

Note: [29 Nov 2012] – Changes to Companion Policy 51-102CP arising from NI 54-101. Refer to Annex E of the CSA Notice announcing amendments to NI 54-101 dated 29 Nov 2012.

CHANGES TO COMPANION POLICY 51-102CP CONTINUOUS DISCLOSURE OBLIGATIONS

This Annex shows, by way of blackline, changes approved to Companion Policy 51-102CP *Continuous Disclosure Obligations*. These changes become effective on February 11, 2013.

3.5 Delivery of Financial Statements and Paper Copies of Information Circulars

Section(1) Subsection 4.6(1) of the Instrument requires reporting issuers to send a request form to the registered holders and beneficial owners of their securities, other than debt instruments. The registered holders and beneficial owners may use the request form to request a paper copy of the reporting issuer's annual financial statements and related MD&A, ~~an~~ interim financial ~~report~~reports and related MD&A, or both.

In addition, the request form also may (but is not required to) be used to request a paper copy of the information circular and annual financial statements and related MD&A where a reporting issuer uses notice-and-access to deliver proxy-related materials.

Reporting issuers are only required to deliver financial statements and MD&A to the person or company that requests them. As a result, if a beneficial owner requests financial statements and MD&A through its intermediary, the issuer is only required to deliver the requested documents to the intermediary.

Failing to return the request form or otherwise specifically request a copy of the financial statements or MD&A from the reporting issuer will override the beneficial owner's standing instructions under NI 54-101 in respect of the financial statements.

The Instrument does not prescribe when the request form must be sent, or how it must be returned to the reporting issuer.

(2) Subsection 4.6(5) provides that subsection 4.6(1) and the requirement to send annual financial statements under subsection 4.6(3) do not apply to a reporting issuer that sends its annual financial statements to its securityholders, other than holders of debt instruments, within 140 days of the issuer's financial year-end and in accordance with NI 54-101. Notice-and-access can be used to send the annual financial statements and related MD&A under subsection 4.6(5). Notice-and-access is consistent with the principles for electronic delivery set out in National Policy 11-201 *Electronic Delivery of Documents*.

PART 10 ELECTRONIC DELIVERY OF DOCUMENTS

10.1 Electronic Delivery of Documents

~~Any~~Generally, any documents required to be sent under the Instrument may be sent by electronic delivery, as long as such delivery is ~~made in compliance with Québec Notice 11-201 Relating to the Delivery of Documents by Electronic Means, in Québec, and National Policy 11-201 Delivery of Documents by Electronic Means, in the rest of Canada,~~ consistent with the guidance in National Policy 11-201 Electronic Delivery of Documents. However, if a reporting issuer is using notice-and-access to deliver proxy-related materials, it should refer to the specific guidance in section 10.3 of the Policy.

10.2 Delivery of Proxy-Related Materials

- (1) This section provides guidance on delivery of proxy-related materials. Reporting issuers should also review any other applicable legislation, such as corporate legislation.
- (2) Paper copies of proxy-related materials must be sent using prepaid mail, courier or an equivalent delivery method. An equivalent delivery method is any delivery method where the registered holder receives paper copies in a similar time frame as prepaid mail or courier. For example, a reporting issuer that sponsors an employee share purchase plan could arrange for the proximate intermediary to deliver proxy-related materials to registered holder employees through the reporting issuer's internal mail system.

10.3 Notice-and-access

- (1) This Instrument permits a reporting issuer to use notice-and-access to send proxy-related materials to registered holders.
- (2) With respect to matters to be voted on at the meeting, the notice must only contain a description of each matter or group of related matters identified in the form of proxy, unless such information is already included in the form of proxy. We expect that reporting issuers who use notice-and-access will state each matter or group of related matters in the proxy in a reasonably clear and user-friendly manner. For example, it would be inappropriate to identify the matter to be voted on solely by referring to disclosure contained in the information circular as follows: "To vote For or Against the resolution in Schedule A of management's information circular".

The notice must contain a plain-language explanation of notice-and-access. The explanation also can address other aspects of the proxy voting process. However, there should not be any substantive discussion of the matters to be considered at the meeting.

- (3) Paragraph 9.1.1(1)(b) of the Instrument requires the registered holder to be sent the form of proxy as part of the notice package. The notice package must be sent by prepaid mail, courier or the equivalent; however, section 9.1.3 permits an alternate delivery method (e.g., email) to be used if the registered holder's consent has been or is obtained. In the

case of a solicitation by reporting issuer management, the notice package must be sent at least 30 days before the date fixed for the meeting.

- (4) Paragraph 9.1.1(1)(c) of the Instrument requires the reporting issuer to file the notification of meeting and record dates required by subsection 2.2(1) of NI 54-101 in the manner and within the time specified by NI 54-101. See the guidance in Companion Policy 54-101CP to NI 54-101.
- (5) Paragraph 9.1.1(1)(d) of the Instrument requires the notice, information circular and form of proxy to be filed on SEDAR and posted on a website other than SEDAR. The non-SEDAR website can be the website of the person or company soliciting proxies (e.g., the reporting issuer's website) or the website of a service provider.
- (6) Paragraph 9.1.1(1)(e) of the Instrument requires the person or company soliciting proxies to establish a toll-free telephone number for the registered holder to request a paper copy of the information circular. A person or company soliciting proxies may choose to, but is not required to, provide additional methods for requesting a paper copy of the information circular. If a person or company soliciting proxies does so, it must still comply with the fulfillment timelines in paragraph 9.1.1(1)(f) of the Instrument.
- (7) Subsection 9.1.2(2) of the Instrument is intended to allow registered holders to access the posted proxy-related materials in a user-friendly manner. For example, requiring the registered holder to navigate through several web pages to access the proxy-related materials would not be user-friendly. Providing the registered holder with the specific URL where the documents are posted would be more user-friendly. We encourage reporting issuers and their service providers to develop best practices in this regard.
- (8) Where a reporting issuer uses notice-and-access, it generally must send the same basic notice package to all registered holders. However, the following are exceptions to this general principle:

 - Section 9.1.3 of the Instrument provides that where a reporting issuer uses notice-and-access, a registered holder still can be sent proxy-related materials using an alternate method to which the registered holder has previously consented. For example, service providers acting on behalf of reporting issuers or intermediaries may have previously obtained (and continue to obtain) consents from registered holders for proxy-related materials to be sent by email. This delivery method would still be available.
 - Section 9.1.4 of the Instrument permits a reporting issuer to obtain standing instructions from a registered holder to be sent a paper copy of the information circular and if applicable, annual financial statements and annual MD&A in all cases where the reporting issuer uses notice-and-access. Where such standing instructions have been obtained, the notice package for the registered holder will contain a paper copy of the relevant documents.

(9) The addition of a paper information circular to the notice package sent to some registered holders is referred to as “stratification” and is a term defined in section 1.1 of the Instrument and in NI 54-101.

We do not mandate the use of stratification, except if it is necessary to comply with standing instructions or other requests for paper copies of information circulars that reporting issuers or intermediaries have chosen to obtain from registered holders or beneficial owners. We expect that any additional stratification criteria will develop and evolve through market demand and practice. However, we expect that a reporting issuer that uses stratification for purposes other than complying with registered holder instructions does so in order to enhance effective communication, and not to disenfranchise registered holders. We require reporting issuers to disclose whether they are using stratification, and what criteria they are applying to determine which types of registered holders will receive a copy of the information circular.