

## 6.1.2 Proposed Amendment to N.I. 14-101 - Definitions

### NOTICE OF PROPOSED AMENDMENT TO NATIONAL INSTRUMENT 14-101 DEFINITIONS

#### Substance and Purpose of Proposed Amendment

National Instrument 14-101 Definitions (the "National Instrument"), which was adopted by each of the jurisdictions of the Canadian Securities Administrators (the "CSA") and came into force on April 1, 1997<sup>1</sup>, was designed to achieve three purposes. First, the National Instrument was intended to provide a national approach to interpretation of national instruments and increase the level of consistency in both interpretation and application of national instruments. Second, the National Instrument was intended to provide a framework of terms the definitions of which the CSA have agreed upon for use in future national instruments. Third, the National Instrument set out commonly used terms, such as "Canadian GAAP", definitions of terms necessary to provide local application of a national instrument such as "securities regulatory authority" and definitions of terms used in more than one national instrument, although not used as frequently as some of the more general terms.

At the time the National Instrument was published for comment, it was expected to be amended from time to time to add definitions of new terms that meet any of these three criteria. The purpose of the proposed amendment is to add a number of definitions of additional terms to the National Instrument, modify subsection 1.1(2) to refer to one or more jurisdictions rather than a single jurisdiction and to extend the application of the National Instrument to Multilateral Instruments. A Multilateral Instrument is an instrument typically adopted by more than one CSA member, but not all CSA members.

#### Summary of Proposed Amendment

The proposed amendment to the National Instrument would add a number of definitions of new terms to the National Instrument so that those terms would be defined for the purposes of national instruments. The proposed amendment also changes the reference to the Northwest Territories in Appendix C of the National Instrument and also modifies slightly the definitions of "1933 Act" and "1934 Act". The proposed amendment also amends section 1.1 to add reference to "multilateral instruments" so that the National Instrument applies to Multilateral Instruments. The proposed amendment also modifies subsection 1.1(2) to refer to one or more jurisdictions rather than a single jurisdiction.

Most of the terms to be added to the National Instrument through this amendment are generic terms that describe specific provisions of Canadian securities legislation in a manner that avoids using specific section numbers of any particular statute and that can therefore be used in any jurisdiction. Those terms include "adviser registration

requirement", "dealer registration requirement", "insider reporting requirement", "networking notice requirement", "prospectus requirement", "registration requirement" and "underwriter registration requirement". By defining these terms in this manner, national instruments can be drafted to make reference only to these terms without having to list the applicable provisions of each jurisdiction's securities legislation.

In addition, the proposed amendment would add the terms "equity security", "issuer bid", "multilateral instrument", "take-over bid" and "U.S. federal securities laws" to the National Instrument.

#### Authority for the Proposed Amendment

The proposed amendment contains no substantive provisions of its own and only sets out terms that are used in other national instruments or multilateral instruments. In Ontario, the proposed amendment derives its authority from the individual heads of authority relating to the national instruments or multilateral instruments in which the terms to which the proposed amendment pertains are used.

In Ontario, subsection 143(1) of the Securities Act (Ontario) provides the Commission with the authority to make rules in which the terms defined in the proposed amendment will be used.

#### Unpublished Materials

In proposing this amendment, the CSA have not relied on any significant unpublished study, report or other written material.

#### Alternatives Considered

No alternatives to the proposed amendment were considered.

#### Anticipated Costs and Benefits

The proposed amendment does not impose any costs. It is expected to provide a benefit to investors, industry participants and others by providing more certainty on the application and interpretation of terms used in rules by the Commission.

#### Regulations to be Amended

The proposed amendment does not require any regulation to be amended.

#### Comments

Interested parties are invited to make written submissions with respect to the proposed National Instrument. Submissions received by December 11, 1998 will be considered.

Submissions should be sent to all of the Canadian securities regulatory authorities listed below in care of the Ontario Commission, in duplicate, as indicated below:

<sup>1</sup> In Ontario, published at (1997), 20 OSCB 1727.

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Securities Commission  
Manitoba Securities Commission  
Ontario Securities Commission  
Office of the Administrator, New Brunswick  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Department of Government Services and Lands,  
Newfoundland  
Registrar of Securities, Government of Northwest  
Territories  
Registrar of Securities, Government of Yukon

c/o Daniel P. Iggers, Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 800, Box 55  
Toronto, Ontario M5H 3S8

Submissions should also be addressed to the Commission des  
valeurs mobilières du Québec as follows:

Claude St. Pierre, General Secretary  
Commission des valeurs mobilières du Québec  
800 Victoria Square  
Stock Exchange Tower  
P.O. Box 246, 17th Floor  
Montréal, Québec H4Z 1G3

A diskette containing the submissions (in DOS or Windows  
format, preferably WordPerfect) should also be submitted. As  
securities legislation in certain provinces requires that a  
summary of written comments received during the comment  
period be published, confidentiality of submissions cannot be  
maintained.

Questions may be referred to any of:

Melody Schalm  
Legal Counsel  
British Columbia Securities Commission  
(604) 899-6644

David Sheridan  
Legal Counsel  
Alberta Securities Commission  
(403) 297-2630

Barbara Shourounis  
Director  
Saskatchewan Securities Commission  
(306) 787-5645

Susan Greenglass  
Legal Counsel, Policy Coordinator's Office  
Ontario Securities Commission  
(416) 593-8140

Rosetta Gagliardi  
Policy Advisor  
Commission des valeurs mobilières du Québec  
(514) 873-5326

## Proposed Amendment

The text of the proposed amendment follows.

**DATED: September 11, 1998.**

**AMENDMENT TO  
NATIONAL INSTRUMENT 14-101  
DEFINITIONS**

**PART 1 AMENDMENTS**

**1.1 Amendments**

(1) National Instrument 14-101 Definitions is amended by

(a) adding the words "or multilateral instrument" after the words "national instrument" every place they appear in section 1.1 except in the definition of "national instrument";

(b) deleting subsection 1.1(2) and replacing it with the following:

(2) A provision or reference within a provision of a national instrument or multilateral instrument that specifically refers by name to one or more jurisdictions other than the local jurisdiction shall not have any effect in the local jurisdiction, unless otherwise stated in the national instrument or multilateral instrument.;

(c) amending the definition of "1933 Act" in subsection 1.1(3) by adding the words ",as amended from time to time" following the word "America";

(d) amending the definition of "1934 Act" in subsection 1.1(3) by adding the words ",as amended from time to time" following the word "America";

(e) adding the following definition to subsection 1.1(3) after the definition of "1934 Act":

"adviser registration requirement" means the requirement in securities legislation that prohibits a person or company from acting as an adviser unless the person or company is registered in the appropriate category of registration under securities legislation;

(f) adding the following definitions to subsection 1.1(3) after the definition of "CSA":

"dealer registration requirement" means the requirement in securities legislation that prohibits a person or company from trading in a security unless the person or company is registered in the appropriate category of registration under securities legislation;

"equity security" has the meaning ascribed to that term in securities legislation;

(g) adding the following definitions to subsection 1.1(3) after the definition of "implementing law of a jurisdiction":

"insider reporting requirement" means the requirement in securities legislation for an insider of a reporting issuer to file reports disclosing the insider's direct or indirect beneficial ownership of, or control or direction over, securities of the reporting issuer;

"issuer bid" has the meaning ascribed to that term in securities legislation;

(h) adding the following definition to subsection 1.1(3) after the definition of "local jurisdiction":

"multilateral instrument" means an instrument described by the CSA as a multilateral instrument, and adopted or made by the securities regulatory authority;

(i) adding the following definition to subsection 1.1(3) after the definition of "national instrument":

"networking notice requirement" means the requirement in securities legislation that a registrant give written notice to the securities regulatory authority or regulator before entering into a networking arrangement;

(j) adding the following definitions to subsection 1.1(3) after the definition of "person or company":

"prospectus requirement" means the requirement in securities legislation that prohibits a person or company from distributing a security unless a preliminary prospectus and prospectus for the security have been filed and receipts obtained for them;

"registration requirement" means the requirement in securities legislation that prohibits a person or company from trading in a security or acting as an underwriter or an adviser unless the person or company is registered in the appropriate category of registration under securities legislation;

(k) deleting the word "and" following the definition of "securities regulatory authority" in subsection 1.1(3) and adding the following definitions to subsection 1.1(3) after the definition of "SRO":

"take-over bid" has the meaning ascribed to that term in securities legislation;

"underwriter registration requirement" means the requirement in securities legislation that prohibits a person or company from acting as an underwriter unless the person or company is registered in the appropriate category of registration under securities legislation; and

"U.S. federal securities law" means the federal statutes of the United States of America concerning the regulation of securities markets and trading in securities and the regulations, rules, forms and schedules under those statutes, all as amended from time to time; and

- (l) replacing the words "Securities Registry, Government of the Northwest Territories" opposite "Northwest Territories" in Appendix C with the words "Registrar of Securities, Northwest Territories".

## **PART 2 EFFECTIVE DATE**

- 2.1 Effective Date** - This Amendment comes into force on ●.