

**Proposed Amendments to
National Instrument 44-101
*Short Form Prospectus Distributions***

1. National Instrument 44-101 Short Form Prospectus Distributions is amended by this Instrument.

2. Section 1.1 is amended by

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

“AIF” means

- (a) for an issuer that at the applicable time
 - (i) was a reporting issuer but not a venture issuer, has the same meaning as in NI 51-102,
 - (ii) was a venture issuer, an annual report,
- (b) for an investment fund, an annual information form as that term is used in NI 81-106;,

(b) inserting the following definition after the definition of “AIF”:

“annual report” has the same meaning as in section 1 of NI 51-103;;

(c) replacing the definition of “applicable CD rule” with the following:

“applicable CD rule” means

- (a) for an issuer that at the applicable time
 - (i) was a reporting issuer but not a venture issuer, NI 51-102,
 - (ii) was a venture issuer, NI 51-103,
- (b) for an investment fund, NI 81-106;,

(d) inserting the following definition after the definition of “applicable CD rule”:

“applicable time” has the same meaning as in section 3 of NI 51-103;;

(e) replacing the definition of “material change report” with the following:

“material change report” means

- (a) for an issuer that at the applicable time
 - (i) was a reporting issuer but not a venture issuer, a completed Form 51-102F3 *Material Change Report*,
 - (ii) was a venture issuer, a completed Form 51-103F2 *Report of Material Change, Material Related Entity Transaction or Major Acquisition*,
- (b) for an investment fund, a completed Form 51-102F3 *Material Change Report* adjusted as directed by NI 81-106;

(f) replacing the definition of "MD&A" with the following:

"MD&A"

- (a) for an issuer that at the applicable time
 - (i) was a reporting issuer but not a venture issuer, has the same meaning as in NI 51-102,
 - (ii) was a venture issuer, means the management's discussion and analysis in a completed Form 51-103F1 *Annual and Mid-Year Reports* for an annual report or mid-year report, as applicable,
- (b) for an investment fund, means an annual or interim management report of fund performance as defined in NI 81-106;

(g) inserting the following definition after the definition of "MD&A":

"mid-year interim financial report" has the same meaning as in section 1 of NI 51-103;.

3. Section 2.2 is amended by replacing paragraph (d) with the following:

- (d) the issuer has in at least one jurisdiction in which it is a reporting issuer,
 - (i) in the case of an issuer other than a venture issuer, current annual financial statements and a current AIF,
 - (ii) in the case of a venture issuer, a current AIF;.

4. Section 2.3 is amended by replacing paragraph (1)(d) with the following:

- (d) the issuer has in at least one jurisdiction in which it is a reporting issuer,

- (i) in the case of an issuer other than a venture issuer, current annual financial statements and a current AIF;
- (ii) in the case of a venture issuer, a current AIF;

5. **Section 2.7 is amended by**

(a) replacing paragraph (1)(a) with the following:

- (a) the issuer is not exempt from the requirement in the applicable CD rule to file
 - (i) in the case of an issuer other than a venture issuer, annual financial statements within a prescribed period after its financial year end, but the issuer has not yet been required under the applicable CD rule to file annual financial statements,
 - (ii) in the case of a venture issuer, a completed Form 51-103F1 *Annual and Mid-Year Reports*, within the prescribed period after its financial year end, but the issuer has not yet been required under the applicable CD rule to file an annual report, and,

(b) replacing subsection (2) with the following:

- (2) Subsection 2.2(d), and paragraphs 2.3(1)(d) and 2.6(1)(b) do not apply to a successor issuer if
 - (a) the successor issuer is not exempt from the requirement in the applicable CD rule to file
 - (i) in the case of an issuer other than a venture issuer, annual financial statements within a prescribed period after its financial year end, but the successor issuer has not yet, since the completion of the restructuring transaction which resulted in the successor issuer, been required under the applicable CD rule to file annual financial statements,
 - (ii) in the case of a venture issuer, a completed Form 51-103F1 *Annual and Mid-Year Reports* within the prescribed period after its financial year end, but the successor issuer has not yet, since the completion of the restructuring transaction which resulted in the successor issuer, been required under the applicable CD rule to file an annual report, and
 - (b) an information circular relating to the restructuring transaction that resulted in the successor issuer was filed by the successor issuer or an

issuer that was a party to the restructuring transaction, and such information circular

- (i) complied with applicable securities legislation, and
- (ii) included disclosure for the successor issuer in accordance with
 - A. in the case of an issuer that was not a venture issuer at the applicable time, section 14.2 or 14.5 of Form 51-102F5.
 - B. in the case of an issuer that was a venture issuer at the applicable time, section 17 of Form 51-103F4 *Information Circular* of NI 51-103, unless exempted by section 19 of Form 51-103F4..

6. Section 4.1 is amended by

(a) replacing subparagraph (a)(iv) with the following:

- (iv) **Documents Affecting the Rights of Securityholders** – a copy of any document that relates to the securities being distributed, and that has not previously been filed that is required to be filed under
 - A. subsection 12.1(1) of NI 51-102,
 - B. section 16.4 of NI 81-106,
 - C. any of paragraph (a), (b), (c) or (d) of subsection 34(1) of NI 51-103;

(b) replacing subparagraph (a)(iv.1) with the following:

- (iv.1) **Material Contracts** – a copy of any material contract that has not previously been filed that is required to be filed under
 - A. section 12.2 of NI 51-102,
 - B. section 16.4 of NI 81-106,
 - C. paragraph 34(1)(d) of NI 51-103;.

7. **Form 44-101F1 Short Form Prospectus is amended as follows**

(a) **Item 1 is amended by adding the following section:**

1.14 Cover Page -- A venture issuer must include in bold face type on the cover page of the prospectus the following statement:

"The issuer [is/will be] a venture issuer subject to the ongoing governance and disclosure requirements under National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers.*.",

(b) **Section 9.1 is replaced with the following:**

9.1 Mineral Property – (1) If, for an issuer other than a venture issuer, a material part of the proceeds of the distribution is to be expended on a particular mineral property and if the current AIF does not contain the disclosure required under section 5.4 of Form 51-102F2 for the property or that disclosure is inadequate or incorrect due to changes, disclose the information required under section 5.4 of Form 51-102F2.

(2) If, for a venture issuer, a material part of the proceeds of the distribution is to be expended on a particular mineral property and if the current AIF does not contain the disclosure required under subsection 16(2) or permitted under subsection 16(3) of Form 51-103F1 for the property or that disclosure is inadequate or incorrect due to changes, disclose the information required under subsection 16(2) or subsection 16(3) of Form 51-103F1.,

(c) **Section 10.2 is amended by:**

(i) **inserting the following subsection after subsection (1)**

(1.1) Subsection 10.2(1) does not apply to an issuer that was a venture issuer at the acquisition date., **and**

(ii) **inserting the following subsection after subsection (2)**

(2.1) Subsection 10.2(2) does not apply to a venture issuer.,

(d) **Item 10 is amended by adding the following section after section 10.2:**

10.3 Major Acquisitions

(1) For an issuer that was a venture issuer at the acquisition date, describe any major acquisition of a “business” or “related businesses” (as those terms are defined in NI 51-103)

- (a) that the issuer completed within 75 days prior to the date of the short form prospectus;
 - (b) for which the issuer has not yet filed a Form 51-103F2 or related financial statements.
- (2) Describe any proposed major acquisition of a “business” or “related businesses” (as those terms are defined in NI 51-103) by a venture issuer that
- (a) has progressed to a state where a reasonable person would believe that the likelihood of the issuer completing the acquisition is high; and
 - (b) would be a major acquisition if completed as of the date of the short form prospectus.
- (3) If disclosure about a major acquisition or proposed major acquisition is required under subsection (1) or (2), include financial statements or other information about the acquisition or proposed acquisition if the inclusion of the financial statements is necessary for the short form prospectus to contain full, true and plain disclosure of all material facts relating to the securities being distributed.
- (4) The requirement to include financial statements or other information under subsection (3) must be satisfied by including
- (a) the financial statements or other information that will be required to be included in, or incorporated by reference into, a Form 51-103F2, or
 - (b) satisfactory alternative financial statements or other information.

INSTRUCTION

For the description of the major acquisition or proposed major acquisition, include the information required by Item 10 of Form 51-103F2. For a proposed major acquisition, modify this information as necessary to convey that the acquisition is not yet completed.,

- (e) ***Subsection (1) of section 11.1 is replaced with the following:***
- (1) In addition to any other document that an issuer may choose to incorporate by reference, an issuer must specifically incorporate by reference in the short form prospectus, by means of a statement in the short form prospectus to that effect, each of the documents set forth below, as applicable:
1. The issuer’s current AIF, if it has one.

2. Except in the case of a venture issuer, the issuer's current annual financial statements, if any, and related MD&A.
3. Except in the case of a venture issuer, the issuer's interim financial report most recently filed or required to have been filed under the applicable CD rule in respect of an interim period, if any, subsequent to the financial year in respect of which the issuer has filed its current annual financial statements or has included annual financial statements in the short form prospectus, and the related interim MD&A.
 - 3.1 In the case of a venture issuer, the issuer's mid-year report in Form 51-103F1 *Annual and Mid-Year Reports* most recently filed or required to have been filed under the applicable CD rule in respect of a mid-year period, if any, subsequent to the financial year in respect of which the issuer has filed its annual report or has included annual financial statements in the short form prospectus.
 - 3.2 In the case of a venture issuer that has filed an interim financial report for an "optional interim period" (as that term is defined in NI 51-103), the issuer's interim financial report most recently filed in respect of an interim period, if any, subsequent to the financial year in respect of which the issuer has filed its current annual financial statements or has included annual financial statements in the short form prospectus and subsequent to any mid-year period for which the issuer has filed its current mid-year interim financial report or has included mid-year interim financial report in the short form prospectus, if applicable, and, if the venture issuer has filed related interim MD&A, the related MD&A.
4. Except in the case of a venture issuer, if, before the short form prospectus is filed, historical financial information about the issuer for a financial period more recent than the period for which financial statements are required under paragraphs 2 and 3 is publicly disseminated by, or on behalf of, the issuer through news release or otherwise, the content of the news release or public communication.
 - 4.1 In the case of a venture issuer, if, before the short form prospectus is filed, historical financial information about the issuer is publicly disseminated by, or on behalf of, the issuer through news release or otherwise, the content of the news release or public communication, if the historical financial information is for a financial period more recent than
 - (a) the period required to be covered by the financial statements required to be included in the current AIF under paragraph 1,
 - (b) the mid-year report required under paragraph 3.1., or

- (c) an interim financial report for an "optional interim period" (as that term is defined in NI 51-103) required under paragraph 3.2.
- 5. Each material change report, except a confidential material change report, filed under Part 7 of NI 51-102, Part 11 of NI 81-106 or Part 6 of NI 51-103, as applicable, and related financial statements since the end of the financial year in respect of which the issuer's current AIF is filed.
- 6. Each business acquisition report filed by the issuer under Part 8 of NI 51-102 for acquisitions completed since the beginning of the financial year in respect of which the issuer's current AIF is filed, unless the issuer
 - (a) incorporated the BAR by reference into its current AIF, or
 - (b) incorporated at least 9 months of the acquired business or related businesses operations into the issuer's current annual financial statements.
- 7. Each information circular filed by the issuer under Part 9 of NI 51-102, Part 12 of NI 81-106 or Part 5 of NI 51-103, as applicable, since the beginning of the financial year in respect of which the issuer's current AIF is filed, other than an information circular prepared in connection with an annual general meeting if the issuer has filed and incorporated by reference an information circular for a subsequent annual general meeting.
- 8. The most recent Form 51-101F1, Form 51-101F2 and Form 51-101F3, filed by an SEC issuer, unless
 - (a) the issuer's current AIF is in the form of Form 51-102F2 or Form 51-103F1, as applicable, or
 - (b) the issuer is otherwise exempted from the requirements of NI 51-101.
- 9. Each other disclosure document that the issuer has filed pursuant to an undertaking to a provincial or territorial securities regulatory authority since the beginning of the financial year in respect of which the issuer's current AIF is filed.
- 10. Each other disclosure document of the type listed in paragraphs 1 through 8 that the issuer has filed pursuant to an exemption from a requirement under securities legislation since the beginning of the financial year in respect of which the issuer's current AIF is filed.,

(f) Section 11.4 is amended by adding the following subsection:

- (3) This section does not apply to a venture issuer that was a venture issuer at the acquisition date.,
- (g) ***Item 11 is amended by inserting the following section after section 11.4, prior to the instruction:***
- 11.5 **Major Acquisition for which no Report of Material Change, Material Related Entity Transaction or Major Acquisition has been filed**
- (1) If the issuer has,
- (a) since the beginning of the most recently completed financial year in respect of which annual financial statements are included in the short form prospectus; and
- (b) more than 75 days prior to the date of filing the preliminary short form prospectus;

completed an acquisition of a “business” or “related businesses” (as those terms are defined in NI 51-103) that would have been a major acquisition if the issuer had been a venture issuer at the time of the transaction, and the issuer has not filed a Form 51-103F2 in respect of the transaction, include the financial statements and other information in respect of the transaction that is prescribed by Form 51-103F2.,

- (h) ***The instruction at the end of Item 11 is replaced with the following:***

INSTRUCTION

Disclosure required by section 11.3, 11.4 or 11.5 to be included in the short form prospectus may be incorporated by reference from another document or included directly in the short form prospectus..

8. This instrument comes into force on ●.