

**National Instrument 58-101**  
*Disclosure of Corporate Governance Practices*

**Part 1 Definitions and Application**

**1.1 Definitions** — In this Instrument,

“AIF” has the same meaning as in NI 51-102;

“asset-backed security” has the same meaning as in NI 51-102;

“CEO” means a chief executive officer;

“code” means a code of business conduct and ethics;

“executive officer” has the same meaning as in NI 51-102;

“marketplace” has the same meaning as in National Instrument 21-101 *Marketplace Operation*;

“MD&A” has the same meaning as in NI 51-102;

“MI 52-110” means Multilateral Instrument 52-110 *Audit Committees*, as enacted or adopted by the securities regulatory authority in each jurisdiction in Canada except British Columbia;

“NI 51-102” means National Instrument 51-102 *Continuous Disclosure Obligations*;

“SEDAR” has the same meaning as in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;

“significant security holder” means, in relation to an issuer, a security holder that

- (a) owns or controls 10% or more of any class of the issuer’s voting securities, or
- (b) is able to affect materially the control of the issuer, whether alone or by acting in concert with others;

“subsidiary entity” has the meaning set out in MI 52-110;

“U.S. marketplace” means an exchange registered as of the effective date of this Instrument as a ‘national securities exchange’ under section 6 of the 1934 Act, or the Nasdaq Stock Market; and

“venture issuer” means a reporting issuer that, at the end of its most recently completed financial year, did not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc.

## **1.2 Meaning of Independence —**

- (1) In a jurisdiction other than British Columbia, a director is independent if he or she would be independent within the meaning of section 1.4 of MI 52-110.
- (2) In British Columbia, a director is independent if
  - (a) a reasonable person with knowledge of all the relevant circumstances would conclude that the director is independent of management of the issuer and of any significant security holder, or
  - (b) the issuer is a reporting issuer in a jurisdiction other than British Columbia, and the director is independent under subsection (1).

## **1.3 Application —** This Instrument applies to a reporting issuer other than:

- (a) an investment fund or issuer of asset-backed securities, as defined in NI 51-102;
- (b) a designated foreign issuer or SEC foreign issuer, as defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;
- (c) a credit support issuer or exchangeable security issuer that is exempt under sections 13.2 and 13.3 of NI 51-102, as applicable; and
- (d) an issuer that is a subsidiary entity, if
  - (i) the issuer does not have equity securities, other than non-convertible, non-participating preferred securities, trading on a marketplace, and
  - (ii) the person or company that owns the issuer is
    - (A) subject to the requirements of this Instrument, or

- (B) an issuer that has securities listed or quoted on a U.S. marketplace, and is in compliance with the corporate governance disclosure requirements of that U.S. marketplace.

## **Part 2 Disclosure and Filing Requirements**

### **2.1 Required Disclosure —**

- (1) If management of an issuer, other than a venture issuer, solicits a proxy from a security holder of the issuer for the purpose of electing directors to the issuer's board of directors, the issuer must include in its management information circular the disclosure required by Form 58-101F1.
- (2) An issuer, other than a venture issuer, that does not send a management information circular to its security holders must provide the disclosure required by Form 58-101F1 in its AIF.

### **2.2 Venture Issuers —**

- (1) If management of a venture issuer solicits a proxy from a security holder of the venture issuer for the purpose of electing directors to the issuer's board of directors, the venture issuer must include in its management information circular the disclosure required by Form 58-101F2.
- (2) A venture issuer that does not send a management information circular to its security holders must provide the disclosure required by Form 58-101F2 in its AIF or annual MD&A.

- 2.3 Filing of Code —** If an issuer has adopted or amended a written code, the issuer must file a copy of the code or amendment on SEDAR no later than the date on which the issuer's next financial statements must be filed, unless a copy of the code or amendment has been previously filed.

## **Part 3 Exemptions and Effective Date**

### **3.1 Exemptions —**

- (1) The securities regulatory authority or regulator may grant an exemption from this rule, in whole or in part, subject to any conditions or restrictions imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant an exemption.

**3.2 Effective Date —**

- (1) This Instrument comes into force on June 30, 2005.
- (2) Despite subsection (1), sections 2.1 and 2.2 only apply to management information circulars, AIFs and annual MD&A, as the case may be, which are filed following an issuer's financial year ending on or after June 30, 2005.

[Amended December 31, 2007]