Quebec only, the information circular requirement, does not apply to a control block distribution of securities issued by a reporting issuer made by an eligible institutional investor if:

(a) the eligible institutional investor:

(i) has filed the reports required under the early warning requirements or Part 4 of National Instrument 62-103 for the reporting issuer in connection with the current securityholding percentage of the eligible institutional investor in classes of voting and equity securities of the reporting issuer;

(ii) does not have knowledge of any material fact or material change with respect to the reporting issuer that has not been generally disclosed;

(iii) does not receive in the ordinary course of its business and investment activities knowledge of any material fact or material change with respect to the reporting issuer that has not been generally disclosed; and

(iv) either alone or together with any joint actors, does not possess effective control of the reporting issuer;

(b) there are no directors or officers of the reporting issuer who were, or could reasonably

be seen to have been, selected, nominated or designated by the eligible institutional investor or any joint actor;

(c) the control block distribution is made in the ordinary course of business or investment activity of the eligible institutional investor;

(d) if the trade was not a control block distribution, the securities would not be subject to any requirements of securities legislation requiring them to be held for a specified period of time; and

(e) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the control block distribution.

(2) An eligible institutional investor that makes a distribution in reliance on subsection (1) shall file a letter within 10 days after the distribution that describes the date and size of the distribution, the market on which it was made and the price at which the securities being distributed were sold.

“2.2 Pledgeses

(1) For purposes of a distribution of securities by a pledgee, the period of time referred to in the provision of securities legislation set out in Appendix B is considered to commence on the date that the pledgor acquired the securities being distributed.

(2) If a pledgee is distributing securities, then for the purposes of the provisions of securities legislation set out in Appendix C to this National Instrument:

(a) a reference to a ‘seller’ or ‘vendor’ shall be construed as a reference to the pledgee; and

(b) the pledgee shall be considered to have held the securities being distributed for the applicable time period provided for in that provision.

“PART 3 EXEMPTION

“3.1 Exemption

(1) The regulator or the securities regulatory authority may grant an exemption to this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Notwithstanding subsection (1), in Ontario only the regulator may grant such an exemption.

**“APPENDIX A
CONTROL BLOCK DISTRIBUTIONS**

JURISDICTION	SECURITIES LEGISLATION REFERENCE
ALBERTA	Subclause 1(f)(iii) of the <i>Securities Act</i> (Alberta)
BRITISH COLUMBIA	Clause (c) of the definition of ‘distribution’ contained in subsection 1(1) of the <i>Securities Act</i> (British Columbia)
MANITOBA	Clause 1(b) of the definition of ‘primary distribution to the public’ contained in subsection 1(1) of the <i>Securities Act</i> (Manitoba)
NEW BRUNSWICK	Clause (b) of the definition of ‘primary distribution to the public’ contained in section 1 of the <i>Security Frauds Prevention Act</i> (New Brunswick)
NEWFOUNDLAND	Subclause 2(1)(1)(iii) of the <i>Securities Act</i> (Newfoundland)
NOVA SCOTIA	Subclause 2(1)(1)(iii) of the <i>Securities Act</i> (Nova Scotia)
ONTARIO	Clause (c) of the definition of ‘distribution’ contained in subsection 1(1) of the <i>Securities Act</i> (Ontario)
PRINCE EDWARD ISLAND	Subclause 1(b.1)(iii) of the <i>Securities Act</i> (Prince Edward Island)
QUEBEC	Policy Statement Q-12 Secondary Distribution through Solicitation under the <i>Securities Act</i> (Quebec)
SASKATCHEWAN	Subclause 2(1)(r)(iii) of <i>The Securities Act, 1988</i> (Saskatchewan)

“APPENDIX B

JURISDICTION

SECURITIES LEGISLATION REFERENCE

ALBERTA

Subclause 112(1)(d)(iii) of the *Securities Act* (Alberta)

BRITISH COLUMBIA

Subclause 128(d)(iii) of the *Securities Rules* (British Columbia)

NEWFOUNDLAND

Subsection 73(18) of the *Securities Act* (Newfoundland)

ONTARIO

Subsection 3.11(1) of Rule 45-501 Exempt Distributions

SASKATCHEWAN

Subclause 81(10)(b)(iii) of *The Securities Act, 1988* (Saskatchewan)

“APPENDIX C

JURISDICTION	SECURITIES LEGISLATION REFERENCE
NEWFOUNDLAND	Subsection 73(19) of the <i>Securities Act</i> (Newfoundland)
ONTARIO	Subsection 3.11(2) of Rule 45-501 Exempt Distributions
SASKATCHEWAN	Subclause 81(10)(b)(iv) of <i>The Securities Act, 1988</i> (Saskatchewan)