

ANNEX A

Proposed Amendments to Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*

1. *Multilateral Instrument 62-104 Take-Over Bids and Issuer Bids is amended by this Instrument.*
2. *Part 5 is replaced with the following:*

PART 5: REPORTS AND ANNOUNCEMENTS OF ACQUISITIONS

Definitions and Interpretation

5.1 (1) In this Part,

“acquiror” means a person who acquires a security, other than by way of a take-over bid or an issuer bid made in compliance with Part 2;

“acquiror’s securities” means securities of an issuer beneficially owned, or over which control or direction is exercised, on the date of the acquisition or disposition, by an acquiror or any person acting jointly or in concert with the acquiror;

“derivative” has the meaning ascribed to that term in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*;

“equity equivalent derivative” means a derivative which is referenced to or derived from a voting or equity security of an issuer and which provides the holder, directly or indirectly, with an economic interest that is substantially equivalent to the economic interest associated with beneficial ownership of the security;

“economic interest” has the meaning ascribed to that term in National Instrument 55-104 *Insider Reporting Requirements and Exemptions*;

“specified securities lending arrangement” means a securities lending arrangement if all of the following apply:

- (a) the material terms of the securities lending arrangement are set out in a written agreement, a copy of which is retained by each party to the agreement;
- (b) the securities lending arrangement requires the borrower to pay to the lender amounts equal to all dividends or interest payments, if any, paid on the security that would have been received by the borrower if the borrower had held the security throughout the period beginning at

the date of the transfer or loan and ending at the time the security or an identical security is transferred or returned to the lender;

- (c) the lender has established policies and procedures that require the lender to maintain a record of all securities that it has transferred or lent under securities lending arrangements;
- (d) the written agreement provides for either or both of the following:
 - (i) the lender has an unrestricted right to recall all securities or identical securities that it has transferred or lent under the securities lending arrangement prior to the record date for any meeting of securityholders at which the securities may be voted;
 - (ii) the lender requires the borrower to vote the securities transferred or lent in accordance with the lender's instructions;

"securities lending arrangement" means an arrangement with respect to which both of the following apply:

- (a) a person, the lender, transfers or lends at any particular time a security to another person, the borrower;
- (b) it may reasonably be expected that the borrower will at a later date transfer or return the security or an identical security to the lender.

(2) For the purposes of this Part, subsections 1.8(1), (2) and (4) and section 1.9 apply as if the references to "offeror" in those provisions were references to "acquiror".

(3) For the purposes of this Part, if an acquiror and one or more persons acting jointly and in concert with the acquiror acquire securities, the securities are deemed to be acquired by the acquiror.

(4) For purposes of section 5.2, in determining control or direction over securities by an acquiror or any person acting jointly or in concert with the acquiror, at any given date, the acquiror or the person is deemed to have acquired, and to have, control or direction over a security, including an unissued security, if the acquiror or the person has acquired beneficial ownership of, or has control or direction over, an equity equivalent derivative of that security.

Early warning

5.2 (1) An acquiror who acquires beneficial ownership of, or control or direction over, a voting or equity security of any class of a reporting issuer or beneficial ownership of, or control or direction over, securities convertible into voting or equity

securities of any class of a reporting issuer that, together with the acquiror's securities of that class, constitute 5% or more of the outstanding securities of that class, must

- (a) promptly, but no later than the opening of trading on the business day following the acquisition, issue and file a news release containing the information required by section 3.1 of National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues*; and
- (b) promptly, but no later than 2 business days from the date of the acquisition, file a report containing the information required by section 3.1 of National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues*.

(2) An acquiror who is required to make disclosure under subsection (1) must make further disclosure in accordance with subsection (1) each time any of the following events occur:

- (a) the acquiror or any person acting jointly or in concert with the acquiror, acquires or disposes of beneficial ownership of, or control or direction over either of the following:
 - (i) securities in an amount equal to 2% or more of the outstanding securities of the class of securities that was the subject of the most recent report required to be filed by the acquiror under this section;
 - (ii) securities convertible into 2% or more of the outstanding securities referred to in subparagraph (i);
- (b) there is a change in a material fact contained in the report required under subsection (1) or paragraph (a) of this subsection.

(3) An acquiror must issue a news release and file a report in accordance with subsection (1) if beneficial ownership of, or control or direction over, the outstanding securities of the class of securities that was the subject of the most recent report required to be filed by the acquiror under this section falls below 5%.

Moratorium provisions

5.3 (1) During the period beginning on the occurrence of an event in respect of which a report is required to be filed under section 5.2 and ending at the end of the first business day following the date that the report is filed, the acquiror or any person acting jointly or in concert with the acquiror must not acquire or offer to acquire beneficial ownership of any securities of the class in respect of which the report is required to be filed or any securities convertible into securities of that class.

(2) Subsection (1) does not apply to an acquiror that has beneficial ownership of, or control or direction over, securities that, together with the acquiror's securities of that class, constitute 20% or more of the outstanding securities of that class.

Copies of news release and report

5.4 An acquiror that files a news release or report under section 5.2 must promptly send a copy of each filing to the reporting issuer.

Exemption

5.5 Sections 5.2 and 5.3 do not apply to a lender in respect of securities transferred or lent pursuant to a specified securities lending arrangement.

3. These amendments come into force on *.***