

**IN THE MATTER OF THE SECURITIES ACT
R.S.N. 1990, CHAPTER S-13 (the "Act")**

AND

**IN THE MATTER OF
DIVIDEND REINVESTMENT
AND
STOCK DIVIDEND PLANS**

**R U L I N G
(Section 75)**

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, in respect of dividend reinvestment and share purchase plans;

AND UPON it appearing to the Director that:

1. Pursuant to subparagraph 73(1)(f)(i) and paragraph 36(1)(l) of the Act (the "existing exemptions"), a trade by an issuer of equity securities pursuant to certain dividend or interest reinvestment or stock dividend plans is not subject to section 26 and 54 of the Act;
2. Most dividend or interest reinvestment plans and stock dividend plans include an added feature (the "cash payment option") which allows the participants to make cash payments to purchase additional securities of the issuer beyond the amount of the dividend or interest payable to such participants (such a dividend or interest reinvestment or stock dividend plan being referred to herein as a "combined plan"); and
3. The existing exemptions are not available with respect to securities issued pursuant to a combined plan because of the cash payment option;

AND UPON being satisfied that the making of this ruling would not be prejudicial to the public interest;

IT IS RULED pursuant to subsection 75(1) of the Act that section 26 or 54 of the Act shall not apply to a trade (the "subject trade") made by an issuer of equity securities pursuant to a combined plan, provided that:

1. Either:
 - (a) in any financial year of the issuer, the aggregate number of securities issued pursuant to the cash payment option of such combined plan does not exceed 2% of the number (at the commencement of the financial year) of the outstanding securities of the class of securities that is available for purchase under the cash payment option;or
 - (b) at the time of the subject trade, residents of Newfoundland hold not more than 5% of the outstanding securities of the class available for purchase under the cash payment option of such combined plan;
2. The issuer is a reporting issuer not in default under the Act or is recognized for the purpose of this ruling by the Director or is an issuer described in section 4 of this ruling; and
3.
 - (a) The first trade in the securities acquired by the seller pursuant to a combined plan shall be made in compliance with subsection 73(5) of the Act, as if the securities had been acquired pursuant to one of the exemptions referred to in subsection 73(5) of the Act; and
 - (b) Such a first trade is not a distribution as defined in subparagraph 2(1)(m)(iii) of the Act;

AND IT IS RULED that:

4. Notwithstanding paragraph 3 of this ruling, a first trade in the securities acquired by the seller pursuant to a combined plan shall not be subject to section 54 of the Act provided that:
 - (a) the issuer of the securities
 - (i) is incorporated, organized or continued under the laws of a jurisdiction other than Canada or a province thereof;
 - (ii) is registered with the Securities and Exchange Commission in the United States of America (the "U.S.A.") under the *Securities Exchange Act* of 1934 of the U.S.A. (the "1934 Act"); and
 - (iii) is not exempt from the reporting requirements of the 1934 Act pursuant to Rule 12g 3-2 made under that Act;

- (b) At such time of the acquisition of the securities that are the subject of such a first trade, residents of Newfoundland held not more than 5% of the outstanding 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 U.S.A. if shares of the class being traded are quoted on the National Association Securities Dealers Automated System at the time of such trade; and
- (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 the applicable laws of the jurisdiction where the stock exchange or market is located.

DATED at St. John's, Newfoundland this 16th day of June, 1992.

GEORGE F. KENNEDY
Director of Securities