

PROVINCE OF BRITISH COLUMBIA

RULE OF THE BRITISH COLUMBIA SECURITIES COMMISSION

Securities Act

The British Columbia Securities Commission orders that, effective February 11, 2013,

- (a) *National Instrument 51-102 Continuous Disclosure Obligations, B.C. Reg. 110/2004, is amended as set out in the attached Schedule A, and*
- (b) *National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer, B.C. Reg. 154/2002, is amended as set out in the attached Schedule B.*

DEPOSITED

February 7, 2013

B.C. REG. 46/2013

02/07/13

Date


British Columbia Securities Commission

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

Authority under which Order is made:

Act and section: Securities Act, R.S.B.C. 1996, c. 418, s. 184

Other: _____

February 4, 2013

SCHEDULE A

1. *National Instrument 51-102 Continuous Disclosure Obligations, B.C. Reg. 110/2004, is amended as set out in this Schedule.*

2. *Section 1.1 is amended by adding the following definitions:*

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

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

“proxy-related materials” means securityholder material relating to a meeting of securityholders that a person or company that solicits proxies is required under corporate law or securities legislation to send to the registered holders or beneficial owners of the securities;

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

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

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

3. *Section 4.6 is amended*

(a) *by repealing subsection (1) and substituting the following:*

(1) Subject to subsection (2), a reporting issuer must send annually a 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 any of the following:

(a) a paper copy of the reporting issuer’s annual financial statements and MD&A for the annual financial statements;

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

(b) *in subsection (4) by striking out “two years” and substituting “one year”.*

4. *The following sections are added:*

9.1.1 Notice-and-Access – (1) A person or company soliciting proxies may use notice-and-access to send proxy-related materials to a registered holder of voting securities of a reporting issuer if all of the following apply:

- (a) the registered holder of voting securities is sent a notice that contains the following information and no other information:
 - (i) the date, time and location of the reporting issuer's meeting for which the proxy-related materials are being sent;
 - (ii) a description of each matter or group of related matters identified in the form of proxy to be voted on, unless that information is already included in a form of proxy that is being sent to the registered holder of voting securities under paragraph (b);
 - (iii) the website addresses for SEDAR and the non-SEDAR website where the proxy-related materials are posted;
 - (iv) a reminder to review the information circular before voting;
 - (v) an explanation of how to obtain a paper copy of the information circular and, if applicable, the documents in paragraph (2) (b) from the person or company;
 - (vi) a plain-language explanation of notice-and-access that includes the following information:
 - (A) if the person or company is using stratification, a list of the types of registered holders or beneficial owners who will receive paper copies of the information circular and, if applicable, the documents in paragraph (2) (b);
 - (B) the estimated date and time by which a request for a paper copy of the information circular and, if applicable, the documents in paragraph (2) (b), is to 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;
 - (C) an explanation of how the registered holder is to return the proxy, including any deadline for return of the proxy;
 - (D) the sections of the information circular where disclosure regarding each matter or group of related matters identified in the notice can be found;
 - (E) a toll-free telephone number the registered holder can call to get information about notice-and-access;

- (b) the registered holder of voting securities is sent, by prepaid mail, courier or the equivalent, the notice required by paragraph (a) and a form of proxy for use at the meeting and, in the case of a solicitation by or on behalf of management of the reporting issuer, the notice and form of proxy are sent at least 30 days before the date of the meeting;
- (c) in the case of a solicitation by or on behalf of management of the reporting issuer, the reporting issuer files on SEDAR the notification of meeting and record dates in the manner and within the time specified by NI 54-101;
- (d) public electronic access to the information circular, form of proxy and the notice in paragraph (a) is provided on or before the date that the person or company soliciting proxies sends the notice in paragraph (a) to registered holders in the following manner:
 - (i) the documents are filed on SEDAR as required by section 9.3;
 - (ii) the documents are posted until the date that is one year from the date that the documents are posted, on a website other than the website for SEDAR;
- (e) 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 and, if applicable, the documents in paragraph (2) (b), at any time from the date that the person or company soliciting proxies sends the notice in paragraph (a) to the registered holder up to and including the date of the meeting, including any adjournment;
- (f) if a request for a paper copy of the information circular and, if applicable, the documents in paragraph (2) (b), is received at the toll-free telephone number provided under paragraph (e) or by any other means, a paper copy of any such document requested is sent free of charge by the person or company soliciting proxies to the requester at the address specified in the request 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) Unless an information circular is included with the proxy-related materials, a reporting issuer that sends proxy-related materials to a registered holder of voting securities using notice-and-access must not include with the proxy-related materials any information or document that relates to the particulars of any matter to be submitted to the meeting, except for the following:

- (a) the information required to be included in the notice under paragraph (1) (a);
- (b) financial statements of the reporting issuer to be approved at the meeting and MD&A related to those financial statements, which may be part of an annual report.

(3) A notice under paragraph (1) (a) and the form of proxy may be combined in a single document.

9.1.2 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) (d) (ii) must also post on the website the following documents:

- (a) any 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 each matter or group of matters to be voted upon at the meeting, whether or not they were sent to registered holders or beneficial owners of voting securities.

(2) Proxy-related materials that are posted under subparagraph 9.1.1 (1) (d) (ii) must be posted in a manner and be in a format that permit an individual with a reasonable level of computer skill and knowledge to do all of the following easily:

- (a) access, read and search the documents on the website;
- (b) download and print the documents.

9.1.3 Consent to other delivery methods – For greater certainty, section 9.1.1 does not

- (a) prevent a registered holder of voting securities from consenting to a person or company's use of other delivery methods to send proxy-related materials,

- (b) terminate or modify a consent that a registered holder of voting securities previously gave to a person or company regarding the use of other delivery methods to send proxy-related materials, or
- (c) prevent a person or company from sending proxy-related materials using a delivery method to which a registered holder has consented prior to February 11, 2013.

9.1.4 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 and, if applicable, the documents in paragraph 9.1.1 (2) (b), be sent to the registered holder in all cases when the reporting issuer uses notice-and-access.

- (2) If a reporting issuer has obtained standing instructions from a registered holder under subsection (1), the reporting issuer must do both of the following:
 - (a) include with the notice required by paragraph 9.1.1 (1) (a) any paper copies of information circulars and, if applicable, the documents in paragraph 9.1.1 (2) (b), required to comply with standing instructions obtained under subsection (1);
 - (b) include with the notice under paragraph (a) a description, or otherwise inform the registered holder of, the means by which the registered holder may revoke the registered holder's standing instructions.

9.1.5 Compliance with SEC Notice-and-Access Rules – A reporting issuer that is an SEC issuer can send proxy-related materials to registered holders under section 9.1 using a delivery method permitted under U.S. federal securities law, if both of the following apply:

- (a) the SEC issuer is subject to, and complies with Rule 14a-16 under the 1934 Act;
- (b) residents of Canada do not own, directly or indirectly, outstanding voting securities carrying more than 50% of the votes for the election of directors, and none of the following apply:
 - (i) the majority of the executive officers or directors of the issuer are residents of Canada;
 - (ii) more than 50% of the consolidated assets of the issuer are located in Canada;

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

5. Part 2 of Form 51-102F5 Information Circular is amended by adding the following item:

4.3 The information circular must include the following, if applicable:

- (a) a statement that the reporting issuer is sending proxy-related materials to registered holders or beneficial owners using notice-and-access and, if stratification will be used, a description of the types of registered holders or beneficial owners who will receive paper copies of the information circular and, if applicable, the documents in paragraph 9.1.1 (2) (b);
- (b) a statement that the reporting issuer is sending proxy-related materials directly to non-objecting beneficial owners under NI 54-101;
- (c) a statement that management of the reporting issuer does not intend 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*, and that in the case of an objecting beneficial owner, the objecting beneficial owner will not receive the materials unless the objecting beneficial owner's intermediary assumes the cost of delivery.

Transition

- 6. (1) Despite section 9.1.1 of National Instrument 51-102, as enacted by section 4 of this Schedule, a person or company must not use notice-and-access to send proxy-related materials to a registered holder of voting securities of a reporting issuer in respect of a meeting of the reporting issuer that takes place before March 1, 2013.
- (2) A reporting issuer must not rely on section 9.1.5 of National Instrument 51-102, as enacted by section 4 of this Schedule, in respect of a meeting that takes place before February 15, 2013.

SCHEDULE B

- 1. National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer, B.C. Reg. 154/2002, is amended as set out in this Schedule.**

2. Section 1.1 is amended

(a) by repealing the definition of “legal proxy”,

(b) by adding the following definition:

“notice-and-access” means

- (a) in respect of registered holders of voting securities of a reporting issuer, the delivery procedures referred to in section 9.1.1 of National Instrument 51-102 *Continuous Disclosure Obligations*, or
- (b) in respect of beneficial owners of securities of a reporting issuer, the delivery procedures referred to in section 2.7.1,;

(c) in the definition of “proxy-related materials” by adding “or beneficial owners” after “registered holders”,

(d) by repealing the definition of “request for voting instructions”,

(e) by adding the following definition:

“SEC issuer” means an issuer that

- (a) has a class of securities registered under section 12 of the 1934 Act or is required to file reports under section 15 (d) of the 1934 Act, and
- (b) is not registered or required to be registered as an investment company under the *Investment Company Act of 1940* of the United States of America, as amended; ,

(f) in the definition of “securityholder materials” by adding “or beneficial owners” after “registered holders”, and

(g) by adding the following definition:

“stratification”, in relation to a reporting issuer using notice-and-access, means procedures whereby a paper copy of the information circular and, if applicable, the documents in paragraph 2.7.1 (2) (b), are included with either or both of the following:

- (a) the documents required to be sent to registered holders under subsection 9.1 (1) of National Instrument 51-102 *Continuous Disclosure Obligations*;
- (b) the documents required to be sent to beneficial owners under subsection 2.7.1 (1); .

3. Section 1.3 (1) is repealed and the following substituted:

- (1) A person or company required to send or use a required form or document under a provision of this Instrument may substitute for that form or document another form or document, or combine the required form or document with another form or document, if the substituted or combined form or document requests or includes the same information contemplated by the form or document that is otherwise required.

4. Section 2.2 (2) (g) and (h) is repealed and the following substituted:

- (g) the classes or series of securities that entitle the holder to vote at the meeting;
- (h) whether the meeting is a special meeting; .

5. Section 2.2 (2) is amended by adding the following paragraphs:

- (i) whether the reporting issuer is sending proxy-related materials to registered holders or beneficial owners using notice-and-access and, if stratification will be used, the types of registered holders or beneficial owners who will receive paper copies of the information circular or other proxy-related materials;
- (j) whether the reporting issuer is sending the proxy-related materials directly to NOBOs; and
- (k) whether the reporting issuer intends to pay for a proximate intermediary to send the proxy-related materials to OBOs.

6. Section 2.5 (4) is repealed and the following substituted:

- (4) A reporting issuer that requests beneficial ownership information under this section must do so through a transfer agent.

7. Section 2.5 is amended by adding the following subsection:

- (5) Despite subsection (4), a reporting issuer may request beneficial ownership information without using a transfer agent for the sole purpose of obtaining a NOBO list if the reporting issuer has provided an undertaking using Form 54-101F9.

8. The following sections are added:

2.7.1 Notice-and-Access – (1) A reporting issuer that is not an investment fund may use notice-and-access to send proxy-related materials relating to a meeting to a beneficial owner of its securities if all of the following apply:

- (a) the beneficial owner is sent a notice that contains the following information and no other information:
 - (i) the date, time and location of the meeting for which the proxy-related materials are being sent;
 - (ii) a description of each matter or group of related matters identified in the form of proxy to be voted on, unless that information is already included in a Form 54-101F6 or Form 54-101F7 as applicable, that is being sent to the beneficial owner under paragraph (b);
 - (iii) the website addresses for SEDAR and the non-SEDAR website where the proxy-related materials are posted;
 - (iv) a reminder to review the information circular before voting;
 - (v) an explanation of how to obtain a paper copy of the information circular and, if applicable, the documents in paragraph (2) (b) from the reporting issuer;
 - (vi) a plain-language explanation of notice-and-access that includes the following information:
 - (A) if the reporting issuer is using stratification, a list of the types of registered holders or beneficial owners who will receive paper copies of the information circular, and if applicable, the documents in paragraph (2) (b);
 - (B) the estimated date and time by which a request for a paper copy of the information circular and, if applicable, the documents in paragraph (2) (b), is to be received in order for the requester to receive the paper copy in advance of any deadline for the submission of voting instructions and the date of the meeting;
 - (C) an explanation of how the beneficial owner is to return voting instructions, including any deadline for return of those instructions;

- (D) the sections of the information circular where disclosure regarding each matter or group of related matters identified in the notice can be found;
- (E) a toll-free telephone number the beneficial owner can call to get information about notice-and-access;
- (b) using the procedures referred to in section 2.9 or 2.12, as applicable, the beneficial owner is sent, by prepaid mail, courier or the equivalent, the notice required by paragraph (a) and a Form 54-101F6 or Form 54-101F7, as applicable;
- (c) the reporting issuer files on SEDAR the notification of meeting and record dates on the same date that it sends the notification under subsection 2.2 (1);
- (d) public electronic access to the information circular and the notice in paragraph (a) is provided on or before the date that the reporting issuer sends the notice in paragraph (a) to beneficial owners, in the following manner:
 - (i) the documents are filed on SEDAR;
 - (ii) the documents are posted until the date that is one year from the date that the documents are posted, on a website other than the website for SEDAR;
- (e) a toll-free telephone number is provided for use by the beneficial owner to request a paper copy of the information circular and, if applicable, the documents in paragraph (2) (b), at any time from the date that the reporting issuer sends the notice in paragraph (a) to the beneficial owner up to and including the date of the meeting, including any adjournment;
- (f) if a request for a paper copy of the information circular and, if applicable, the documents in paragraph (2) (b), is received at the toll-free telephone number provided under paragraph (e) or by any other means, a paper copy of any such document requested is sent free of charge by the reporting issuer to the requester at the address specified in the request 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) Unless an information circular is included with the proxy-related materials, a reporting issuer that sends proxy-related materials to a beneficial owner of its securities using notice-and-access must not include with the proxy-related materials any information or document that relates to the particulars of any matter to be submitted to the meeting, except for the following:

- (a) the information required to be included in the notice under paragraph (1) (a);
- (b) financial statements of the reporting issuer to be approved at the meeting, and MD&A related to those financial statements, which may be part of an annual report.

2.7.2 Notice in advance of first use of notice-and-access – Despite paragraphs 2.7.1 (1) (c) and 2.20 (a.1), the first time that a reporting issuer uses notice-and-access to send proxy-related materials to a beneficial owner of its securities, the reporting issuer must file on SEDAR the notification of meeting and record dates at least 25 days before the record date for notice.

2.7.3 Restrictions on information gathering – (1) A reporting issuer that receives a request for a paper copy of the information circular or other documents referred to in paragraph 2.7.1 (1) (e) using the tollfree telephone number or by any other means must not do any of the following:

- (a) ask for any information about the requester, other than the name and address to which the information circular and, if applicable, the documents in paragraph 2.7.1 (2) (b), are to be sent;
- (b) disclose or use the name or address of the requester for any purpose other than sending the information circular and, if applicable, the documents in paragraph 2.7.1 (2) (b).

(2) A reporting issuer that posts proxy-related materials pursuant to subparagraph 2.7.1 (1) (d) (ii) must not collect information that can be used to identify a person or company who has accessed the website address where the proxy-related materials are posted.

2.7.4 Posting materials on non-SEDAR website – (1) A reporting issuer that posts proxy-related materials in the manner referred to in subparagraph 2.7.1 (1) (d) (ii) must also post on the website the following documents:

- (a) any disclosure material regarding the meeting that the reporting issuer has sent to registered holders or beneficial owners of its securities;
 - (b) any written communications the reporting issuer has made available to the public regarding each matter or group of matters to be voted on at the meeting, whether or not they were sent to registered holders or beneficial owners of its securities.
- (2) Proxy-related materials that are posted under subparagraph 2.7.1 (1) (d) (ii) must be posted in a manner and be in a format that permit an individual with a reasonable level of computer skill and knowledge to do all of the following easily:
- (a) access, read and search the documents on the website;
 - (b) download and print the documents.

2.7.5 Consent to other delivery methods – For greater certainty, section 2.7.1 does not

- (a) prevent a beneficial owner from consenting to a reporting issuer, an intermediary or another person or company's use of other delivery methods to send proxy-related materials,
- (b) terminate or modify a consent that a beneficial owner of voting securities previously gave to a reporting issuer, an intermediary or another person or company regarding the use of other delivery methods to send proxy-related materials, or
- (c) prevent a reporting issuer, an intermediary or another person or company from sending proxy-related materials using a delivery method to which a beneficial owner has consented prior to February 11, 2013.

2.7.6 Instructions to receive paper copies – (1) Despite section 2.7.1, an intermediary may obtain standing instructions from a beneficial owner that is a client of the intermediary that a paper copy of the information circular and, if applicable, the documents in paragraph 2.7.1 (2) (b), be sent to the beneficial owner in all cases when a reporting issuer uses notice-and-access.

- (2) If an intermediary has obtained standing instructions from a beneficial owner under subsection (1), the intermediary must do all of the following:
- (a) if the reporting issuer is sending proxy-related materials directly under section 2.9, indicate in the NOBO list provided to the reporting issuer

those NOBOs who have provided standing instructions under subsection (1) as at the date the NOBO list is generated;

- (b) if the intermediary is sending proxy-related materials to a beneficial owner on behalf of a reporting issuer using notice-and-access, request appropriate quantities of paper copies of the information circular and, if applicable, the documents in paragraph 2.7.1 (2) (b), from the reporting issuer for forwarding to beneficial owners who have provided standing instructions to be sent paper copies;
- (c) include with the proxy-related materials a description, or otherwise inform the beneficial owner of, the means by which the beneficial owner may revoke the beneficial owner's standing instructions.

2.7.7 Application to non-management solicitations – (1) A person or company other than management of a reporting issuer that is required by law to send materials to registered holders or beneficial owners of securities in connection with a meeting may use notice-and-access to send the materials.

- (2) Section 2.7.1, other than paragraph (1) (c), and sections 2.7.3, 2.7.4 and 2.7.5 apply to a person or company in subsection (1) as if the person or company were a reporting issuer.
- (3) Paragraph 2.7.1 (1) (c) and section 2.7.8 apply to a person or company referred to in subsection (1) only if the person or company has requisitioned a meeting.

2.7.8 Record date for notice – Despite subsection 2.1 (b), a reporting issuer that uses notice-and-access must set a record date for notice that is no fewer than 40 days before the date of the meeting.

9. Section 2.9 is repealed and the following substituted:

2.9 Direct sending of proxy-related materials to NOBOs by a reporting issuer – (1) A reporting issuer that has stated in its request for beneficial ownership information sent in connection with a meeting, that it will send proxy-related materials to, and seek voting instructions from, NOBOs must send at its own expense the proxy-related materials for the meeting directly to the NOBOs on the NOBO lists received in response to the request.

- (2) A reporting issuer that sends by prepaid mail, courier or the equivalent, paper copies of proxy-related materials directly to a NOBO must send the proxy-related materials at least 21 days before the date of the meeting.
- (3) A reporting issuer that sends proxy-related materials directly to a NOBO using notice-and-access must send the notice required by paragraph

2.7.1 (1) (a) and, if applicable, any paper copies of information circulars and documents in paragraph 2.7.1 (2) (b), at least 30 days before the date of the meeting.

10. Section 2.10 is amended by adding “and despite subsection 2.9 (1),” after “Except as required by securities legislation,”.

11. Section 2.12 is repealed and the following substituted:

2.12 Indirect sending of securityholder materials by a reporting issuer –

(1) A reporting issuer sending securityholder materials indirectly to beneficial owners must send to each proximate intermediary that responded to the applicable request for beneficial ownership information the number of sets of those materials specified by that proximate intermediary for sending to beneficial owners.

(2) A reporting issuer that sends proxy-related materials indirectly to a beneficial owner by having the proximate intermediary send the proxy-related materials by prepaid mail must send the proxy-related materials to the proximate intermediary

(a) at least 3 business days before the 21st day before the date of the meeting, in the case of proxy-related materials that are to be sent on by the proximate intermediary by first class mail, courier or the equivalent, or

(b) at least 4 business days before the 21st day before the date of the meeting, in the case of proxy-related materials that are to be sent using any other type of prepaid mail.

(3) A reporting issuer that sends proxy-related materials indirectly to a beneficial owner using notice-and-access must send the notice required by paragraph 2.7.1 (1) (a) and, if applicable, any paper copies of information circulars and documents in paragraph 2.7.1 (2) (b), to the proximate intermediary.

(a) at least 3 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent on by the proximate intermediary by first class mail, courier or the equivalent, or

(b) at least 4 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent using any other type of prepaid mail.

- (4) A reporting issuer that sends securityholder materials that are not proxy-related materials indirectly to beneficial owners must send the securityholder materials to the intermediary on the date specified in the request for beneficial ownership information.
- (5) Despite section 2.9, a reporting issuer must not send securityholder materials directly to a NOBO if a proximate intermediary in a foreign jurisdiction holds securities on behalf of the NOBO and one or both of the following applies:
 - (a) the law of the foreign jurisdiction does not permit the reporting issuer to send securityholder materials directly to NOBOs;
 - (b) the proximate intermediary has stated in a response to a request for beneficial ownership information that the law in the foreign jurisdiction requires the proximate intermediary to deliver securityholder materials to beneficial owners.

12. Section 2.16 is repealed and the following substituted:

2.16 Explanation of voting rights – (1) If a reporting issuer sends proxy-related materials for a meeting to a beneficial owner of its securities, the materials must explain, in plain language, how the beneficial owner can exercise voting rights attached to the securities, including an explanation of how to attend and vote the securities directly at the meeting.

- (2) Management of a reporting issuer must provide the following disclosure in the information circular:
 - (a) whether the reporting issuer is sending proxy-related materials to registered holders or beneficial owners using notice-and-access, and if stratification will be used, the types of registered holders or beneficial owners who will receive paper copies of the information circular and, if applicable, the documents in paragraph 2.7.1 (2) (b);
 - (b) whether the reporting issuer is sending proxy-related materials directly to NOBOs;
 - (c) whether the reporting issuer intends to pay for an intermediary to deliver to OBOs the proxy-related materials and Form 54-101F7, and if the reporting issuer does not intend to pay for such delivery, a statement that OBOs will not receive the materials unless their intermediary assumes the costs of delivery.

13. Section 2.17 is repealed and the following substituted:

- 2.17 Voting instruction form (Form 54-101F6)** – A reporting issuer that sends proxy-related materials directly to a NOBO that solicit votes or voting instructions from securityholders must include with the proxy-related materials a Form 54-101F6.

14. Section 2.18 is repealed and the following substituted:

- 2.18 Appointing beneficial owner as proxy holder** – (1) A reporting issuer whose management holds a proxy in respect of securities beneficially owned by a NOBO must arrange, without expense to the NOBO, to appoint the NOBO or a nominee of the NOBO as a proxy holder in respect of those securities if the NOBO has instructed the reporting issuer to do so using either of the following methods:

- (a) the NOBO filled in and submitted the Form 54-101F6 previously sent to the NOBO by the reporting issuer;
- (b) the NOBO submitted any other document in writing that requests that the NOBO or a nominee of the NOBO be appointed as a proxyholder.

- (2) If management appoints a NOBO or a nominee of the NOBO as a proxy holder under subsection (1), the NOBO or nominee of the NOBO, as applicable, must be given authority to attend, vote and otherwise act for and on behalf of management of the reporting issuer in respect of all matters that may come before the applicable meeting and at any adjournment or continuance, unless corporate law prohibits the giving of that authority.

- (3) A reporting issuer who appoints a NOBO as a proxy holder pursuant to subsection (1) must deposit the proxy within any time specified for the deposit in the information circular if the reporting issuer obtains the instructions under subsection (1) at least one business day before the termination of that time.

- (4) If corporate law requires an intermediary or depository to appoint the NOBO or nominee of the NOBO as a proxy holder in respect of securities beneficially owned by the NOBO in accordance with any written voting instructions received from the NOBO, and the intermediary has received the written voting instructions, the reporting issuer must provide, upon request by the intermediary, confirmation of both of the following:

- (a) management of the reporting issuer will comply with subsections 2.18 (1) and (2);

- (b) management of the reporting issuer is acting on behalf of the intermediary or depository to the extent it appoints the NOBO or nominee of the NOBO as proxy holder in respect of the securities of the reporting issuer beneficially owned by the NOBO.

- (5) A confirmation provided under subsection (4) must identify the specific meeting to which the confirmation applies, but is not required to specify each proxy appointment that management of the reporting issuer has made.

15. Section 2.20 (a) is repealed and the following substituted:

- (a) arranges to have proxy-related materials for the meeting sent in compliance with the applicable timing requirements in sections 2.9 and 2.12;.

16. Section 2.20 is amended by adding the following paragraph:

- (a.1) if the reporting issuer uses notice-and-access, fixes the record date for notice to be at least 40 days before the date of the meeting and sends the notification of meeting and record dates under section 2.2 at least 3 business days before the record date for notice; .

17. Section 4.1 (1) is amended by striking out “through the transfer agent of the reporting issuer that sent the request” and substituting “through the transfer agent, or in the case of a NOBO list, a person or company described in subsection 2.5 (5) that sent the request”.

18. Section 4.4 is repealed and the following substituted:

- 4.4 Voting instruction form (Form 54-101F7) –** An intermediary that forwards proxy-related materials to a beneficial owner that solicit votes or voting instructions from securityholders must include with the proxy-related materials a Form 54-101F7.

19. Section 4.5 is repealed and the following substituted:

- 4.5 Appointing beneficial owner as proxy holder –** (1) An intermediary who is the registered holder of, or holds a proxy in respect of, securities owned by a beneficial owner must arrange, without expense to the beneficial owner, to appoint the beneficial owner or a nominee of the beneficial owner as a proxy holder in respect of those securities if the beneficial owner has instructed the intermediary to do so using either of the following methods:

- (a) the beneficial owner filled in and submitted the Form 54-101F7 previously sent to the beneficial owner by the intermediary;

(b) the beneficial owner submitted any other document in writing that requests that the beneficial owner or a nominee of the beneficial owner be appointed as a proxy holder.

(2) If an intermediary appoints a beneficial owner or a nominee of the beneficial owner as a proxy holder under subsection (1), the beneficial owner or nominee of the beneficial owner, as applicable, must be given authority to attend, vote and otherwise act for and on behalf of the intermediary in respect of all matters that may come before the applicable meeting and at any adjournment or continuance, unless corporate law does not permit the giving of that authority.

(3) An intermediary who appoints a beneficial owner as proxy holder pursuant to subsection (1) must deposit the proxy within any time specified for deposit in the information circular if the intermediary obtains the instructions under subsection (1) at least one business day before the termination of that time.

20. Section 5.4 is amended by adding the following subsections:

(3) If corporate law requires a depository to appoint a beneficial owner or nominee of the beneficial owner as a proxy holder in respect of securities beneficially owned by the beneficial owner in accordance with any written voting instructions received from the beneficial owner, and the depository has received the written voting instructions, any participant described in subsection (1) must provide, upon request by the depository, confirmation of all of the following:

- (a) the participant will comply with subsections 4.5 (1) and (2);
- (b) the participant is acting on behalf of the depository to the extent it appoints a beneficial owner or nominee of a beneficial owner as proxy holder in respect of the securities of the reporting issuer beneficially owned by the beneficial owner;
- (c) if the participant is required to execute an omnibus proxy under section 4.1, that the participant will take reasonable steps to request the confirmation set out in subsection 2.18 (4).

(4) A confirmation provided under subsection (3) must identify the specific securityholder meeting to which the confirmation applies, but is not required to specify each proxy appointment that the participant has made.

21. Section 6.2 (6) is repealed and the following substituted:

- (6) A person or company, other than the reporting issuer to which the request relates, that sends materials indirectly to beneficial owners must comply with the following:
 - (a) the person or company must pay to the proximate intermediary a fee for sending the securityholder materials to the beneficial owners;
 - (b) the person or company must provide an undertaking to the proximate intermediary in the form of Form 54-101F10.

22. Part 7 is repealed and the following substituted:

**PART 7 – USE OF NOBO LIST AND INDIRECT
SENDING OF MATERIALS**

7.1 Use of NOBO list – (1) A reporting issuer may use a NOBO list, or a report prepared under section 5.3 relating to the reporting issuer and obtained under this Instrument, in connection with any matter relating to the affairs of the reporting issuer.

(2) A person or company that is not the reporting issuer must not use a NOBO list, or a report prepared under section 5.3 relating to the reporting issuer and obtained under this Instrument, in any manner other than any of the following:

- (a) for sending securityholder materials directly to NOBOs in accordance with this Instrument;
- (b) in respect of an effort to influence the voting of securityholders of the reporting issuer;
- (c) in respect of an offer to acquire securities of the reporting issuer.

7.2 Sending of Materials – (1) A reporting issuer may send securityholder materials indirectly to beneficial owners of securities of the reporting issuer using the procedures in section 2.12, or directly to NOBOs of the reporting issuer using a NOBO list, in connection with any matter relating to the affairs of the reporting issuer.

(2) A person or company that is not the reporting issuer may send securityholder materials indirectly to beneficial owners of securities of the reporting issuer using the procedures in section 2.12, or directly to NOBOs of the reporting issuer using a NOBO list, only in connection with one or both of the following:

- (a) an effort to influence the voting of securityholders of the reporting issuer;
- (b) an offer to acquire securities of the reporting issuer.

23. The following section is added:

9.1.1 Compliance with SEC Notice-and-Access Rules – (1) Despite section 2.7, a reporting issuer that is an SEC issuer can send proxy-related materials to beneficial owners using a delivery method permitted under U.S. federal securities law, if all of the following apply:

- (a) the SEC issuer is subject to, and complies with Rule 14a-16 under the 1934 Act;
- (b) the SEC issuer has arranged with each intermediary through whom the beneficial owner holds its interest in the reporting issuer's securities to have each intermediary send the proxy-related materials to the beneficial owner by implementing the procedures under Rule 14b-1 or Rule 14b-2 of the 1934 Act that relate to the procedures in Rule 14a-16 under the 1934 Act;
- (c) residents of Canada do not own, directly or indirectly, outstanding voting securities of the issuer carrying more than 50% of the votes for the election of directors, and none of the following apply:
 - (i) the majority of the executive officers or directors of the issuer are residents of Canada;
 - (ii) more than 50% of the consolidated assets of the issuer are located in Canada;
 - (iii) the business of the issuer is administered principally in Canada.

(2) Part 4 does not apply to an intermediary with whom a reporting issuer has made arrangements under paragraph (1) (b) if the intermediary implements the procedures under Rule 14b-1 or Rule 14b-2 of the 1934 Act that relate to the procedures in Rule 14a-16 under the 1934 Act.

24. Part 1 of Form 54-101F2 Request for Beneficial Ownership Information is amended

- (a) *in Item 1* by adding “in English and, if applicable, French” *after* “reporting issuer”;

(b) by repealing Item 2 and substituting the following:

Item 2 – Contact person(s)

State the name, address, telephone number, facsimile number and email address of the contact person(s) of the reporting issuer, and of the reporting issuer's agent, if applicable, with whom the intermediary should deal. If different from the foregoing, also state the name, address, telephone number, facsimile number and email address of the contact person(s) of the reporting issuer responsible for dealing with invoices. ,

(c) in Item 6.7 by adding "State whether the reporting issuer would like materials to be sent electronically when consent has been obtained from the beneficial owner of securities." **after** "National Instrument. ",

(d) by repealing Item 6.9 and substituting the following:

6.9 State if securityholder materials are to be sent to (a) all beneficial owners of securities (including beneficial owners that have declined to receive them), (b) only those beneficial owners who have requested to receive all securityholder materials, or (c) only those beneficial owners who have requested to receive all securityholder materials or special meeting materials. ,

(e) in Item 7.9 by adding "State whether the reporting issuer would like materials to be sent electronically when consent has been obtained from the beneficial owner of securities." **after** "National Instrument. ",

(f) by repealing Item 7.11 and substituting the following:

7.11 State if securityholder materials are to be sent to (a) all beneficial owners of securities (including beneficial owners that have declined to receive them), (b) only those beneficial owners who have requested to receive all securityholder materials, or (c) only those beneficial owners who have requested to receive all securityholder materials or special meeting materials. ,

(g) by adding the following Item:

7.12 State whether the reporting issuer is using notice-and-access, and any stratification criteria to be used. *[Before completing this item, the reporting issuer should discuss with the intermediary what stratification criteria the intermediary is able to apply].*,

(h) in Item 8.5 by adding "State whether the reporting issuer would like materials to be sent electronically when consent has been obtained from the beneficial owner of securities." **after** "National Instrument. ",

(i) by repealing Item 8.6 and substituting the following:

8.6 State if securityholder materials are to be sent to (a) all beneficial owners of securities (including beneficial owners that have declined to receive them), (b) only those beneficial owners who have requested to receive all securityholder materials, or (c) only those beneficial owners who have requested to receive all securityholder materials or special meeting materials. ,

(j) in Item 9.7 by adding “State whether the reporting issuer would like materials to be sent electronically when consent has been obtained from the beneficial owner of securities.” **after** “National Instrument.”,

(k) by repealing Item 9.8 and substituting the following:

9.8 State if securityholder materials are to be sent to (a) all beneficial owners of securities (including beneficial owners that have declined to receive them), (b) only those beneficial owners who have requested to receive all securityholder materials, or (c) only those beneficial owners who have requested to receive all securityholder materials or special meeting materials. ,

(l) by adding the following Item:

9.9 State whether the reporting issuer is using notice-and-access, and any stratification criteria to be used. *[Before completing this item, the reporting issuer should discuss with the intermediary what stratification criteria the intermediary is able to apply.] , and*

(m) by striking out “National Policy 11-201 and, in Québec, Staff Notice 11-201” **wherever it occurs and substituting** “National Policy 11-201 *Electronic Delivery of Documents*”.

25. Form 54-101F5 Electronic Format for NOBO List is repealed and the following substituted:

**FORM 54-101F5
ELECTRONIC FORMAT FOR NOBO LIST**

HEADER RECORD DESCRIPTION	TYPE	LENGTH	POSITION	COMMENTS
RECORD TYPE	A	1	1	Header record = A
FINS NUMBER	A	4	2-5	Prefix T,M,V or C
ISIN	A	12	6-17	
FILLER	X	3	18-20	Blank
SECURITY DESC.	A	32	21-52	Security Description

REC ORD DATE	N	8	53-60	Format YYYYMMDD
CREATION DATE	N	8	61-68	Format YYYYMMDD
FILLER	X	250	69-318	Blank
DETAIL RECORD DESCRIPTION	TYPE	LENGTH	POSITION	COMMENTS
RECORD TYPE	A	1	1	Detail Record = B
FINS NUMBER	A	4	2-5	Same as in Header record
ISIN	A	12	6-17	
FILLER	X	3	18-20	Blank
FILLER	X	20	21-40	Blank
NAME	A	32	41-72	Holder Name
ADDRESS	A	32 x 6	73- 264	Occurs 6 times
FILLER	X	32	265- 296	Blank
POSTAL CODE	A	9	297- 305	
POSTAL REGION	A	1	306	C=Canada; U=USA; F=Foreign; (other than USA); H=Hand Deliver
NOTICE AND ACCESS	A	1	307	Y=Full Package; N=Notice Only
FILLER	X	1	308	Blank
E-MAIL ADDRESS	A	32	309- 340	
LANGUAGE CODE	A	1	341	E=English; F=French
NUMBER OF SHARES	N	9	342- 350	Shareholder Position
RECEIVE ALL MATERIAL	A	1	351	A – ALL Material, S – Material for SPECIAL Meetings only, D – DECLINE to receive Materials
AGREE TO ELECTRONIC DELIVERY BY INTERMEDIARY	A	1	352	Y/N
TRAILER RECORD DESCRIPTION	TYPE	LENGTH	POSITION	COMMENTS
RECORD TYPE	A	1	1	Trailer record = C
FINS NUMBER	A	4	2-5	Same as in Header Record
ISIN	A	12	6-17	
FILLER	X	3	18-20	
TOTAL SHAREHOLDERS	N	7	21-27	Number of “B” type records
TOTAL SHARES	N	11	27-38	Total Shares on “B” type records
FILLER	X	280	39-318	Blank

26. Form 54-101F6 Request for Voting Instructions Made by Reporting Issuer is amended by striking out the following:

Should you wish to attend the meeting and vote in person, please write your name in the place provided for that purpose in the voting instructions form provided to you and we will send to you a form of legal proxy which will grant you the right to attend the meeting and vote in person. If you require assistance in that regard, please contact [the undersigned].

and substituting the following:

If you want to attend the meeting and vote in person, write your name in the place provided for that purpose in this form. You can also write the name of someone else whom you wish to attend the meeting and vote on your behalf. Unless prohibited by law, the person whose name is written in the space provided will have full authority to present matters to the meeting and vote on all matters that are presented at the meeting, even if those matters are not set out in this form or the information circular. Consult a legal advisor if you wish to modify the authority of that person in any way. If you require help, contact [insert name].

27. Form 54-101F7 Request for Voting Instructions Made by Intermediary is amended by striking out the following:

Should you wish to attend the meeting and vote in person, please write your name in the place provided for that purpose in the voting instructions form provided to you and we will send to you a form of legal proxy which will grant you the right to attend the meeting and vote in person. If you require assistance in that regard, please contact [the undersigned].

and substituting the following:

If you want to attend the meeting and vote in person, write your name in the place provided for that purpose in this form. You can also write the name of someone else whom you wish to attend the meeting and vote on your behalf. Unless prohibited by law, the person whose name is written in the space provided will have full authority to present matters to the meeting and vote on all matters that are presented at the meeting, even if those matters are not set out in this form or the information circular. Consult a legal advisor if you wish to modify the authority of that person in any way. If you require help, contact [insert name].

28. Form 54-101F8 Legal Proxy is repealed.

29. Form 54-101F9 Undertaking is amended

(a) by repealing paragraph 2 and substituting the following:

<Option #1: use this alternative if the reporting issuer is providing the undertaking>

2. I undertake that the information set out on the NOBO list will be used only in connection with matters relating to the affairs of the reporting issuer.

<Option #2: use this alternative if a person or company other than the reporting issuer is providing the undertaking>

2. I undertake that the information set out on the NOBO list will be used only for one or more of the following purposes:

- (a) sending securityholder materials directly to NOBOs in accordance with National Instrument 54-101;
- (b) an effort to influence the voting of securityholders of the reporting issuer;
- (c) an offer to acquire securities of the reporting issuer. ,

(b) by repealing paragraph 4 and substituting the following:

4. I am aware that it is a contravention of the law to use a NOBO list for purposes other than in connection with one or more of the following:

- (a) sending securityholder materials directly to NOBOs in accordance with National Instrument 54-101;
- (b) an effort to influence the voting of securityholders of the reporting issuer;
- (c) an offer to acquire securities of the reporting issuer. , **and**

(c) by adding the following paragraph:

5. I declare that I (or the person or company I am using to make this request) has the technological capacity to receive the NOBO list.

30. The following form is added:

**FORM 54-101F10
UNDERTAKING**

Note: Terms used in this Form have the meaning given to them in National Instrument 54-101.

The use of this Form is referenced in section 6.2 of National Instrument 54-101.

I,
(Full Residence Address)
(If this undertaking is made on behalf of a person or company other than an individual, set out the full legal name of that person or company, position of the individual signing on behalf of that person or company and address for service.)
SOLEMNLY DECLARE AND UNDERTAKE THAT:

1. I wish to send materials to beneficial owners of securities of [*insert name of the reporting issuer*] on whose behalf intermediaries hold securities, using the indirect sending procedures provided in National Instrument 54-101 (the “NI 54-101 Procedures”).

2. I undertake that I am using the NI 54-101 Procedures to send materials to beneficial owners only for the purpose of one or both of the following:

- (a) an effort to influence the voting of securityholders of the reporting issuer;
- (b) an offer to acquire securities of the reporting issuer.

3. I am aware that it is a contravention of the law to send materials using the NI 54-101 Procedures for purposes other than in connection with one or both of the following:

- (a) an effort to influence the voting of securityholders of the reporting issuer;
- (b) an offer to acquire securities of the reporting issuer.

.....Signature
.....Name of person signing
.....Date

Transition

31. (1) Despite section 2.7.1 of National Instrument 54-101, as enacted by section 8 of this Schedule, a person or company must not use notice-and-access to send proxy-

related materials to a beneficial owner of voting securities of a reporting issuer in respect of a meeting of the reporting issuer that takes place before March 1, 2013.

- (2) Despite subsection 2.5 (5) of National Instrument 54-101, as enacted by section 7 of this Schedule, a reporting issuer must not request beneficial ownership information without using a transfer agent for the sole purpose of obtaining a NOBO list before February 15, 2013.
- (3) Despite paragraph 6.2 (6) (b) of National Instrument 54-101, as enacted by section 21 of this Schedule, a person or company is not required to provide the undertaking for a request to send materials indirectly to beneficial owners made before February 15, 2013.
- (4) Despite section 22 of this Instrument, sections 7.1 and 7.2 of National Instrument 54-101 do not apply to NOBO lists requested before February 15, 2013 and requests to send materials indirectly to beneficial owners made before February 15, 2013.
- (5) Despite section 23 of this Instrument, a reporting issuer must not rely on section 9.1.1 of National Instrument 54-101 in respect of a meeting that takes place before February 15, 2013.