

Notice No. 67

IN THE MATTER OF THE
SECURITIES ACT, R.S.N.S. 1989, CHAPTER 418, AS AMENDED

- and -

IN THE MATTER OF
EXEMPTIVE RELIEF PENDING THE ADOPTION
OF A NATIONAL OR MULTILATERAL INSTRUMENT

NOTICE

1. Background - National and Multilateral Instruments which are made rules by the Commission usually become effective in Nova Scotia on a later date than applies in major jurisdictions in Canada. This results from the Commission's desire to ensure that the Instrument has received all required approvals in the major jurisdictions before being submitted to the Governor in Council in Nova Scotia for non-disapproval. This ensures that the Governor in Council has the benefit of comments received on the Instrument by a major jurisdiction which has adopted the Instrument as a rule. Where the Instrument is relieving in nature or provides increased flexibility to market participants, that relief or increased flexibility would not be available in Nova Scotia during the period following its adoption in other jurisdictions and it becoming effective in Nova Scotia. Blanket Order No. 51 is intended to facilitate transactions which occur during that interim period.
2. Approach - Blanket Order No. 51 sanctions transactions which occur during the interim period where the transactions would have been in compliance with an Instrument were that Instrument a rule of the Commission.
3. Application - Blanket Order No. 51 applies to an Instrument in respect of which the Commission has given notice on its website that it intends to make the Instrument a rule. The Order can only have application to Instruments which are relieving in nature because subsection 151A(1) of the Act only confers jurisdiction on the Commission to grant

exemptions and therefore does not extend to mandating conduct.

4. Timing of Withdrawal of Notice - Blanket Order No. 51 provides that it ceases to apply to an Instrument if the Commission has withdrawn the notice which made the Order applicable to the Instrument in the first place. To add certainty, a withdrawal of a notice will not become effective until two business days after the withdrawal notice is posted on the Commission's website. The date of the posting of the withdrawal notice will be contained in the notice.

5. Circumstances Governing Withdrawal Notice - There are essentially four circumstances in which a notice may be withdrawn. These are:

(a) The Commission makes a determination not to proceed with making the proposed rule.

(b) The Instrument becomes a rule of the Commission which is in effect.

(c) The proposed rule is disapproved by the Governor in Council.

(d) The Governor in Council returns the rule to the Commission for further consideration.

The first three circumstances will always result in a withdrawal notice being posted. In the event of the fourth circumstance the Commission will make a determination of whether to withdraw the notice after consulting with the Minister and appropriate government officials to ascertain whether there is a substantive concern or only a timing matter which resulted in the return.

6. Effect of Withdrawal Notice - The posting of a withdrawal notice on the Commission's website will not affect transactions effected before the posting or within two business days following the posting.

DATED at Halifax, Nova Scotia, this 10th day of October, 2001.

NOVA SCOTIA SECURITIES COMMISSION

"Robert B. MacLellan"

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"R. Daren Baxter"

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"H. Leslie O'Brien"

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