

## **NATIONAL POLICY STATEMENT No. 37**

### **RECIPROCAL CEASE TRADING ORDERS**

#### **INTRODUCTION**

This policy addresses the policy concerns that arise from take-over bids that are made to all shareholders resident in one or more provinces but are not made to holders resident in one or more other provinces in Canada.

Each of the securities acts in Canada which govern take-over bids embodies the principle of equal treatment of shareholders of a target company. The Canadian securities administrators are concerned that the failure to make a bid in one or more provinces which is made generally in other provinces is prejudicial to the interests of shareholders whose address on the books of the target company is in the excluded province(s).

This practice is disruptive of the existing framework of securities regulation in Canada, which aims to ensure that all holders of securities of the target company are treated equally, regardless of the province in which they are resident. In addition, the administrators are concerned that by not technically making an offer in a province offerors may effectively be able to evade the securities requirements of that province while still acquiring the shares held by shareholders in that province. Where a take-over bid is not made in a province shares are simply moved to a jurisdiction in which the bid is made.

The Administrators are of the view that by adopting this National Policy they are furthering the interests of shareholders in their own province and of a national capital market.

#### **POLICY:**

1. Where a take-over bid is made in some provinces, but is not made in one or more other provinces, the administrators in the provinces in which the bid is made may issue cease trading orders in respect of the bid. The administrators will generally not issue a cease trading order without providing the offeror an opportunity to address whether the offer offends the principles of this policy.
2. This policy will not be invoked to compel compliance with laws other than securities laws of a province in which the offeror did not make the bid.

3. Where there is a minimal number of security holders in a province, an offeror may apply for an exemption from the take-over-bid requirements of that province, on the basis that the bid will be made to such security holders in accordance with requirements of another jurisdiction whose requirements are acceptable to the administrator in the province to whom the application is made.

Generally, there will be considered to be a minimal number of security holders in a province where the number of registered holders of securities of the class subject to the bid and of securities convertible into that class is fewer than 50 and the securities held by such security holders constitute less than 2 per cent of the outstanding securities of that class.

4. In appropriate circumstances, and where paragraph 3 is not applicable, an offeror may apply for an exemption from this policy from the administrator(s) in the province(s) in which it is proposing not to make the bid, and, where the administrators in the provinces where the bid will be made receive confirmation that exemptions have been granted in all provinces where the bid will not be made, cease trading orders will not issue.