

Scotia Capital Inc.
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November 9, 2004

John Stevenson
Secretary to the Commission
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M5H 3S8

Dear Mr. Stevenson:

**Re: Response to Notice and Request for Comments
Proposed OSC Proposed Rule 48-501 (the " Proposed Rule")
Trading During Distributions, Formal Bids and Share Exchange
Transactions**

On behalf of Scotia Capital Inc., please accept our comments in relation to proposed OSC Rule 48-501 regarding trading during distributions, formal bids and share exchange transactions.

Termination of the Dealer-Restricted Period

Proposed OSC Rule 48-501 defines the termination of the "dealer-restricted period" as the date the selling process ends and all stabilization arrangements relating to the offered security terminates. We are of the view that the termination of the proposed restricted period is inconsistent with Reg M and may lack sufficient clarity.

Under Reg M, the restricted period ends upon the completion of a dealer's participation in the distribution. The distribution period, and corresponding restricted period, does not extend to the completion of all stabilization arrangements and the exercise of overallotment options. In other words, dealer-restricted persons are permitted to engage in stabilizing activities and to exercise overallotment options outside of the restricted period provided such activities are carried out in accordance with Rule 104 and 105 of Reg M. We recommend that OSC Rule 48-501 should be consistent with Reg M in this regard.

The Commission's view appears to be that distribution continues if stabilization or short covering activities are continuing. We are of the view that the fact that a dealer is engaging in stabilization activities does not necessarily result in the dealer being in distribution. We recommend that, in accordance with Reg M, the dealer-restricted period terminate upon (i) the issuance of a receipt for the final prospectus, if applicable; and the completion of all selling efforts by the dealer. Likewise, the restricted period in respect of private placements and special warrants should terminate upon (i) the issuance of a receipt for the final prospectus, if applicable; and (ii) the completion of all selling efforts by the dealer.

Private Placements

We request clarification regarding the proposed restrictions on dealers during the dealer-restricted period in relation to private placements of an issuer. Specifically, Part 2.1(b) proposes to prohibit a dealer from attempting to induce or cause any person or company to purchase any restricted security during the dealer-restricted period. Part 3.1(g) provides an exemption for a subscription for or purchase of an offered security pursuant to a public distribution. We recommend that the exemption provided in Part 3.1(g) should be expanded to include the solicitation of a subscription for or purchase of an offered security pursuant to a private placement.

Dealers are obligated to give clients priority over pros for issuances of securities via private placements. Dealers are also required to make reasonable efforts to contact and inform existing eligible clients of the availability of private placements. More recently, proposed amendments to IDA By-law 29.29 will require dealers to make reasonable efforts to contact all of its eligible clients regarding private placements, and to maintain evidence of such efforts for a period of two years, where the dealer's pro group holdings exceed 20% of any class of voting or equity securities of the issuer of the private placement securities. We are concerned that if both proposed OSC Rule 48-501 and IDA 29.29 are adopted in their current forms respectively, there is a potential that a dealer may be faced with conflicting regulatory obligations in dealing with its clients during the dealer-restricted period. We request clarification as to how these two proposed regulatory rules can be reconciled.

In closing, we thank you for the opportunity to submit our comments regarding proposed OSC Rule 48-501. Should you have any questions or wish to discuss the foregoing comments in this letter, please do not hesitate to contact Gina Yee at (416) 863-7569 or James Barltrop at (416) 862-3258.

Yours truly,

Scotia Capital Inc.

