

**NOVA SCOTIA SECURITIES COMMISSION**

**RULE 14-502**

**CIVIL LIABILITY FOR SECONDARY MARKET DISCLOSURE**

*Part 1. - Interpretation*

**1.** In this Rule,

“equity security” means a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on liquidation or winding up of the issuer, in its assets.

**2.** For the purposes of Sections 146A to 146N of the Act, “market capitalization” means, in respect of an issuer, the amount determined as follows:

1. For each class of equity securities for which there is a published market, determine the sum of the number of outstanding securities of the class at the close of trading on each of the 10 trading days before the day on which the misrepresentation was made or the failure to make timely disclosure first occurred.
2. Divide the sum determined under paragraph 1 by 10.
3. Multiply the quotient determined under paragraph 2 for each class by the trading price of the securities of the class on the principal market for the securities for the 10 trading days before the day on which the misrepresentation was made or the failure to make timely disclosure first occurred.
4. Add the amounts determined under paragraph 3 for each class of equity securities for which there is a published market.
5. For each class of equity securities not traded on a published market, determine the fair market value of the outstanding securities of that class as of the day on which the misrepresentation was made or the failure to make timely disclosure first occurred.
6. Add the amounts determined under paragraph 5 for each class of equity securities not traded on a published market.
7. Add the amount determined under paragraph 4 to the amount determined under paragraph 6 to determine the market capitalization of the issuer.

**3.** For the purposes of Sections 146A to 146N of the Act,

“principal market” means, in respect of a class of securities of a responsible issuer,

- (a) the published market in Canada on which the greatest volume of trading in securities of that class occurred during the 10 trading days before the day on which the misrepresentation was made or the failure to make timely disclosure first occurred, or
- (b) the published market on which the greatest volume of trading in securities of that class occurred during the 10 trading days before the day on which the misrepresentation was made or the failure to make timely disclosure first occurred, if securities of that class are not traded during those 10 trading days on a published market in Canada.

**4.** For the purposes of Sections 146A to 146N of the Act, “trading price” means, in respect of a security of a class of securities for which there is a published market, the amount determined under the following rules:

- 1. Subject to paragraphs 2 and 3, the trading price of the security is the volume weighted average price of securities of that class on the published market during the period for which the trading price is to be determined.
- 2. Subject to paragraph 3, if there was trading in the securities of that class in the published market on fewer than half of the trading days during the period for which the trading price of the securities is to be determined, the trading price of the security is determined as follows:
  - i. Calculate the sum of the average of the highest bid and lowest ask prices for each trading day in the period on which there were no trades in securities of that class in the published market.
  - ii. Divide the amount determined under subparagraph i by the number of trading days on which there were no trades in securities of that class in the published market.
  - iii. Add to the amount determined under subparagraph ii the volume weighted average price of securities of that class on the published market for those trading days on which securities of that class were traded.
  - iv. Divide by two the amount determined under subparagraph iii.
- 3. If there were no trades of securities of that class in the published market during the period for which the trading price is to be determined, the trading price of the security is the fair market value of the security.

**5.** (1) Sections 146A to 146N of the Act apply to the acquisition of an issuer’s security pursuant to an exemption from section 58 or 67 of the Act that is set out in section 2.8 of

National Instrument 45-102, *Resale of Securities*, which exemption is prescribed for the purposes of clause 146B(b) of the Act.

(2) Sections 146A to 146N of the Act apply to the acquisition or disposition of an issuer's security in connection with or pursuant to a take-over bid that is exempt under section 4.1, 4.4 or 4.5 of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* or an issuer bid that is exempt under section 4.8, 4.10 or 4.11 of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*, which bids are prescribed for the purposes of clause 146B(c) of the Act.

*Part 2. – Effective Date for Rule*

**6.** This rule shall come into force on the 15th day of November, 2007 unless the Minister disapproves the rule or returns it to the Commission in accordance with subsection 150(A)(3) of the Act in which event the rule shall not be effective until the rule is approved by the Minister.

IN WITNESS WHEREOF this Instrument is made a rule by the signatures of the Chair and Vice Chair of the Commission, being the members of the Commission prescribed by the Chair pursuant to subsection 15(3) of the Act to attend the hearing of this matter and the quorum with respect to this matter, on the 17th day of October, 2007.

“H. Leslie O’Brien”  
**H. Leslie O’Brien, Q.C., Chair**

“R. Daren Baxter”  
**R. Daren Baxter, Vice- Chair**