

British Columbia Securities Commission

BC Instrument 51-516

Temporary Exemptions from Certain Requirements to File or Send Securityholder Materials

Definitions

1. Terms defined in the *Securities Act*, National Instrument 14-101 *Definitions* and National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) have the same meaning in this Instrument.

2. In this Instrument:

“annual request form requirement” means the requirement in subsection 4.6(1) of NI 51-102 for a reporting issuer to send annually a request form to its securityholders, other than holders of debt instruments;

“executive compensation disclosure requirement” means the requirement in subsection 9.3.1(2.2) of NI 51-102 for a reporting issuer to file the executive compensation disclosure required under subsection 9.3.1(1) of NI 51-102 by the deadlines set out in subsection 9.3.1(2.2) of NI 51-102;

“next AGM information circular” means the information circular that a reporting issuer sends to its securityholders for its next annual meeting of securityholders; and

“send-on-request requirements” means the requirements in subsections 4.6(3) and 5.6(1) of NI 51-102 for a reporting issuer to send annual financial statements and MD&A, or interim financial reports and MD&A, to its securityholders, other than holders of debt instruments, who requested them, by the deadlines set out in subsection 4.6(3) of NI 51-102.

Background

3. The COVID-19 pandemic may present challenges for market participants in meeting certain obligations under securities legislation. Specifically, as a result of the COVID-19 pandemic, some issuers may have difficulties or may be unable to comply with requirements to make certain filings or to send or deliver certain documents.
4. Reporting issuers include their executive compensation disclosure in the information circular for their annual meeting of securityholders. As a result of the COVID-19 pandemic, many reporting issuers are postponing their annual meeting of securityholders.
5. Subsections 4.6(5) and 5.6(3) of NI 51-102 contain exceptions to the annual request form requirement and send-on-request requirements which allow reporting issuers to send their annual financial statements and MD&A with the information circular for their annual meeting of securityholders, provided they are sent within 140 days of their financial year

end. However, it may not be practicable for reporting issuers that have postponed their annual meeting of securityholders to rely on those exceptions.

6. As a result of the COVID-19 pandemic, reporting issuers may have difficulties complying with the send-on-request requirements for requests for copies of documents in paper format when their employees are working from home and complying with, or following, physical distancing requirements and recommendations of public health authorities.
7. The Commission expects that each securities regulatory authority will issue orders providing similar exemptions to those provided in this Instrument.
8. Section 85 of the Act requires a reporting issuer to provide periodic disclosure about its business and affairs and to provide other prescribed disclosure.
9. NI 51-102 imposes periodic disclosure requirements, including the executive compensation disclosure requirement, the annual request form requirement and the send-on-request requirements on reporting issuers.
10. The Commission is satisfied, having considered the interests of reporting issuers that are impacted by the COVID-19 pandemic and the needs of investors to have timely disclosure about a reporting issuer's executive compensation, financial and business affairs that, subject to the conditions set out in this Instrument, it is appropriate to provide exemptions from the requirements of NI 51-102.

Exemption from executive compensation disclosure requirement

11. The Commission, considering that to do so would not be prejudicial to the public interest, orders under section 91 of the Act that a reporting issuer is exempt from the executive compensation disclosure requirement, provided that:
 - (a) the reporting issuer issues, and files on SEDAR, in advance of the deadline that would otherwise apply under subsection 9.3.1(2.2) of NI 51-102 or as soon as reasonably practicable thereafter, a news release that discloses that it is relying on this exemption;
 - (b) on or before December 31, 2020, the reporting issuer either:
 - (i) sends to its securityholders, and files, its next AGM information circular containing the executive compensation disclosure required under subsection 9.3.1(1) of NI 51-102; or
 - (ii) files a document containing the executive compensation disclosure required under subsection 9.3.1(1) of NI 51-102;
 - (c) the reporting issuer has filed annual financial statements and MD&A for its most recently completed financial year before it:

- (i) sends to its securityholders, and files, its next AGM information circular; or
- (ii) files the document referred to in (b)(ii); and
- (d) if the reporting issuer files the document referred to in (b)(ii), it includes the executive compensation disclosure in that document in its next AGM information circular that it subsequently sends to its securityholders and files.

Exemption from the annual request form requirement and send-on-request requirements relating to annual financial statements and MD&A

12. The Commission, considering that to do so would not be prejudicial to the public interest, orders under section 91 of the Act that a reporting issuer is exempt from the annual request form requirement and the send-on-request requirements in respect of annual financial statements and MD&A, provided that the reporting issuer sends to its securityholders, other than holders of debt instruments, its annual financial statements and MD&A on or before December 31, 2020 and in accordance with NI 54-101.

Exemption from the send-on-request requirements

13. The Commission, considering that to do so would not be prejudicial to the public interest, orders under section 91 of the Act that a reporting issuer is exempt from the send-on-request requirements for requests received before December 31, 2020, provided that the reporting issuer sends a copy of the requested financial statements and MD&A to the securityholder that made the request as soon as reasonably practicable after the applicable sending deadline set out in subsection 4.6(3) of NI 51-102.

Effective date

14. This order is effective May 1, 2020.

April 30, 2020

Brenda M. Leong
Chair

(This part is for administrative purposes only and is not part of the Order)

Authority under which Order is made:

Securities Act, section 91