

Annex A3

Blackline Excerpts of Proposed Amendments to National Instrument 51-102 Continuous Disclosure Obligations

[These excerpts show the proposed amendments blacklined into the current consolidated version. Those portions of the instrument that contain no proposed amendments are denoted by "...". These excerpts are provided for illustrative purposes only.]

5.3 Additional Disclosure for Venture Issuers without Significant Revenue

...

- (2) The disclosure in subsection (1) must be provided for the following periods:
- (a) in the case of annual MD&A, for the two most recently completed financial years; and
 - (b) in the case of interim MD&A for an issuer that is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, for the most recent year- to- date interim period and the comparative year- to- date period presented in the interim financial report.

...

5.4 Disclosure of Outstanding Share Data

- (1) A reporting issuer must disclose in its ~~MD&A~~ annual MD&A and, if the issuer is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, its interim MD&A, the designation and number or principal amount of
- (a) each class and series of voting or equity securities of the reporting issuer for which there are securities outstanding;
 - (b) each class and series of securities of the reporting issuer for which there are securities outstanding if the securities are convertible into, or exercisable or exchangeable for, voting or equity securities of the reporting issuer; and
 - (c) subject to subsection (2), each class and series of voting or equity securities of the reporting issuer that are issuable on the conversion, exercise or exchange of outstanding securities of the reporting issuer.

...

5.7 Additional Disclosure for Reporting Issuers with Significant Equity Investees

...

(2) The disclosure in subsection (1) must be provided for the following periods:

- (a) in the case of annual MD&A, for the two most recently completed financial years; and
- (b) in the case of interim MD&A for an issuer that is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, for the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial report.

...

8.3 Determination of Significance

(1) **Significant Acquisitions** – Subject to subsection (3) and subsections 8.10(1) and 8.10(2), an acquisition of a business or related businesses is a significant acquisition,

- (a) for a reporting issuer that is not a venture issuer, if the acquisition satisfies any of the three significance tests set out in subsection (2); and
- (b) for a venture issuer, if the acquisition satisfies either of the significance tests set out in paragraphs (2)(a) or (b) if “20 percent” is read as “40100 percent”.

...

(3) **Optional Significance Tests** – Despite subsection (1) and subject to subsections 8.10(1) and 8.10(2), if an acquisition of a business or related businesses is significant based on the significance tests in subsection (2),

- (a) a reporting issuer that is not a venture issuer may re-calculate the significance using the optional significance tests in subsection (4); and
- (b) a venture issuer may re-calculate the significance using the optional significance tests in paragraphs (4)(a) or (b) if “20 percent” is read as “40100 percent”.

...

8.4 Financial Statement Disclosure for Significant Acquisitions

...

- (5) **Pro Forma Financial Statements Required in a Business Acquisition Report** – If a reporting issuer other than a venture issuer is required to include financial statements in a business acquisition report under subsection (1) or (3), the business acquisition report must include
- (a) a pro forma statement of financial position of the reporting issuer,
 - (i) as at the date of the reporting issuer’s most recent statement of financial position filed, that gives effect, as if they had taken place as at the date of the pro forma statement of financial position, to significant acquisitions that have been completed, but are not reflected in the reporting issuer’s most recent statement of financial position for an annual or interim period; or
 - (ii) if the reporting issuer has not filed a statement of financial position for any annual or interim period, as at the date of the acquired business’s most recent statement of financial position, that gives effect, as if they had taken place as at the date of the pro forma statement of financial position, to significant acquisitions that have been completed;
 - (b) a pro forma income statement of the reporting issuer that gives effect to significant acquisitions completed since the beginning of the financial year referred to in clause (i)(A) or (ii)(A), as applicable, as if they had taken place at the beginning of that financial year, for each of the following financial periods:
 - (i) the reporting issuer’s
 - (A) most recently completed financial year for which it has filed financial statements; and
 - (B) interim period for which it has filed an interim financial report that started after the period in clause (A) and ended immediately before the acquisition date or, in the reporting issuer’s discretion, after the acquisition date; or
 - (ii) if the reporting issuer has not filed a statement of comprehensive income for any annual or interim period, for the business’s or related businesses’

- (A) most recently completed financial year that ended before the acquisition date; and
- (B) period for which financial statements are included in the business acquisition report under paragraph (3)(a); and
- (c) pro forma earnings per share based on the pro forma financial statements referred to in paragraph (b).

...

9.3.1 Content of Information Circular

- (1) Subject to Item 8 of Form 51-102F5, if a reporting issuer ~~sends~~ is required to send an information circular to a securityholder under paragraph 9.1(2)(a), the issuer must
 - (a) disclose all compensation paid, payable, awarded, granted, given or otherwise provided, directly or indirectly, by the issuer, or a subsidiary of the issuer, to each NEO and director, in any capacity, including, for greater certainty, all plan and non-plan compensation, direct and indirect pay, remuneration, economic or financial award, reward, benefit, gift or perquisite paid, payable, awarded, granted, given, or otherwise provided to the NEO or director for services provided, directly or indirectly, to the issuer or a subsidiary of the issuer, and
 - (b) include detail and discussion of the compensation, and the decision-making process relating to compensation, presented in such a way that it provides a ~~reasonable~~ person, applying reasonable effort, an understanding of
 - (i) how decisions about NEO and director compensation are made,
 - (ii) the compensation paid, made payable, awarded, granted, given or otherwise provided to each NEO and director, and
 - (iii) how specific NEO and director compensation relates to the overall stewardship and governance of the reporting issuer.
- (2) The disclosure required under subsection (1) must be provided for the periods set out in, ~~in accordance with, and subject to any exemptions set out in, Form 51-102F6 Statement of Executive Compensation, which came into force on December 31, 2008~~ and in accordance with Form 51-102F6 Statement of Executive Compensation.

(2.1) Despite subsection (2), a venture issuer may provide the disclosure required by subsection (1) for the periods set out in and in accordance with Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.

(2.2) The disclosure required under subsection (1) must be filed

(a) not later than 140 days after the end of the issuer’s most recently completed financial year, in the case of an issuer other than a venture issuer, or

(b) not later than [140 or 180 days] after the end of the issuer’s most recently completed financial year, in the case of a venture issuer.

(3) For the purposes of this section, “NEO” and “plan” have the meaning ascribed to those terms in Form 51-102F6 *Statement of Executive Compensation*, ~~which came into force on December 31, 2008.~~ or, for a venture issuer relying on subsection 2.1, in Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.

(4) ~~This section does not apply to an issuer in respect of a financial year ending before December 31, 2008.~~ [Repealed]

...

11.6 Executive Compensation Disclosure for Certain Reporting Issuers

(1) A reporting issuer that ~~does~~ is not required to send to its securityholders an information circular and does not send an information circular that includes the disclosure required by Item 8 of Form 51-102F5 and that does not file an AIF that includes the executive compensation disclosure required by Item 18 of Form 51-102F2 must

(a) disclose all compensation, paid, payable, awarded, granted, given, or otherwise provided, directly or indirectly, by the issuer, or a subsidiary of the issuer, to each NEO and director, in any capacity, including, for greater certainty, all plan and non-plan compensation, direct and indirect pay, remuneration, economic or financial award, reward, benefit, gift or perquisite paid, payable, awarded, granted, given, or otherwise provided to the NEO or director for services provided, directly or indirectly, to the issuer or a subsidiary of the issuer, and

(b) include detail and discussion of the compensation, and the decision-making process relating to compensation, presented in such a way that

it provides a reasonable person, applying reasonable effort, an understanding of

- (i) how decisions about NEO and director compensation are made,
 - (ii) the compensation paid, made payable, awarded, granted, given or otherwise provided to each NEO and director, and
 - (iii) how specific NEO and director compensation relates to the overall stewardship and governance of the reporting issuer.
- (2) The disclosure required under subsection (1) must be provided for the periods set out in, and in accordance with, Form 51-102F6 *Statement of Executive Compensation*, which came into force on December 31, 2008.
- (2.1) Despite subsection (2), a reporting issuer that is a venture issuer may provide the disclosure required under subsection (1) for the periods set out in and in accordance with Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.
- (3) The disclosure required under subsection (1) must be filed not later than 140 days after the end of the reporting issuer’s most recently completed financial year.
- (4) For the purposes of this section, “NEO” and “plan” have the meaning ascribed to those terms in Form 51-102F6 *Statement of Executive Compensation*, which came into force on December 31, 2008, or, for a venture issuer relying on subsection 2.1, in Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.
- (5) This section does not apply to an issuer that satisfies securities legislation requirements relating to information circulars, proxies and proxy solicitation under section 4.6 or 5.7 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.
- (6) ~~This section does not apply to an issuer in respect of a financial year ending before December 31, 2008.~~ [Repealed]