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**Document N° :** 12-602  
**Subject:** Deeming a Reporting Issuer in Certain Other Canadian  
Jurisdictions to Become a Reporting Issuer in New Brunswick  
**Amendments:**  
**Published Date:** September 13, 2004  
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The New Brunswick Securities Commission, begin of the opinion that it is advisable and facilitates the exercise of the powers and the performance of its duties issues New Brunswick Local Policy 12-602- *Deeming a Reporting Issuer in Certain Other Canadian Jurisdictions to Become a Reporting Issuer in New Brunswick.*

**DATED** at Saint John, New Brunswick this 21<sup>st</sup> day of July, 2004.

Donne W. Smith  
Chair

## **LOCAL POLICY 12-602**

### **Deeming a Reporting Issuer in Certain other Canadian Jurisdictions to Become a Reporting Issuer in New Brunswick**

#### **Substance and Purpose of the Policy**

The main purpose of the Policy is to provide information about the procedure for making an application under Section 96 (1) of the Act and to inform all interested parties of the circumstances in which the Commission would generally grant an order under Section 96 (1) of the Act to certain issuers. The Policy deals primarily with issuers who have been reporting issuers or reporting issuer equivalents in one or more of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, or Newfoundland for at least 12 months prior to the application being made.

#### **1. Application**

- 1.1 The procedures set forth in this Policy Statement apply to applications made to the New Brunswick Securities Commission (the "Commission") under section 96 (1) of the *New Brunswick Securities Act* (the "Act") for an order deeming an issuer to be a reporting issuer for purposes of New Brunswick securities law (a "Deeming Order") where the applicant issuer is a reporting issuer in certain other Canadian jurisdictions.

- 1.2 Notwithstanding section 1.1 of the Policy Statement, sections 1.3 and 1.4 of Part 1 and Parts 3 and 4 of this Policy Statement apply to all applications made under section 96 (1) of the Act.
- 1.3 The procedures set forth in Local Policy 12-601 – Application to the New Brunswick Securities Commission, or any successor instrument, apply to all applications made under section 96 (1) of the Act except to the extent modified by this Policy Statement.
- 1.4 Notwithstanding anything contained in this Policy Statement, the Commission retains its discretion to act in the public interest with respect to its consideration of all applications made under section 96 (1) of the Act.

## **2. Issuers Not Listed on a Recognized Exchange**

- 2.1 Unless it is otherwise prejudicial to the public interest to do so, upon application under section 96 (1) of the Act, a Deeming Order will generally be granted by the Commission to an issuer who is a reporting issuer in British Columbia, Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia or Newfoundland or is a reporting issuer equivalent in Manitoba (the “relevant jurisdictions”) and whose securities are not listed on an exchange if:
  - 2.1.1 the issuer has been a reporting issuer or a reporting issuer equivalent, as applicable, in one or more relevant jurisdictions for at least 12 months prior to the date of the application; and
  - 2.1.2 the issuer is in good standing in all jurisdictions in which it is a reporting issuer or a reporting issuer equivalent.
- 2.2 In order to independently assess the “good standing” referred to in subsection 2.1.2, staff may review the applicant issuer’s continuous disclosure record and request that any deficiencies in that record be addressed prior to any recommendation under section 96 (1) of the Act being made.

## **3. Application Procedure**

- 3.1 An application made under Section 96 (1) should include:
  - 3.1.1 if applicable, particulars of the jurisdictions in which the issuer is a reporting issuer or a reporting issuer equivalent and the date the issuer became a reporting issuer in each such jurisdiction;
  - 3.1.2 if applicable, particulars of the stock exchanges or trading or quotation systems on which the issuer’s securities are traded or quoted;

3.1.3 particulars of any penalties or sanctions imposed against the issuer by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority and the grounds on which they were imposed or the terms of the settlement agreement and the circumstances that gave rise to the settlement agreement;

3.1.4 particulars of any penalties or sanctions imposed and the grounds on which they were imposed or the terms of the settlement agreement and the circumstances that gave rise to the settlement agreement, if a director or officer of the issuer, or a shareholder holding sufficient securities of the issuer to affect materially the control of the issuer has (i) been subject to any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority or has entered into a settlement agreement with a Canadian securities regulatory authority, or (ii) been subject to any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor making an investment decision;

3.1.5 particulars of:

(a) any known ongoing or concluded investigations by:

(i) a Canadian securities regulatory authority; or

(ii) a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision;  
and

(b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the ten years before the date of the application;

relating to the issuer, a director or officer of the issuer, or a shareholder holding sufficient securities of the issuer to affect materially the control of the issuer;

3.1.6 particulars of:

(a) any cease trade or similar orders, or orders that denied access to any exemptions under New Brunswick securities law, for a period of more than 30 consecutive days, within the ten years before the date of the application; and

(b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a

receiver, receiver manager or trustee, within the 10 years before the date of the application;

relating to any other issuer which a director or officer of the issuer making the application, or a shareholder holding sufficient securities of such issuer to affect materially the control of such issuer, was a director or officer of at the time of such event;

- 3.1.7 a certificate of no default, dated within ten days of the date of the application, from the securities regulatory authority in each jurisdiction in which the issuer is a reporting issuer or a reporting issuer equivalent;
- 3.1.8 for security check purposes, a completed *Authorization of Indirect Collection of Personal Information* in the form attached hereto as Schedule A for each director, executive officer and promoter, if any, and each director and executive officer of the promoter, if any, of the issuer; and
- 3.1.9 the filing fee of \$350, prescribed under Section 22 (a) of Fee Rule 11-501.

#### **4. SEDAR**

- 4.1 Immediately upon receipt of a Deeming Order, the issuer will be expected to amend its SEDAR Profile to indicate that it is a reporting issuer in New Brunswick.

#### **5. Effective Date**

- 5.1 This local policy comes into effect July 21, 2004.



**Schedule 1 to Schedule "A" of Local Policy 12-602  
 Authorization of Indirect Collection of Personal Information**

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 Name of Issuer

| <b>Name &amp; Position</b><br>[with or Relationship to Issuer] | <b>Name &amp; Address<br/>           of Employer</b><br>[if other than issuer] | <b>Residential Address</b><br>[if said address is outside North<br>America, provide passport #<br>and date of issuance] | <b>Date &amp;<br/>           Place of Birth</b> | <b>Citizenship</b> |
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