

IN THE MATTER OF THE SECURITIES ACT, 1990
S.N. 1990, CHAPTER 48 (the "Act")

and

IN THE MATTER OF
THE FIRST TRADE IN SECURITIES
ACQUIRED PURSUANT TO CERTAIN EXEMPTIONS

RULING
(Subsection 75(1))

UPON the application of certain interested parties to the Director of Securities (the "Director") pursuant to the powers conferred on the Director by section 146 of the Act for a ruling pursuant to subsection 75(1) of the Act;

AND WHEREAS:

1. Pursuant to subsections 73(5) and 73(12) of the Act, the first trade in securities acquired under the exemptions contained in subparagraph 73(1)(h)(i) and paragraphs 73(1)(i) and 73(1)(n) of the Act is a distribution except where:
 - (a) the issuer of the securities is a reporting issuer and has been a reporting issuer for at least twelve months or, in the case of securities acquired under paragraph 73(1)(i), one of the amalgamating or merged corporations or one of the continuing corporations has been a reporting issuer for twelve months and the issuer is not in default of any requirement of this Act or the regulations made thereunder;
 - (b) disclosure to the Securities Commission of Newfoundland has been made of its exempt trade; and
 - (c) 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 trade;

AND UPON the Director being satisfied that to so rule would not be prejudicial to the public interest;

IT IS RULED pursuant to subsection 75(1) of the Act that section 54 of the Act shall not apply to a trade in a security previously acquired under an exemption contained in subparagraph 73(1)(h)(i) or paragraph 73(1)(i) or 73(1)(n) of the Act provided that:

- (a) The issuer of the security or either of the amalgamating or merged corporations:
 - (i) is incorporated, organized or continued under the laws of a jurisdiction other than Canada or a province thereof;
 - (ii) is subject to the requirements of the *Securities Exchange Act of 1934* of the United States of America (the "1934 Act"); and
 - (iii) is not exempt from the reporting requirements of the 1934 Act pursuant to Rule 12g 3-2 made under the 1934 Act;
- (b) At the time of the acquisition of the security that is the subject of such a first trade residents of Newfoundland hold not more than 5% of the outstanding securities of the particular class and the number of Newfoundland residents holding securities is not more than 5% of the total number of holders of securities of the particular class;
- (c) Such first trade is executed:
 - (i) through the facilities of a stock exchange outside of Canada, or;
 - (ii) in the over-the-counter market in the United States of America (the "U.S.A") if securities of the class being traded are quoted on the National Association Securities Dealers' Automated System at the time of such trade;
- (d) Such first trade is made in accordance with the rules of the stock exchange or market upon which the trade is made and in accordance with all laws applicable to such stock exchange or market; and
- (e) All disclosure material relating to the issuer furnished to securityholders resident in the U.S.A. is furnished to securityholders resident in Newfoundland.

DATED at St. John's, Newfoundland this 8th day of October, 1991.

GEORGE F. KENNEDY
Director of Securities