

Annex A

Proposed Amendments to National Instrument 51-102 *Continuous Disclosure Obligations*

1. *National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.*

2. *Subsection 1.1(1) is amended*

(a) *by replacing the definition of “AIF” with the following:*

“AIF” means,

- (a) in the case of an issuer other than an SEC issuer, a completed Part 3 of Form 51-102F1 *Annual Disclosure Statement*; or
- (b) in the case of an SEC issuer, a completed Part 3 of Form 51-102F1 *Annual Disclosure Statement* or an annual report or transition report under the 1934 Act on Form 10-K or Form 20-F;

(b) *by adding the following definitions:*

“annual disclosure statement” means,

- (a) in the case of an issuer other than an SEC issuer, a completed Part 1 and Part 2 and, if any, a completed Part 3 of Form 51-102F1 *Annual Disclosure Statement*; or
- (b) in the case of an SEC issuer, a completed Form 51-102F1 *Annual Disclosure Statement* or an annual report or transition report under the 1934 Act on Form 10-K or Form 20-F;

“interim disclosure statement” means,

- (a) in the case of an issuer other than an SEC issuer, a completed Form 51-102F2 *Interim Disclosure Statement*; or
- (b) in the case of an SEC issuer, a completed Form 51-102F2 *Interim Disclosure Statement* or an interim report or transition report under the 1934 Act on Form 10-Q;

(c) *by replacing the definition of “MD&A” with the following:*

“MD&A” means,

- (a) in the case of an issuer other than an SEC issuer, a completed

- (i) Part 2 of Form 51-102F1 *Annual Disclosure Statement*; or
- (ii) Part 2 of Form 51-102F2 *Interim Disclosure Statement*; or
- (b) in the case of an SEC issuer, a completed
 - (i) Part 2 of Form 51-102F1 *Annual Disclosure Statement* or management's discussion and analysis prepared in accordance with Item 303 of Regulation S-K under the 1934 Act; or
 - (ii) Part 2 of Form 51-102F2 *Interim Disclosure Statement* or management's discussion and analysis prepared in accordance with Item 303 of Regulation S-K under the 1934 Act;, **and**
- (d) ***in paragraph (a) of the definition of "venture issuer" by replacing "Parts 4 and 5 of this Instrument and Form 51-102F1" with "Part 3A of this Instrument".***

3. *The following is added after Part 3:*

PART 3A ANNUAL AND INTERIM DISCLOSURE STATEMENTS

3A.1 Filing of Annual Disclosure Statement

A reporting issuer must file an annual disclosure statement that, for greater certainty, is comprised of

- (a) annual financial statements required under section 4.1,
- (b) an MD&A required under subsection 5.1(1), and
- (c) if applicable, an AIF required under section 6.1.

3A.2 Filing Deadline for Annual Disclosure Statement

The annual disclosure statement required to be filed under section 3A.1 must be filed,

- (a) in the case of a reporting issuer other than a venture issuer, on or before the earlier of
 - (i) the 90th day after the end of its most recently completed financial year, and
 - (ii) the date the reporting issuer files, in a foreign jurisdiction, annual financial statements for its most recently completed financial year, or

- (b) in the case of a venture issuer, on or before the earlier of
 - (i) the 120th day after the end of its most recently completed financial year, and
 - (ii) the date the venture issuer files, in a foreign jurisdiction, annual financial statements for its most recently completed financial year.

3A.3 Filing of Interim Disclosure Statement

A reporting issuer must file an interim disclosure statement that, for greater certainty, is comprised of

- (a) an interim financial report required under subsection 4.3(1), and
- (b) an MD&A required under subsection 5.1(2).

3A.4 Filing Deadline for Interim Disclosure Statement

An interim disclosure statement required to be filed under section 3A.3 must be filed,

- (a) in the case of a reporting issuer other than a venture issuer, on or before the earlier of
 - (i) the 45th day after the end of the interim period, and
 - (ii) the date the reporting issuer files, in a foreign jurisdiction, an interim financial report for a period ending on the last day of the interim period, or
- (b) in the case of a venture issuer, on or before the earlier of
 - (i) the 60th day after the end of the interim period, and
 - (ii) the date the venture issuer files, in a foreign jurisdiction, an interim financial report for a period ending on the last day of the interim period.

3A.5 Approval of Annual and Interim Disclosure Statements

- (1) An annual disclosure statement that a reporting issuer is required to file under section 3A.1 must be approved by the board of directors before it is filed.
- (2) An interim disclosure statement that a reporting issuer is required to file under section 3A.3 must be approved by the board of directors before it is filed.

- (3) For the purposes of subsection (1), the board of directors must not delegate the approval of the annual disclosure statement.
- (4) For the purposes of subsection (2), the board of directors must not delegate the approval of the interim disclosure statement other than to the audit committee of the board of directors.

3A.6 Delivery of Annual and Interim Disclosure Statements and Certain Other Continuous Disclosure Documents

- (1) Subject to subsection (2), a reporting issuer must send annually a request form to the registered holders and beneficial owners of its securities, other than debt instruments, that the registered holders and beneficial owners may use to request a copy of any of the following:
 - (a) the reporting issuer's annual disclosure statement or annual financial statements and related MD&A;
 - (b) the reporting issuer's interim disclosure statement or interim financial report and related MD&A;
 - (c) the annual financial statements or interim financial reports filed under section 4.7 and subsection 4.10(2).
- (2) For the purposes of subsection (1), the reporting issuer must, in accordance with NI 54-101, send the request form to the beneficial owners of its securities who are identified under that Instrument as having chosen to receive all securityholder materials sent to beneficial owners of securities.
- (3) If a registered holder or beneficial owner of securities, other than debt instruments, of a reporting issuer requests a copy of a document under paragraphs (1)(a) or (b), the reporting issuer must send the requested document to the person or company that made the request, without charge, on or before the later of 10 calendar days after the reporting issuer receives the request and,
 - (a) in the case of a reporting issuer other than a venture issuer, 10 calendar days after the filing deadline in subparagraphs 3A.2(a)(i) or 3A.4(a)(i), as applicable, and
 - (b) in the case of a venture issuer, 10 calendar days after the filing deadline in subparagraphs 3A.2(b)(i) or 3A.4(b)(i), as applicable.
- (4) If a registered holder or beneficial owner of securities, other than debt instruments, of a reporting issuer requests a copy of a document under paragraph (1)(c), the reporting issuer must send the requested document to the person or company that made the request, without charge, on or before the later of 10 calendar days after the reporting issuer receives the request and,

- (a) in the case of a reporting issuer other than a venture issuer, 10 calendar days after the filing deadline in section 4.7 or subsection 4.10(2), as applicable, and
 - (b) in the case of a venture issuer, 10 calendar days after the filing deadline in section 4.7 or subsection 4.10(2), as applicable.
- (5) A reporting issuer is not required to send a copy of a document under subsections (3) and (4) if the document was filed more than one year before the reporting issuer receives the request for the document.
- (6) Subsection (1), and subsections (3) and (4) with respect to an annual disclosure statement and annual financial statements, do not apply to a reporting issuer that, in accordance with NI 54-101, sends its annual disclosure statement and annual financial statements to the registered holders and beneficial owners referred to in subsections (1), (3) and (4), within 140 days of the reporting issuer's financial year-end.

4. Section 4.1 is replaced with the following:

4.1 Requirement to File Audited Comparative Annual Financial Statements as Part of an Issuer's Annual Disclosure Statement

- (1) For the purposes of paragraph 3A.1(a), and subject to subsection 4.8(6), a reporting issuer must file annual financial statements that include the following:
- (a) a statement of comprehensive income, a statement of changes in equity, and a statement of cash flows for
 - (i) the most recently completed financial year; and
 - (ii) the financial year immediately preceding the most recently completed financial year, if any;
 - (b) a statement of financial position as at the end of each of the periods referred to in paragraph (a);
 - (c) in the following circumstances, a statement of financial position as at the beginning of the financial year immediately preceding the most recently completed financial year:
 - (i) the reporting issuer discloses in its annual financial statements an unreserved statement of compliance with IFRS, and
 - (ii) the reporting issuer

- (A) applies an accounting policy retrospectively in its annual financial statements,
 - (B) makes a retrospective restatement of items in its annual financial statements, or
 - (C) reclassifies items in its annual financial statements;
- (d) in the case of the reporting issuer's first IFRS financial statements, the opening IFRS statement of financial position at the date of transition to IFRS;
- (e) notes to the annual financial statements.
- (2) Annual financial statements filed under subsection (1) must be audited.
- (3) If a reporting issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the statement of comprehensive income filed under subsection (1)..

5. *Section 4.2 is repealed.*

6. *Section 4.3 is replaced with the following:*

4.3 Requirement to File Interim Financial Report as Part of an Issuer's Interim Disclosure Statement

- (1) For the purposes of paragraph 3A.3(a), and subject to subsections 4.7(4), 4.8(7), 4.8(8) and 4.10(3), a reporting issuer must file an interim financial report for each interim period ended after it became a reporting issuer, that includes all of the following:
- (a) a statement of financial position as at the end of the interim period and a statement of financial position as at the end of the immediately preceding financial year, if any;
 - (b) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows, all for the year-to-date interim period, and comparative financial information for the corresponding interim period in the immediately preceding financial year, if any;
 - (c) for interim periods other than the first interim period in a reporting issuer's financial year, a statement of comprehensive income for the 3 month period ending on the last day of the interim period and comparative financial information for the corresponding period in the immediately preceding financial year, if any;
 - (d) in the following circumstances, a statement of financial position as at the beginning of the immediately preceding financial year:

- (i) the reporting issuer discloses in its interim financial report an unreserved statement of compliance with International Accounting Standard 34 *Interim Financial Reporting*, and
 - (ii) the reporting issuer
 - (A) applies an accounting policy retrospectively in its interim financial report,
 - (B) makes a retrospective restatement of items in its interim financial report, or
 - (C) reclassifies items in its interim financial report;
 - (e) in the case of the reporting issuer's first interim financial report required to be filed in the year of adopting IFRS, the opening IFRS statement of financial position at the date of transition to IFRS; and
 - (f) notes to the interim financial report.
- (2) If a reporting issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the statement of comprehensive income filed under subsection (1).
- (3) **Disclosure of Auditor Review of an Interim Financial Report**
- (a) If an auditor has not performed a review of an interim financial report required to be filed under subsection (1), the interim financial report must be accompanied by a notice indicating that the interim financial report has not been reviewed by an auditor.
 - (b) If a reporting issuer engaged an auditor to perform a review of an interim financial report required to be filed under subsection (1) and the auditor was unable to complete the review, the interim financial report must be accompanied by a notice indicating that the auditor was unable to complete a review of the interim financial report and the reasons why the auditor was unable to complete the review.
 - (c) If an auditor has performed a review of the interim financial report required to be filed under subsection (1) and the auditor has expressed a reservation of opinion in the auditor's interim review report, the interim financial report must be accompanied by a written review report from the auditor.

(4) SEC Issuer – Restatement of an Interim Financial Report

- (a) An SEC issuer that is a reporting issuer must comply with the requirements in paragraph (b)
 - (i) if the SEC issuer has filed an interim financial report prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises for one or more interim periods since its most recently completed financial year for which annual financial statements have been filed, and
 - (ii) if the SEC issuer prepares its annual financial statements or an interim financial report for the period immediately following the periods referred to in subparagraph (a)(i) in accordance with U.S. GAAP.
- (b) An SEC issuer that is a reporting issuer that meets the conditions in subparagraphs (a)(i) and (ii) must
 - (i) restate the interim financial report for the periods referred to in subparagraph (a)(i) in accordance with U.S. GAAP, and
 - (ii) file the restated interim financial report referred to in subparagraph (b)(i) by the filing deadline for the financial statements referred to in subparagraph (a)(ii)..

7. Sections 4.4 to 4.6 are repealed.

8. Section 4.7 is amended

- (a) in paragraph (2)(b) by replacing “in section 4.2” with “prescribed under section 3A.2 for the annual disclosure statement”,**
- (b) in paragraph (3)(b) by replacing “in section 4.4” with “prescribed under section 3A.4 for the interim disclosure statement”, and**
- (c) in paragraph (4)(a) by replacing “subsection 4.3(2)” with “subsection 4.3(1)”.**

9. Section 4.8 is amended

- (a) in paragraph (1)(b) by replacing “sections 4.2 and 4.4” with “sections 3A.2 and 3A.4 for the annual disclosure statement and the interim disclosure statement”,**
- (b) in the following provisions by adding “prescribed under section 3A.2 or 3A.4, as applicable” after “the filing deadline”:**
 - (i) paragraph (2)(a);**

16. **Section 11.5 is replaced with the following:**

11.5 Refiling Documents

- (1) If a reporting issuer makes one of the decisions set out below and the information in the refiled document or restated financial information will differ materially from the information originally filed, the issuer must immediately file and issue a news release authorized by an executive officer disclosing the nature and substance of the change or proposed changes:
 - (a) refile, in whole, a document filed under this Instrument;
 - (b) refile, in part, a document filed under section 3A.1 or 3A.3;
 - (c) restate financial information for comparative periods in financial statements for reasons other than retrospective application of a change in an accounting standard or policy or a new accounting standard.

- (2) If a reporting issuer refiles a document in whole under paragraph (1)(a) relating to a previously filed annual disclosure statement or interim disclosure statement, the document must
 - (a) include the following statement on the cover page:

“Amended and Restated [identify interim or annual disclosure statement] dated [insert date of amendment], amending and restating [identify interim or annual disclosure statement] dated [insert date of interim or annual disclosure statement being amended].”, and
 - (b) include an explanatory note on its cover page that indicates the reasons for the refile or restatement and the locations within the document of all information which differs materially from the information originally filed.

- (3) If a reporting issuer refiles a document in part under paragraph (1)(b), the amendment must
 - (a) include the following statement on the cover page:

“Amendment no. [insert amendment number] dated [insert date of amendment] to [identify interim or annual disclosure statement] dated [insert date of interim or annual disclosure statement being amended]”,
and
 - (b) include an explanatory note on its cover page that indicates the reasons for the amendment.

- (4) Despite subsection (3), a reporting issuer that restates financial statements contained in Part 1 of Form 51-102F1 *Annual Disclosure Statement* or Part 1 of Form 51-102F2 *Interim Disclosure Statement* must restate the Part in whole..

17. ***Subsection 11.6(1) is amended by deleting “and that does not file an AIF that includes the executive compensation disclosure required by Item 18 of Form 51-102F2”.***

18. ***Section 12.3 is replaced with the following:***

12.3 Time for Filing of Documents

- (1) If the making of a document required to be filed under sections 12.1 and 12.2 constitutes a material change for the reporting issuer, the document must be filed no later than the time the reporting issuer files, or is required to file, a material change report in Form 51-102F3.
- (2) If the making of a document required to be filed under sections 12.1 and 12.2 does not constitute a material change for the reporting issuer, and
 - (a) if the reporting issuer is required to file an AIF as part of the annual disclosure statement, and
 - (i) files its annual disclosure statement on or before the date on which it is required to be filed, the document must be filed no later than the date the reporting issuer files its annual disclosure statement, if the document was made or adopted before that date; or
 - (ii) does not file its annual disclosure statement on or before the date on which it is required to be filed, the document must be filed
 - (A) no later than the date the reporting issuer is required to file its annual disclosure statement, if the document was made or adopted before that date, and
 - (B) no later than the date the reporting issuer files its annual disclosure statement, if the document was made or adopted before that date and has not been previously filed under clause (2)(a)(ii)(A); or
 - (b) if the reporting issuer is not required to file an AIF as part of the annual disclosure statement, the document must be filed no later than the earlier of
 - (i) 120 days after the end of the reporting issuer’s most recently completed financial year, if the document was made or adopted before the end of the reporting issuer’s most recently completed financial year, and

- (ii) the date the reporting issuer files an AIF, if the document was made or adopted before the end of the reporting issuer's most recently completed financial year..

19. Section 13.2 is replaced with the following:

13.2 Existing Exemptions

- (1) A reporting issuer that was entitled to rely on an exemption, waiver or approval granted to it by a regulator or securities regulatory authority relating to continuous disclosure requirements of securities legislation or securities directions existing immediately before this Instrument came into force is exempt from any substantially similar provision of this Instrument to the same extent and on the same conditions, if any, as contained in the exemption, waiver or approval.
- (2) A reporting issuer that was entitled to rely on an exemption, waiver or approval granted to it by a regulator or securities regulatory authority relating to the requirements to prepare, file or deliver annual financial statements, an MD&A and an AIF, if applicable, existing immediately before the amendments on **[December 15, 2023]** came into force is exempt from the requirements to prepare, file or deliver an annual disclosure statement under Part 3A to the same extent and on the same conditions, if any, as contained in the exemption, waiver or approval.
- (3) A reporting issuer that was entitled to rely on an exemption, waiver or approval granted to it by a regulator or securities regulatory authority relating to the requirements to prepare, file or deliver an interim financial report and an MD&A existing immediately before the amendments on **[December 15, 2023]** came into force is exempt from the requirements to prepare, file or deliver an interim disclosure statement under Part 3A to the same extent and on the same conditions, if any, as contained in the exemption, waiver or approval.
- (4) A reporting issuer must, at the time that it first intends to rely on subsections (1), (2) or (3) in connection with a filing requirement under this Instrument, inform the securities regulatory authority in writing of
 - (a) the general nature of the exemption, waiver or approval and the date on which it was granted; and
 - (b) the requirement under prior securities legislation or securities directions, or prior to the amendments on **[December 15, 2023]** coming into force, in respect of which the exemption, waiver or approval applied and the substantially similar provision of this Instrument.

20. Section 14.2 is repealed.

21. *Form 51-102F1 MANAGEMENT'S DISCUSSION & ANALYSIS is replaced with the following form:*

**Form 51-102F1
ANNUAL DISCLOSURE STATEMENT**

[NTD: include ADS once finalized].

22. *Form 51-102F2 ANNUAL INFORMATION FORM is replaced with the following form:*

**Form 51-102F2
INTERIM DISCLOSURE STATEMENT**

[NTD: include IDS once finalized].

23. *Section 16.1 of Form 51-102F5 INFORMATION CIRCULAR is amended by replacing “financial statements and MD&A” with “annual disclosure statement, interim disclosure statements, annual financial statements, interim financial reports and management reports of fund performance relating to the financial statements”.*

Transition – general

24. (1) In this section, “issuer’s effective date” means, in relation to an issuer, the earlier of
- (a) the date the issuer is required to file an annual disclosure statement for its first financial year ending on or after **[December 15, 2023]**, and
 - (b) the date, on or after **[December 15, 2023]**, the issuer files an annual disclosure statement or an interim disclosure statement.
- (2) The provisions of National Instrument 51-102 *Continuous Disclosure Obligations*, as amended by this Instrument, do not apply to an issuer until the issuer’s effective date.
- (3) Until the issuer’s effective date, an issuer must comply with National Instrument 51-102 *Continuous Disclosure Obligations* as it read on **[December 14, 2023]**.

Transition – interim disclosure statements

25. Despite subsection 24(2), if an issuer files an interim disclosure statement under National Instrument 51-102 *Continuous Disclosure Obligations*, as amended by this Instrument, and the issuer has not filed an MD&A under Part 2 of Form 51-102F1 *Annual Disclosure Statement*, as enacted by this Instrument, the issuer must include in the interim disclosure statement an MD&A prepared in accordance with Part 2 of Form 51-102F1 *Annual Disclosure Statement* as enacted by this Instrument.

Effective date

26. This Instrument comes into force on **[December 15, 2023]**.