



BC Notice 2007/13

**Request for Comment
on
Proposed
Multilateral Instrument 52-110 *Audit Committees*
Form 52-110F1 *Audit Committee Information required in an AIF*
Form 52-110F2 *Disclosure by Venture Issuers*
Companion Policy 52-110CP to Multilateral Instrument 52-110 *Audit Committees*
and
Proposed BC Instrument 52-51* *Transitional Variation of Multilateral Instrument*
52-110
and
Repeal of
BC Instrument 52-509 *Audit Committees* and
Sections 144 and 145 of *Securities Rules***

We published for comment today the proposals of the Canadian Securities Administrators, other than the Ontario Securities Commission, for implementing the next phase of the passport system for securities regulation. This proposed set of rule, policy and administrative changes would further simplify the securities regulatory system for issuers and registrants who have their securities traded or deal with clients in more than one Canadian jurisdiction. (See BC Notice 2007/12 and accompanying CSA notice.)

The passport system produces automatic legal results in the local jurisdiction that result from a decision made in the principal jurisdiction. For the system to work effectively, it is important that the laws of jurisdictions be harmonized.

The Commission is, therefore, proposing to adopt Multilateral Instrument 52-110 *Audit Committees*, its related forms and companion policy, and to repeal BC Instrument 52-509 *Audit Committees* (BCI 52-509) to harmonize with the other jurisdictions.

We are also proposing to repeal sections 144 (*Interim financial statements*) and 145 (*Annual financial statements*) of the *Securities Rules*. These sections provide a link between the fee schedule and the continuous disclosure rules. We will be seeking amendments to the fee schedule to make these sections unnecessary and therefore ensure all continuous disclosure requirements are in the harmonized rules.

To this end, we are publishing for a 60-day comment period the following documents:

- Multilateral Instrument 52-110 *Audit Committees* (MI 52-110)
- Form 52-110F1 *Audit Committee Information required in an AIF* (Form 52-110F1)
- Form 52-110F2 *Disclosure by Venture Issuers* (Form 52-110F2)
- Companion Policy 52-110CP to Multilateral Instrument 52-110 *Audit Committees*
- Proposed BC Instrument 52-51* *Transitional Variation of Multilateral Instrument 52-110 Audit Committees* (BCI 52-51*)

(together, MI 52-110).

Purpose and substance of MI 51-110

The main purpose of the proposed rule is to ensure that each reporting issuer has an independent and qualified audit committee to oversee the financial reporting of the issuer and the relationship between the issuer and its auditor. It is part of a set of requirements designed to ensure high quality financial disclosure to protect investors and support the integrity of the capital markets.

MI 52-110 requires most reporting issuers to have an audit committee to which the issuer's external auditor must report directly. The audit committee must have a minimum of three members and each member must be independent and financially literate.

MI 52-110 imposes responsibilities on the audit committee, including

- overseeing the work of the external auditor engaged to prepare or issue an audit report or related work,
- pre-approving all non-audit services to be provided to the issuer or its subsidiaries by the issuer's external auditor, and
- reviewing the issuer's financial statements, MD&A, and annual and interim earnings press releases before they are publicly disclosed.

Every audit committee must also recommend to the board the external auditor to be nominated to prepare an audit report (or related work) for the issuer and the auditor's compensation. Finally, every audit committee must have the authority to engage and compensate independent counsel and other advisers the committee determines are necessary to carry out its duties and to communicate directly with the internal and external auditors.

MI 52-110 exempts venture issuers from the requirements relating to the composition of the audit committee and the disclosure requirements imposed on most issuers (Form 52-110F1). Instead, venture issuers must provide alternative disclosure (Form 52-110F2).

Background

The other securities regulatory authorities in Canada adopted MI 52-110 effective March 30, 2004, and amended it effective June 30, 2005. We did not initially publish MI 52-110 for comment nor did we adopt it in British Columbia, for reasons noted in BC Notice 2003/25. Instead, we adopted BCI 52-509, which is a simpler form of audit committee rule intended to achieve the same objectives. (See BC Notice 2005/07.)

Despite our concerns that MI 52-110 is more complex and prescriptive than is necessary to achieve its purpose, the Commission has concluded that the benefits of harmonizing our audit committee requirements in the broader interest of developing an efficient regulatory system outweigh the benefits of maintaining a simpler audit committee rule in British Columbia.

Most reporting issuers in British Columbia are also reporting issuers in other provinces. Section 3(a) of BCI 52-509 exempts issuers that comply with MI 52-110 from complying with our rule. As a result most reporting issuers are already complying with MI 52-110 rather than BCI 52-509 and, for them, our proposal to adopt MI 52-110 will make no difference. Section 3.2 of Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101) provides an exemption from MI 52-110 in jurisdictions other than Ontario for British Columbia based reporting issuers, but few issuers appear to rely on the exemption to comply with BCI 52-509 instead of MI 52-110.

Proposed BCI 52-51* provides a one year transition period to British Columbia only reporting issuers before they have to comply with MI 52-110. This transition period will not apply to issuers that have been relying on section 3.2 of MI 11-101 to comply with BCI 52-509 because the passport system presupposes that market participants operating in more than one jurisdiction are subject to harmonized requirements.

Request for comment

Please provide your comments on implementing proposed MI 52-110, its related forms and companion policy, and proposed BCI 52-51* and repealing BCI 52-509 and sections 144 and 145 of the *Securities Rules* by May 28, 2007 by delivering them to:

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Douglas M. Hyndman
Chair

Ref: BC Notice 2003/25
BC Notice 2005/07
National Instrument 11-102 *Passport System*
BC Notice 2007/12
Multilateral Instrument 52-110 *Audit Committees*
BC Instrument 52-509 *Audit Committees*
Proposed BC Instrument 52-51* *Transition Variation of Multilateral Instrument 52-110 Audit Committees*

This Notice may refer to other documents. These documents can be found at the B.C. Securities Commission public website at www.bpsc.bc.ca in the section Securities Law & Policy: Policies & Instruments.