

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

AND

**IN THE MATTER OF
TRADING IN RECOGNIZED OPTIONS CLEARED
THROUGH RECOGNIZED CLEARING ORGANIZATIONS**

**ORDER AND BLANKET RULING
(Section 144 and Subsection 75(1))**

WHEREAS there is in effect an order (the "Recognized Options Rationalization Order") wherein the Director of Securities (the "Director") (formerly, the Registrar of Deeds, Companies and Securities) ruled that trades in Recognized Options cleared through Recognized Clearing Organizations (as defined in the Recognized Options Rationalization Order) are not subject to sections 26 or 54 of the Act subject to the conditions therein set forth;

AND WHEREAS the Recognized Options Rationalization Order has been amended on various occasions;

AND WHEREAS it is desirable to amend the Recognized Options Rationalization Order by revoking the Recognized Options Rationalization Order and the amendments made thereto and by making and publishing a definitive and comprehensive version of the Recognized Options Rationalization Order incorporating all amendments made thereto;

AND WHEREAS section 144 of the Act allows the Securities Commission of Newfoundland (the "Commission") by order to revoke or vary decisions made by it under the Act or the regulations made thereunder;

AND WHEREAS section 146 of the Act authorizes the Director to exercise the powers of the Commission until such time as the members of the Commission are appointed;

AND WHEREAS the Director is of the opinion that to so rule would not be prejudicial to the public interest;

IT IS ORDERED pursuant to section 144 of the Act that the following orders and rulings of the Director shall be revoked as and from the date that this order and ruling is signed:

- (i) order dated September 5, 1991 entitled In The Matter of the Recognized Options Rationalization Order; and
- (ii) blanket order dated November 5, 1992 entitled In The Matter of the Recognized Options Rationalization Order;

AND IT IS RULED pursuant to subsection 75(1) of the Act that the following is substituted therefor:

B L A N K E T R U L I N G
Subsection 75(1)

UPON the motion of the Director of Securities (the "Director") pursuant to the powers conferred on the Director by section 146 of the *Securities Act*, R.S.N. 1990, chapter S-13, as amended (the "Act") for a blanket ruling pursuant to subsection 75(1) of the Act, that trades in Recognized Options (as hereinafter defined) cleared through Recognized Clearing Organizations (as hereinafter defined) are not subject to section 26 or 54 of the Act;

IT IS RULED pursuant to subsection 75(1) of the Act that:

- (a) Section 54 of the Act shall not apply to trades in Recognized Options (as hereinafter defined) cleared through Recognized Clearing Organizations (as hereinafter defined) provided that prior to the making of any such trades by a Recognized Dealer (as hereinafter defined) with a customer, such Recognized Dealer shall have sent by prepaid mail or shall have delivered to the customer a copy of the Disclosure Statement for Recognized Market Options approved by the Director for use by the Recognized Clearing Organizations, a copy of which is attached hereto as Schedule "A" and, where the trade is in capped index options, capped stock index options and capped international index options, a copy of the CIO Disclosure Document approved by the Director for use by the Recognized Clearing Organizations, a copy of which is attached hereto as Schedule "B";
- (b) For the purposes of this order and ruling, the following are Recognized Clearing Organizations:
 - (i) Trans Canada Options Inc. ("TCO")
 - (ii) International Options Clearing Corporation ("IOCC");
 - (iii) The Options Clearing Corporation ("OCC"); and
 - (iv) The Intermarket Clearing Corporation ("ICC");
- (c) For the purposes of this order and ruling, the following are Recognized Options:
 - (i) equity options currently or in the future traded on one or more of The Toronto Stock Exchange (the "TSE"), The Montreal Exchange (the "ME") and the Vancouver Stock Exchange (the "VSE") and cleared through TCO;
 - (ii) debt options and index options currently traded on one or more of the TSE, the ME and the VSE and cleared through TCO;
 - (iii) debt options and precious metal options currently traded on The Toronto Futures Exchange (the "TFE") and cleared through TCO;

- (iv) precious metal options and currency options currently traded on one or more of the ME, the VSE, the European Options Exchange (the "EOE") and the Australian Stock Exchange (Sydney) and cleared through IOCC or TCO;
- (v) equity options, debt options, currency options, index options, stock index options, international index options, Eurodollar time deposit options and gold bullion options currently or in the future traded on one or more of the American Stock Exchange, the Chicago Board Options Exchange, the New York Stock Exchange, the Pacific Stock Exchange, the Amex Commodities Corporation, the Philadelphia Stock Exchange, the Philadelphia Board of Trade, the EOE, and the automated quotation system of the National Association of Securities Dealers and cleared through OCC or ICC, capped index options, capped stock index options and capped international index options;

provided that any Recognized Option shall cease to be a Recognized Option if a material change shall be made in the contract specifications to such option which the Director refuses to accept within ten (10) business days of the filing with the Director of notice of the material change;

- (vi) options on participation units currently traded on the TSE and cleared through TCO;
- (d) Any additional option traded or to be traded on a market and cleared through a Recognized Clearing Organization shall become a Recognized Option for the purposes of this order and ruling if the Director has not informed the Recognized Clearing Organization in writing, within ten (10) business days of the filing with the Director of the contract specifications for that additional option, that the Director refuses to accept the additional option as a Recognized Option for the purposes of this order and ruling;
- (e) A clearing organization may be recognized by the Director as a Recognized Clearing Organization for the purposes of this order and ruling upon the application to the Director by such clearing organization or any other person;
- (f) Section 26 of the Act shall not apply to trades in Recognized Options, other than Recognized Options on equities and on other securities for which registration for trading such underlying securities is generally required under the Act, provided that trades are effected through Recognized Dealers;
- (g) Section 26 of the Act shall not apply to advice given with respect to Recognized Options, other than Recognized Options on equities and on other securities for which registration for trading such underlying securities is generally required under the Act, provided that advice is given through a registered adviser under either the Act or through a person or company for whom registration as an adviser is not required to be obtained under the Act;

- (h) Any person trading in and/or rendering advice with respect to Recognized Options, other than Recognized Options on equities and on other securities for which registration for trading such underlying securities is generally required under the Act, as a salesman, partner or officer of a dealer registered under the Act or as an adviser in the category of investment counsel and portfolio manager registered under the Act:
 - (i) shall be registered in that capacity under the Act; and
 - (ii) shall have successfully completed the Canadian Options Course or there shall have been filed no later than November 30, 1984, with the Director a letter from such dealer or such adviser listing such person as having experience in trading options (whether exchange traded or otherwise);
- (i) For the purposes of this order and ruling, the following are Recognized Dealers:
 - (i) dealers who are registered under the Act, and who are members of a Recognized Self-regulatory Organization (as hereinafter defined);
 - (ii) persons or companies who are members of a Recognized Self-Regulatory Organization which is a market, and who are subject to the rules and by-laws of that market which have been non-disapproved by the Director provided that such persons or companies are effecting trades in Recognized Options solely on behalf of hedgers (as hereinafter defined); and
 - (iii) with respect to options traded on the TFE and cleared through TCO, persons or companies who are Restricted Trader Members or who are Unrestricted Trader Members of the TFE, as defined in the By-laws of the TFE, acting in accordance with the By-laws of the TFE;
- (j) For the purposes of this order and ruling, a hedger is:
 - a person or company who carries on agricultural, mining, forestry, processing, manufacturing or other commercial activities and, as a necessary part of these activities, becomes exposed from time to time to a risk attendant upon fluctuations in the price of an underlying interest and offsets that risk through trading in options for the underlying interest or related underlying interests whether or not any particular trade is effected for that purpose, but a person or company is a hedger only as to trades in options for such underlying interest or related underlying interests;
- (k) For the purposes of this order and ruling, the following are Recognized Self-Regulatory Organizations:
 - (i) The Alberta Stock Exchange (the "ASE");

- (ii) the TSE;
 - (iii) the TFE;
 - (iv) the ME, including the International Options Market and Mercantile Division;
 - (v) the VSE;
 - (vi) The Winnipeg Commodity Exchange (the "WCE"); and
 - (vii) the Investment Dealers Association of Canada;
- (l) Persons who are not members of a Recognized Self-Regulatory Organization may, with the consent of the Recognized Self-Regulatory Organization, be recognized in writing by the Director as deemed members of that Recognized Self-Regulatory Organization for the purposes of this order and ruling;
- (m) A Recognized Clearing Organization may appeal any decision of the Director under this order and ruling to a judge of the Trial Division of the Supreme Court of Newfoundland;
- (n) the Recognized Clearing Organizations shall provide to the Director:
- (i) within 150 days of the end of their respective fiscal years, their respective audited financial information for the most recent fiscal year then ended;
 - (ii) forthwith, and in any event within five (5) days of the approval of a material change to the specifications of any Recognized Option by the governing body of the Recognized Clearing Organization, details of such material change to the specifications of any Recognized Option; and
 - (ii) forthwith, and in any event within five (5) days of the occurrence of a material change to information previously provided to the Director respecting incorporation, principal or registered office, officers, directors, and shareholders, details of said material change;
- (o) This order and blanket ruling may be known as the Recognized Options Rationalization Order.

DATED at St. John's, Newfoundland this 4th day of January, 1995.

GEORGE F. KENNEDY
Director of Securities