

THE MANITOBA SECURITIES COMMISSION
MSC RULE 2004-6
(Section 149.1, *The Securities Act*)

MULTILATERAL INSTRUMENT 55-103

**INSIDER REPORTING FOR
CERTAIN DERIVATIVE TRANSACTIONS
(EQUITY MONETIZATION)**

PART 1 – DEFINITIONS

Definitions

1.1 In this Instrument

"**compensation arrangement**" includes, but is not limited to, any plan, contract, authorization or arrangement, whether or not set forth in any formal document and whether or not applicable to only one individual, under which cash, securities, options, SARs, phantom stock, warrants, convertible securities, restricted shares or restricted share units, performance units and performance shares, or similar instruments may be received or purchased;

"**control person**" means

(a) a person holding a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer,

(b) one or a combination of persons acting in concert by virtue of an agreement, arrangement, commitment or understanding and holding a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer, or

(c) a person or combination of persons holding more than 20% of the voting rights attached to all outstanding voting securities of an issuer, unless there is evidence that the holding does not affect materially the control of the issuer;

"**credit derivative**" means a derivative in respect of which the underlying security, interest, benchmark or formula is, or is related to or derived from, in whole or in part, a debt or other financial obligation of a reporting issuer;

"**derivative**" means an instrument, agreement or security, the market price, value or payment obligations of which are derived from, referenced to or based on an underlying security, interest, benchmark or formula;

"**economic exposure**" in relation to a reporting issuer means the extent to which the economic or financial interests of a person or company are aligned with the trading price of securities of the reporting issuer or the economic or financial interests of the reporting issuer;

"**economic interest in a security**" means

- (a) a right to receive or the opportunity to participate in a reward, benefit or return from the security, or
- (b) exposure to a loss or a risk of loss in respect to the security;

"**effective date**" means the date specified in Part 5 of this Instrument;

"**exemptive relief**" has the meaning ascribed to that term in National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications*;

"**insider report**" means a report in the form prescribed for insider reports under securities legislation;

"**reporting issuer**" does not include a mutual fund that is a reporting issuer;

"**security of a reporting issuer**" is deemed to include

- (a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer; and
- (b) a security, the value or market price of which are derived from, referenced to or based on the value, market price or payment obligations of a security of the reporting issuer;

"**stock appreciation right**" ("SAR") means a right, granted by an issuer or any of its subsidiaries as compensation for services rendered or otherwise in connection with office or employment, to receive a payment of cash or an issue or transfer of securities based wholly or in part on changes in the trading price of publicly traded securities.

PART 2 – REPORTING FOR CERTAIN DERIVATIVE TRANSACTIONS

Reporting requirement

2.1 If an insider of a reporting issuer

- (a) enters into, materially amends or terminates an agreement, arrangement or understanding of any nature or kind, the effect of which is to alter, directly or indirectly,
 - (i) the insider's economic interest in a security of the reporting issuer, or

(ii) the insider's economic exposure to the reporting issuer; and

(b) the insider is not otherwise required to file an insider report in respect of such event under any provision of Canadian securities legislation, then

the insider shall file a report in accordance with Section 3.1 of this Instrument.

Exemptions

2.2 Section 2.1 does not apply to

(a) an agreement, arrangement or understanding which does not involve, directly or indirectly, an interest in

(i) a security of the reporting issuer, or

(ii) a derivative in respect of which the underlying security, interest, benchmark or formula is or includes as a material component a security of the reporting issuer;

(b) an agreement, arrangement or understanding in the nature of a compensation arrangement established by the reporting issuer or an affiliate of the reporting issuer if

(i) the existence and material terms of the compensation arrangement are, or are required to be, described in

(A) the annual audited financial statements of the reporting issuer;

(B) an annual filing of the reporting issuer relating to executive compensation, or any other filing required to be made under any provision of Canadian securities legislation; or

(C) any public filing required to be made under the rules or policies of a stock exchange or market on which securities of the reporting issuer are listed or trade; or

(ii) the terms of the compensation arrangement are set out in writing, and the alteration to economic exposure or economic interest referred to in section 2.1 occurs as a result of the satisfaction of a pre-established condition or criterion and does not involve a discrete investment decision by the insider;

(c) a person or company exempt from the insider reporting requirements by virtue of an exemption contained in Canadian securities legislation, to the same extent and on the same conditions as are applicable to such exemption;

(d) a person or company who has obtained exemptive relief in a jurisdiction from the insider reporting requirements of that jurisdiction, to the same extent and on the same conditions as are applicable to such exemptive relief;

(e) a transfer, pledge or encumbrance of securities by an insider for the purpose of giving collateral for a debt made in good faith so long as there is no limitation on the recourse available against the insider for any amount payable under such debt;

(f) to the receipt by an insider of a transfer, pledge or encumbrance of securities of an issuer if the securities are transferred, pledged or encumbered as collateral for a debt under a written agreement and in the ordinary course of business of the insider;

(g) to an insider, other than an insider that is an individual, that enters into, materially amends or terminates an agreement, arrangement or understanding which is in the nature of a credit derivative;

(h) a person or company who did not know and, in the exercise of reasonable diligence, could not have known of the alteration to economic exposure or economic interest described in section 2.1;

(i) the acquisition or disposition of a security, or an interest in a security, of an investment fund, provided that securities of the reporting issuer do not form a material component of the investment fund's market value; or

(j) the acquisition or disposition of a security, or an interest in a security, of an issuer which holds directly or indirectly securities of the reporting issuer, if:

(i) the insider is not a control person of the issuer; and

(ii) the insider does not have or share investment control over the securities of the reporting issuer.

Existing agreements which continue in force

2.3 If an insider of a reporting issuer, prior to the effective date of this Instrument, entered into an agreement, arrangement or understanding in respect of which

(a) the insider would have been required to file an insider report under this Instrument if the agreement, arrangement or understanding had been entered into on or after the effective date, and

(b) the agreement, arrangement or understanding remains in effect on or after the effective date of this Instrument,

then the insider shall file a report in accordance with Section 3.2 of this Instrument.

Same

2.4 If an insider of a reporting issuer, prior to the date the insider most recently became an insider of the reporting issuer, entered into an agreement, arrangement or understanding in respect of which

(a) the insider would have been required to file an insider report under this Instrument if the agreement, arrangement or understanding had been entered into on or after the date the insider most recently became an insider, and

(b) the agreement, arrangement or understanding remains in effect on or after the date the insider most recently became an insider,

then the insider shall file a report in accordance with Section 3.3 of this Instrument.

PART 3 – FORM AND TIMING OF REPORT

3.1 A person or company who is required under Section 2.1 of this Instrument to file a report shall, within 10 days from the day on which the person or company enters into, materially amends or terminates, as the case may be, the agreement, arrangement or understanding described in Section 2.1 of this Instrument, or such shorter period as may be prescribed, file a report in the form prescribed for insider reports under securities legislation disclosing the existence and material terms of the agreement, arrangement or understanding.

3.2 A person or company who is required under Section 2.3 of this Instrument to file a report shall, within 10 days, or such shorter period as may be prescribed, from the effective date of this Instrument, file a report in the form prescribed for insider reports under securities legislation disclosing the existence and material terms of the agreement, arrangement or understanding.

3.3 A person or company who is required under Section 2.4 of this Instrument to file a report shall, within 10 days, or such shorter period as may be prescribed, from the date the person or company most recently became an insider, file a report in the form prescribed for insider reports under securities legislation disclosing the existence and material terms of the agreement, arrangement or understanding.

PART 4 – EXEMPTION

4.1 The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

4.2 Despite section 4.1, in Ontario only the regulator may grant such an exemption.

PART 5 – EFFECTIVE DATE AND CITATION

Effective date

5.1 This Instrument comes into force on February 28, 2004.

Citation

5.2 This Instrument may be cited as MSC Rule 2004-6.