

**Blackline of Revisions to
Proposed Amendment Instrument to
National Instrument 51-102
Continuous Disclosure Obligations**

1. *This Instrument amends National Instrument 51-102 Continuous Disclosure Obligations.*

2. *Section 1.1 of National Instrument 51-102 is amended by*

(a) adding the following definition after “common share”:

“corporate law” has the same meaning as in section 1.1 of NI 54-101;

(b) adding the following definition after “non-voting security”:

“notice-and-access” means the delivery procedures referred to ~~has the same meaning as~~ in section 9.1.1; 1.1 of NI 54-101;

(bc) adding the following definition after “proxy”:

“proxy-related materials” means securityholder materials relating to a meeting that the reporting issuer is required ~~by the laws under which the reporting issuer is organized, incorporated or continued, or by~~ under corporate law or securities legislation; ~~to send to the registered holders of the securities;~~

(ed) adding the following definitions after “solicit”:

“special meeting” means a meeting at which a special resolution is being submitted to the securityholders of a reporting issuer ~~has the same meaning as in section 1.1 of NI 54-101;~~

~~“special resolution” for a meeting;~~

“special resolution” has the same meaning as in section 1.1 of NI 54-101;

~~(a) — has the same meaning given to the term “special resolution” under the laws under which the reporting issuer is incorporated, organized or continued; or~~

~~(b) — if no such term exists under the laws under which the reporting issuer is incorporated, organized or continued, means a resolution that is required to be passed by at least two-thirds of the votes cast;~~

“stratification” has the same meaning as in section 1.1 of NI 54-101;

3. *The following is added after subsection 9.1(2) Subsection 4.6 of National Instrument 51-102 is amended by*

(a) repealing and replacing subsection (1) with the following:

4.6 Delivery of Financial Statements – (1) Subject to subsection (2), a reporting issuer must send an annual 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 one or both of the following:

(a) a copy of the reporting issuer’s annual financial statements and MD&A for the annual financial statements and, where the reporting issuer uses notice-and-access to send proxy-related materials, a paper copy of the information circular;

(b) a copy of the reporting issuer’s interim financial reports and MD&A for the interim financial reports.

(b) inserting “using the request form in subsection (1)” after “requests the reporting issuer’s annual financial statements or interim financial reports” in subsection (3):

~~(3) A person or company soliciting proxies may send proxy-related materials using any one or a combination of the following methods:~~

(c) replacing “two years” in subsection (4) with “one year”.

~~(a) paper copies sent by prepaid mail, courier or the equivalent;~~

~~(b) notice and access, but only for a meeting that is not a special meeting;~~

~~(c) any delivery method to which the registered holder of voting securities consents.~~

4. The following is added after section 9.1 of National Instrument 51-102 Continuous Disclosure Obligations:

9.1.1 Notice-and-Access – (1) ~~For a meeting that is not a special meeting, a~~A person or company soliciting proxies may send proxy-related materials to a registered holder of voting securities by notice-and-access that complies with all of the following:

(a) the registered holder of voting securities is sent the following:

(i) a document notice containing all of the following information, and no other information:

~~(i)~~A. the date, time and location of the reporting issuer’s meeting;

~~(ii)~~a summary of the items B. a factual description of each matter or group of related matters identified in the form of proxy to be voted on;

- ~~(iii)~~ ~~an explanation of how to electronically access the information circular and other proxy related materials, including a~~ C. the website address other than the address for SEDAR, where the proxy-related materials are located;
 - ~~(iv)~~ D. a reminder to review the information circular before voting;
 - ~~(v)~~ E. an explanation of how to obtain a paper copy of the information circular from the person or company;
- ~~(vi)~~ ii) a document in plain language that explains notice-and-access and includes the following information:
- A. why the person or company is using notice-and-access;
 - B. if the person or company is using stratification, which registered holders or beneficial owners are receiving paper copies of the information circular;
 - C. the date and time by which a request for a paper copy of the information circular should be received in order for the requester to receive the paper copy in advance of any deadline for the submission of the proxy and the date of the meeting;
 - D. an explanation of how the registered holder is to ~~execute and return the form of proxy sent under paragraph (b)~~ return the proxy, including any deadline for return of ~~proxies~~ the proxy;
 - E. the page numbers of the information circular where disclosure regarding each matter or group of related matters identified in the notice in clause (i)(B) can be found;
 - F. a toll-free telephone number the registered holder can call to ask questions about notice-and-access;
- (b) the registered holder of voting securities is sent a form of proxy for use at the meeting;
 - (c) the registered holder of voting securities is sent by prepaid mail, courier or the equivalent, paper copies of the documents required by paragraphs (a) and (b), ~~or is sent the documents by any other method previously consented to by the registered holder,~~ and in the case of a solicitation by or on behalf of management of the reporting issuer the documents are sent at least 30 days before the date fixed for the meeting;
 - (d) in the case of a solicitation by or on behalf of management of the reporting issuer, ~~a news release is issued~~ at least 30 days before the date fixed for the meeting ~~containing the following:~~

~~(i) the information set out in paragraph (a);~~(ii) if management of the reporting issuer ~~is using notice and access only in respect of some registered holders, an explanation of its decision;~~ files the notification required by subsection 2.2(1) of NI 54-101;

(e) public electronic access to the information circular, form of proxy and ~~other proxy-related materials~~the documents in paragraph (a) is provided on or before the ~~same~~ day ~~as that~~ the person or company soliciting proxies sends the documents in paragraphs (a) ~~and (b)~~, in the following manner:

- (i) the ~~proxy-related materials~~documents are filed on SEDAR as required by section 9.3;
- (ii) the ~~proxy-related materials~~documents are posted, for a period ending no earlier than the date of the first annual meeting following the meeting to which the ~~material relates~~documents relate, at a website address other than the address for SEDAR;

(f) a toll-free telephone number is provided for use by the registered holder of voting securities to request a paper copy of the information circular at any time from the date that the person or company soliciting proxies sends the documents in ~~paragraphs~~paragraph (a) and (b) to the registered holder, up to and including the date of the meeting including any adjournment;

(g) if a request is received under paragraph (f) or by any other means, a paper copy of the information circular is sent ~~by prepaid mail, courier or the equivalent~~free of charge to the person or company at the address specified in the request, ~~free of charge to the person or company to whom the paper copy of the information circular is sent, no later than~~ in the following manner:

- (i) in the case of a request received prior to the date of the meeting, within 3 business days after receiving the request, by first class mail, courier or the equivalent;
- (ii) in the case of a request received on or after the date of the meeting, and within one year of the information circular being filed, within 10 calendar days after receiving the request, by prepaid mail, courier or the equivalent.

(2) A person or company that sends proxy-related materials to a registered holder of voting securities using notice-and-access must not include with the proxy-related material any documents other than the documents set out in paragraphs (1)(a) or (b) unless an information circular also is included.

9.1.2 Notice in advance of first use of notice-and-access – Management of a reporting issuer that uses notice-and-access to send proxy-related material to a registered holder of voting securities must do the following not more than six months and not less than three months before the expected date of the first meeting for which proxy-related materials will be sent by notice-and-access:

- (a) post on a website that is not SEDAR a document in plain language that explains notice-and-access;
- ~~(2) A person or company soliciting proxies~~ b) issue a news release stating that the reporting issuer intends to use notice-and-access to deliver proxy-related materials and providing the website address where the document in paragraph (a) is posted.

9.1.3 Posting materials on non-SEDAR website – (1) A person or company that posts proxy-related materials in the manner referred to in subparagraph 9.1.1(1)(e)(ii) must also post on the website the following documents:

- (a) any other disclosure material regarding the meeting that the person or company has sent to registered holders or beneficial owners of voting securities;
 - (b) any written communications the person or company soliciting proxies has made available to the public regarding the meeting, whether sent to registered holders or beneficial owners of voting securities or not.
- ~~(3) Proxy-related materials that are posted under subparagraph 9.1.1(1)(e)(ii) must be posted in a manner and be in a format that permits a person or company an individual with a reasonable level of computer skill and knowledge to do all of the following conveniently:~~
- ~~(a) access, read and search the documents on the website;~~
 - ~~(b) download and print the documents.~~
- ~~(4) An information circular posted under subparagraph (1)(e)(ii) must contain the same information as the information circular filed on SEDAR.~~
- ~~(5) Management of a reporting issuer that sends an information circular and form of proxy to a registered holder of voting securities using notice and access and sends paper copies of the information circular and form of proxy to other registered holders of voting securities by prepaid mail, courier or the equivalent must send the paper copies to those other registered holders on the same day as they send the proxy related materials under paragraph (1)(e).~~

~~(6) Despite anything in this section or the previous section, a registered holder of voting securities may consent to the use of~~ **9.1.4 Consent to other delivery methods** ~~to send proxy-related materials.~~ Nothing in ~~this~~ section 9.1.1 shall be interpreted as

- (a) restricting a registered holder of voting securities from consenting to use by a person or company soliciting proxies a reporting issuer's use of other delivery methods to send proxy-related materials;
- (b) terminating or a modifying a consent that a registered holder of voting securities previously gave to reporting issuer regarding a reporting issuer's use of other delivery methods to send proxy-related materials; or
- (c) preventing a reporting issuer from sending proxy-related materials using a delivery method to which a registered holder has previously consented.

9.1.5 Instructions to receive paper copies – (1) Despite section 9.1.1, a reporting issuer may obtain standing instructions from a registered holder of voting securities that a paper copy of the information circular be sent to the registered holder in all cases where the reporting issuer uses notice-and-access.

(2) Where a reporting issuer has obtained standing instructions from registered holder under subsection (1), the reporting issuer must do all of the following:

(a) include any paper copies of information circulars required to comply with standing instructions obtained under subsection (1) with the documents required by paragraphs 9.1.1(1)(a) and (b);

(b) provide a mechanism for the registered holder to revoke the registered holder's standing instructions.

(3) Where a reporting issuer has received a request for a paper copy of the information circular from a registered holder under paragraph 4.6(1)(a), the reporting issuer must include a paper copy of the information circular with the documents required by paragraphs 9.1.1(1)(a) and (b).

9.1.29.1.6 Compliance with SEC Rules – Section 9.1 does not apply to a reporting issuer that is an SEC issuer if it ~~uses the procedures in~~ satisfies both of the following:

(a) the SEC issuer is subject to, and complies with requirements under Rule 14a-16 under the 1934 Act to deliver proxy-related materials to a registered holder of voting securities;

(b) residents of Canada do not own, directly or indirectly, outstanding voting securities carrying more than 50 per cent of the votes for the election of directors, and none of the following is true:

(i) the majority of the executive officers or directors of the issuer are residents of Canada;

(ii) more than 50 per cent of the consolidated assets of the issuer are located in Canada;

(iii) the business of the issuer is administered principally in Canada.

5. Form 51-102F5 – Information Circular is amended by adding the following after item 4.2:

4.3 ~~If~~The information circular must state the following information if applicable:

(a) that the reporting issuer is sending proxy-related materials to registered holders or beneficial owners using notice-and-access, and if stratification is being used, the types of registered holders or beneficial owners who will receive paper copies of the information circular;

(b) that the reporting issuer is sending proxy-related materials directly to non-objecting beneficial owners under NI 54-101;

(c) that management of the reporting issuer has decided not to pay for intermediaries to forward to objecting beneficial owners under NI 54-101 the proxy-related materials and Form 54-101F7 – Request for Voting Instructions Made by Intermediary, ~~the information circular must state this fact. The information circular must also state~~and that it is the responsibility of objecting beneficial owners to contact their intermediaries to make any necessary arrangements to exercise voting rights attached to securities they beneficially own.

~~4.4—If management of the reporting issuer has determined to use notice-and-access only in respect of certain registered holders or beneficial owners, disclose this fact and provide an explanation of this decision.~~

6. This Instrument is effective on [*].