



Document Type: Emergency Rule
Document N°: 55-501
Subject: *Exemption from Liability for Trading where Undisclosed Change*
Publication Date: 2 October 2006
Effective Date: 25 September 2006

The New Brunswick Securities Commission, being of the opinion that:

- a) it is in the public interest to make the proposed rule without delay because there is an urgent need for the proposed rule, and
- b) without the proposed rule being made, there is a substantial risk of material harm to investors or to the integrity of the capital markets

resolves that Local Rule 55-501 *Exemption from Liability for Trading where Undisclosed Change* is adopted as an emergency rule.

DATED at Saint John, New Brunswick this 25th day of September 2006.

A handwritten signature in black ink, appearing to read 'Donne W. Smith', written over a horizontal line.

Donne W. Smith, Chair



Document Type: Local Rule
Document N°: 55-501
Subject: *Exemption from Liability for Trading where Undisclosed Change*
Publication Date: ■
Effective Date: ■

Local Rule 55-501
Exemption from Liability for Trading where Undisclosed Change

PART 1: DEFINITIONS AND INTERPRETATION

Definitions

1.1 (1) In this Rule

“**Act**” means the *Securities Act*, S.N.B. 2004, Chapter S-5.5 (*Loi*)

Part 2: EXEMPTION FROM LIABILITY

2.1 A person that purchases or sells securities of a reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is exempt from subsection 147(2) of the *Act* and is exempt from liability under section 157 of the *Act*, where the person proves that,

- (a) no director, officer, partner, employee or agent of the person who made or participated in making the decision to purchase or sell the securities of the reporting issuer had actual knowledge of the material fact or material change; and
- (b) no advice was given with respect to the purchase or sale of the securities to the director, officer, partner, employee or agent of the person who made or participated in making the decision to purchase or sell the securities by a director, partner, officer, employee or agent of the person who had actual knowledge of the material fact or the material change,

but this exemption is not available to an individual who had actual knowledge of the material fact or change.

2.2 A person that purchases or sells securities of a reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed is exempt from

subsection 147(2) of the *Act* and is exempt from liability under section 157 of the *Act*, where the person proves that,

- (a) the purchase or sale was entered into as an agent of another person pursuant to a specific unsolicited order from that other person to purchase or sell;
- (b) the purchase or sale was made pursuant to participation in an automatic dividend reinvestment plan, share purchase plan or other similar automatic plan that was entered into by the person prior to the acquisition of knowledge of the material fact or material change; or
- (c) the purchase or sale was made to fulfill a legally binding obligation entered into by the person prior to the acquisition of knowledge of the material fact or material change.

2.3 In determining whether a person has sustained the burden of proof under section 2.1, it shall be relevant whether and to what extent the person has implemented and maintained reasonable policies and procedures to prevent contraventions of subsection 147(2) of the *Act* by persons making or influencing investment decisions on its behalf and to prevent transmission of information concerning a material fact or material change contrary to subsection 147(4) or (5) of the *Act*.

2.4 A person who purchases or sells a security of a reporting issuer as agent or trustee for a person who is exempt from subsection 147(2) of the *Act* and is exempt from liability under section 157 of the *Act* by reason of subsection 2.2(b) or (c) is also exempt from subsection 147(2) of the *Act* and from liability under section 157 of the *Act*.

2.5 A person is exempt from subsections 147(2), (4) and (5) of the *Act* where the person proves that such person reasonably believed that,

- (a) the other party to a purchase or sale of securities; or
- (b) the person informed of the material fact or material change,

as the case may be, had knowledge of the material fact or material change.

PART 3: EXEMPTION

3.1 The Executive Director may grant an exemption from this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 4: EFFECTIVE DATE

4.1 This rule comes into effect on ■.