

GENERAL RULING/ORDER 43-902
EXEMPTION FROM UNDERWRITER REGISTRATION REQUIREMENT

IN THE MATTER OF
THE SECURITIES ACT, 1988, SS 1988, c. S-42.2

AND

IN THE MATTER OF THE UNDERWRITER REQUIREMENT IN CLAUSE 27(1)(b) OF THE ACT AND
CLAUSE 65(1)(d) OF *THE SECURITIES REGULATIONS*

RULING & ORDER
(clause 83(1)(a) and section 160)

WHEREAS an application has been received by the Director of the Saskatchewan Securities Commission (the "Commission") from the staff of the Commission for a ruling pursuant to clause 83(1)(a) of *The Securities Act, 1988* (the "Act") and for an order pursuant to section 160 of the Act that the provisions of clause 27(1)(b) of the Act and clause 65(1)(d) of *The Securities Regulations* do not apply to a person or company named as underwriter in connection with a distribution of securities under a preliminary prospectus and prospectus that has been filed with the Commission (the "Distribution")

AND WHEREAS it has been represented to the Director that:

1. clause 27(1)(b) states that no person or company shall act as an underwriter unless they are registered as an underwriter;
2. clause 65(1)(d) of *The Securities Regulations* states that where a preliminary prospectus names an underwriter to the issuer who proposes to act as an underwriter in Saskatchewan and who is not a registrant:
 - (a) the receipt for the preliminary prospectus shall not issue until an application for registration has been received; and
 - (b) the receipt for the prospectus shall only be issued concurrently with or after the granting of registration;

AND WHEREAS the Director is of the opinion that it would not be prejudicial to the public interest to make this ruling and order;

IT IS HEREBY RULED pursuant to clause 83(1)(a) of the Act that the requirement in clause 27(1)(b) of the Act to register as an underwriter shall not apply to a person or company who is an underwriter in connection with a Distribution provided that the person or company is registered as a dealer in the province or territory of Canada where its head office is located (the "Home Jurisdiction") in the category of investment dealer;

AND IT IS HEREBY ORDERED pursuant to section 160 of the Act that the provisions of clause 65(2)(d) do not apply to a person or company who is an underwriter in connection with a Distribution provided that:

1. after the preliminary receipt has issued in respect of the Distribution the person or company shall not solicit, accept subscriptions or engage in any other act or activity that would constitute a trade or trading in the securities in Saskatchewan except through dealers which are registered in Saskatchewan as investment dealers;
2. the person or company and its officers and directors have provided an irrevocable undertaking to the Commission to:
 - (a) produce in Saskatchewan at its expense forthwith following the request of the Director of the Commission (the "Director") all books, papers, documents, records and correspondence that are in its possession, control or power in connection with or arising from its business in Saskatchewan and to use its best efforts to obtain any necessary consents in the event the laws of the Home Jurisdiction prohibit the production of such books, papers, documents, records and correspondence except with the consent of a regulatory body in the Home Jurisdiction;
 - (b) produce in Saskatchewan at the person or company expense forthwith following the request of the Director, the person or company's officers, director or employees as witnesses to give evidence on oath or otherwise;
 - (c) forthwith following the request of the Director appoint an agent for service in Saskatchewan that is acceptable to the Director; and
3. the person or company and its officers and directors have irrevocably:
 - (a) attorned to the jurisdiction of the Commission and the courts of Saskatchewan in connection with any action or inquiry arising out of the Distribution; and
 - (b) waived any defence on the ground that the Commission is exercising any power under the Act extra-territorially in connection with any action or inquiry arising out of the Distribution.

AND IT IS FURTHER ORDERED for greater certainty that this ruling and order is an exemption for the purposes of clauses 7.2.2(c) and 7.4.4(c) of National Policy 43-201 Mutual Reliance Review System for Prospectuses and Annual Information Forms.

DATED November 9, 2001.

"Barbara Shourounis"

Barbara Shourounis
Director