

ANNEX B

Companion Policy 13-103 [*System Replacement Rule*]

Introduction

The purpose of this Companion Policy is to provide guidance on how securities regulatory authorities and regulators (we or us) interpret or apply certain provisions of National Instrument 13-103 [*System Replacement Rule*] (the Instrument). This Companion Policy includes explanations, discussion and examples of the application of various parts of the Instrument.

Phased approach to release of the [Renewed System]

The National Systems Renewal Program (NSRP) of the Canadian Securities Administrators (CSA) proposes to implement the [Renewed System] in several phases, with the objective of replacing all current CSA national systems. The first phase (Phase 1) replaces the System for Electronic Document Analysis and Retrieval (SEDAR), the National Cease Trade Order Database and the Disciplined List. Phase 1 relates principally to documents filed by issuers with securities regulatory authorities or regulators, including:

- all documents previously filed with or delivered through SEDAR;
- Form 45-106F1 *Report of Exempt Distribution*, previously filed in the British Columbia Securities Commission (BCSC) eServices system, the Ontario Securities Commission (OSC) Electronic Filing Portal, and in all other jurisdictions on SEDAR.

In future phases of NSRP, we expect the [Renewed System] will be capable of accepting the transmission of documents filed with or delivered to securities regulatory authorities and regulators by insiders, registrants, derivatives market participants and regulated entities (such as a marketplace, a self-regulatory body or self-regulatory organization, or a clearing agency).

Phasing of applications and pre-filings

Applications and pre-filings are also being brought into the [Renewed System] in a phased manner. Phase 1 of NSRP includes all applications and pre-filings previously filed by issuers, whether in the BCSC eServices system, the OSC Electronic Filing Portal, or filed by email, courier or regular mail, including applications:

- for an exemption from a provision of securities legislation;
- to be designated as a reporting issuer, mutual fund or non-redeemable investment fund;
- to cease to be a reporting issuer;
- for a full or partial revocation of a cease trade order;
- for a management cease trade order.

Generally, a person or company that is an issuer will file an application or a pre-filing through the [Renewed System], while a person or company that is an insider, a registrant, a derivatives market participant or a regulated entity will file the application in the same manner as it currently does, until a future release of the [Renewed System]. In future phases of NSRP, we expect that the [Renewed System] will be capable of accepting the transmission of applications delivered to securities regulatory authorities or regulators by insiders, registrants, derivatives market participants and regulated entities.

If a rule is included in Column A of the Appendix of the Instrument, a pre-filing in relation to that rule or an application for an exemption from a provision of that rule will not be filed through the Renewed System at this time, except in the limited circumstances outlined in Column B of the Appendix.

Generally when an application is filed in the Renewed System pursuant to Column B of the Appendix, and a decision is made, the filer should also transmit through the Renewed System all documents required to be filed or delivered pursuant to the decision.

Section 1 – Definitions

Unless defined in the Instrument, terms used in the Instrument have the meanings given to them in local securities legislation or in National Instrument 14-101 *Definitions*.

The term “document” includes any report, form, application, pre-filing, information, material and notice, as well as a copy thereof, and applies to a document that is required or permitted to be filed or deposited with, or delivered, furnished, sent, provided, submitted or otherwise transmitted to, a securities regulatory authority or regulator.

Section 3 – Transmission of documents outside of the [Renewed System]

Under paragraph 3(f), the Instrument does not apply to a document required or permitted to be filed or delivered under any of the provisions of securities legislation set out in Column A of the Appendix of the Instrument, unless an exception in Column B applies. The same applies to any document that a person or company is required or permitted to file or deliver pursuant to a decision or order issued in respect of any of the provisions of securities legislation set out in Column A of the Appendix, unless an exception in Column B applies. We expect that all of these documents will be incorporated into the [Renewed System] in future phases of NSRP.

A person or company will file these documents with, or deliver them to, the securities regulatory authority or regulator in the same manner that it currently does, including by email, courier or regular mail, through the System for Electronic Disclosure by Insiders (SEDI), or through the National Registration Database. For example, an issuer filing an issuer event report under National Instrument 55-102 *System for Electronic Disclosure by Insiders* will transmit this information through SEDI.

The Appendix also contains certain exceptions set out in Column B relating to documents filed under the provisions of securities legislation indicated in Column A that will be transmitted through the [Renewed System] in Phase 1. For example, Multilateral Instrument 45-108 *Crowdfunding* contains certain registration requirements for funding portals and registered individuals of funding portals, which will be filed outside of the [Renewed System] until a future phase of NSRP. The exceptions in Column B that relate to Multilateral Instrument 45-108 *Crowdfunding* are the following documents that an issuer will transmit through the [Renewed System] as part of Phase 1:

- a Form 45-106F1 *Report of Exempt Distribution*;
- a crowdfunding offering document;
- additional distribution material, including a video;
- financial statements filed by an issuer that is not a reporting issuer;
- a notice of use of proceeds.

Subsection 5(1) – Payment of fees

A filer should consult Multilateral Instrument 13-102 *System Fees* to determine whether it is required to pay a system fee when transmitting a document in the [Renewed System], and the amount of any applicable system fee. A filer should consult the local fee rules in each jurisdiction to determine whether it is also required to pay a regulatory filing fee when transmitting a document to the securities regulatory authority or regulator, and the amount of any applicable regulatory filing fee.

Subsection 5(4) – Significant connection

In order to determine the jurisdiction with which a person or company has the most significant connection, a filer should refer to the factors outlined in subsection 3.4(7) of National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*.

Subsection 7(3) – Decisions and orders in British Columbia

Because of differing legislative requirements, subsection 7(1) of the Instrument does not apply in British Columbia. The British Columbia Securities Commission has issued BC Instrument 13-XXX [XXX], which has the same effect as subsection 7(1) of the Instrument.

Using format and templates specified in the [Renewed System]

A person or company satisfies a requirement in securities legislation to file a document with, or deliver a document to, the securities regulatory authority or regulator in a prescribed format by transmitting the information in the manner and using the format and templates, if any, specified in the [Renewed System]. For example, the [Renewed System] requires a filer to transmit Form 45-106F1 *Report of Exempt Distribution* in the format and using the templates specified in the [Renewed System]. In doing so, the filer satisfies all requirements of Form 45-106F1 *Report of Exempt Distribution* that relate to the prescribed format of the report.

Effective time of filing or delivery

The [Renewed System] is generally available 24 hours a day, 7 days a week. We consider a document to be filed with or delivered to the securities regulatory authority or regulator when the transmission of the document through the [Renewed System] has been completed. The [Renewed System] allows a filer to confirm the date and time that the transmission of a document was completed.

Although the [Renewed System] is generally available every day to receive documents, securities legislation that refers to a review of a document by the securities regulatory authority or regulator (for example our obligation to provide a filer with a comment letter on our review of a preliminary prospectus) will continue to provide that the review be carried out within a certain number of business days.

Consent

In certain jurisdictions, the securities regulatory authority or regulator must consent to a document being filed with or delivered to it by the transmission of the document through the [Renewed System]. We take the view that the acceptance of documents transmitted through the [Renewed System] in accordance with the Instrument satisfies any such consent requirement of the securities regulatory authority or regulator contained in electronic commerce legislation.

Requirement to file more than one copy of a document

If any provision of securities legislation requires a person or company to file with or deliver to the securities regulatory authority or regulator more than one copy of a document, the transmission of the document through the Renewed System in accordance with the Instrument satisfies such a requirement.

Official copy of documents

We consider that, for purposes of securities legislation, securities directions or any other related purpose, an official record of any document transmitted through the [Renewed System] is the document stored in the Renewed System.

Certified copy of documents

Securities legislation in certain jurisdictions contains a requirement to produce or make available an original or certified copy of information filed under the securities legislation. We take the view that the securities regulatory authority or regulator satisfies such a requirement by providing a printed copy of the information that contains, or is accompanied by, a certificate of the securities regulatory authority or regulator confirming that the printed copy is a copy of the information filed in the [Renewed System].

Use of the Renewed System by the securities regulatory authority or regulator

The securities regulatory authority or regulator will transmit certain documents through the [Renewed System]. For example, we will generally transmit through the [Renewed System] a receipt and other confirmation of acceptance for a document transmitted through the [Renewed System], such as a receipt for a prospectus.

Public accessibility of documents in the [Renewed System]

Securities legislation requires that the securities regulatory authority or regulator make documents filed with it available for public inspection during normal business hours. We consider that the securities regulatory authority or regulator satisfies this requirement by making such documents publicly available in the [Renewed System].

Under securities legislation, documents required or permitted to be delivered are not required to be publicly available but may be subject to an application made under freedom of information legislation. Filers that transmit information in the [Renewed System] are responsible for complying with applicable privacy laws.

Changing public access to transmitted documents

To change the access status of a document filed with us from public to private, a person or company should submit a formal request for confidentiality, generally by way of an application for an exemption, under the relevant provisions of securities legislation. The securities regulatory authority or regulator will generally not change the access status of a document from public to private until the principal regulator has received and reviewed such request, and made a decision in favour of the person or company.

In the following limited circumstances, we will consider changing the access status of a document from public to private in the [Renewed System] without a formal request for confidentiality:

- a person or company transmits a document under the incorrect profile;

- a person or company transmits a fee form with an incorrect calculation;
- a person or company transmits a document that contains a virus;
- a person or company entitled to file a redacted version of a material contract or agreement transmits a non-redacted version of the document as a result of technical software errors in electronic redaction software;
- a recipient agency inadvertently makes a document public in connection with a prospectus filing which should have remained private.

To request a change in the access status of a document from public to private in the [Renewed System] in these circumstances, a person or company should make a written request to its principal regulator, determined in accordance with subsection 5(2), 5(3) or 5(4) of the Instrument.

Filers should note that changing the access status of a document from public to private in the [Renewed System] does not necessarily remove the document from the public domain. For example, various search engines may continue to index the document, notwithstanding that we have changed the access status of the document to private in the [Renewed System]. We do not assist filers to remove documents from the public domain.