

## Local Policy 3.11

### Dormant Companies: Applications for Exemption from Six-month Interim Financial Statement Requirements

Date: August 2, 1978

#### Purpose of Policy

Since 1969 "reporting issuers" subject to the financial disclosure requirements contained formerly in The Companies Act and now in The Corporations Act (in the case of Manitoba companies) or in The Securities Act (in the case of other companies) have been required by those Acts to prepare and mail to shareholders and file with the Commission six-month (unaudited) comparative interim financial statements. The Commission recognizes that in the case of dormant companies, particularly mining exploration companies, whose funds have largely been spent and whose management may be awaiting changed or suitable conditions to reactivate operations and obtain additional financing, interim financial statements provide little in the way of useful information to shareholders and other investors. The money spent on preparation, printing and mailing these statements might more usefully be retained for other needs. The shareholders and investors will continue to receive the benefit of the annual audited financial statement and informational statement.

#### Application for Exemption

Where management can demonstrate that the preparation and mailing of the company's six-month comparative financial statement will not be of significant benefit to investors and represents a material financial burden to the company, an application for an exempting order may be made by the company for an order, (in the case of Manitoba companies under section 150 of The Corporations Act, and other companies under section 131 of The Securities Act), exempting the applicant from the requirement to produce, mail to shareholders and file with the Commission a six-month comparative unaudited financial statement.

This procedure has become possible as a result of an amendment made to section 150 of The Corporations Act in 1978. But, even in its amended form, the section requires that the information thus withheld be not "material to shareholders or potential investors". As a matter of policy, the Commission will apply a similar test under The Securities Act. To assist the Commission in reaching the conclusion that this test is satisfied every application for exemption should be accompanied by

- (1) A statutory declaration made by the chief executive officer disclosing, if such be the case
  - (a) current assets of less than \$25,000;
  - (b) the company to be inactive or dormant, describing briefly the nature, extent and value of its assets and an estimate of the expenditures required during the

coming year in order to keep the company in good standing and to preserve its assets;

(c) that the company has no present plans to obtain further assets, to explore or develop any property or other assets held, or to seek additional financing for any purpose; and

(d) that there are no material facts concerning the company which have not been furnished to its shareholders and the Commission.

(2) An undertaking entered into by all the company senior officers and directors to advise the shareholders and the Commission forthwith of any material change in the foregoing.

When and so long as the conditions in (1) exist, the company will be considered an inactive company for the purpose of an application for an order and no fee is payable upon such application.

#### The Order

The Commission, upon being satisfied that in the circumstances an order might issue, will condition the order so that it will terminate immediately upon there being any material change in circumstances. A change in the senior officers, directors or controlling shareholders will be viewed as such a change. This will not prevent an immediate and further application to extend the exemption on similar grounds.

#### Annual Statements

The Commission has considered the feasibility of encouraging similar applications for the annual financial statements and proxy solicitation material. But it has concluded that these are the corner-stone of continuing shareholder and investor protection. Outside financing carries with it the continuing obligation to provide the information required through the annual audit and the dissemination of current information annually to shareholders and other investors.