

**BLACKLINE OF FINAL AMENDMENT INSTRUMENT TO
NATIONAL INSTRUMENT 51-102
CONTINUOUS DISCLOSURE OBLIGATIONS
(SHOWING CHANGES AGAINST VERSION PUBLISHED FOR COMMENT
ON JUNE 11, 2011)**

1. ~~*This Instrument amends National Instrument 51-102 Continuous Disclosure Obligations*~~ *is amended by this Instrument.*
2. *Section 1.1 is amended by (a)*—~~*adding the following definition after “common share”:*~~ *definitions:*

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

~~*(c) adding the following definition after “proxy”:*~~

“proxy-related materials” means securityholder ~~materials~~ material relating to a meeting ~~that the reporting issuer 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;

~~*(d) adding the following definitions after “solicit”:*~~

“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. ~~*Subsection*~~ *Section 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~~ 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 ~~one or both~~ any of the following:

- (a) a paper 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. and

~~(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); (c) replacing "two years" in subsection (4) with "one year".~~

4. ~~The following is added after section 9.1 of National Instrument 51-102 Continuous Disclosure Obligations~~ Instrument is amended by adding the following sections:

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 ~~by notice and access that complies with~~ of a reporting issuer if all of the following apply:

- (a) the registered holder of voting securities is sent ~~the following:~~(i) —a notice ~~containing all of that contains~~ the following information, and no other information:

~~A.(i)~~ A.(i) the date, time and location of the reporting issuer's meeting for which the proxy-related materials are being sent;

~~B.(ii)~~ B.(ii) a ~~factual~~ 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);

~~C.(iii)~~ C.(iii) the website ~~address other than the address~~ addresses for SEDAR; and the non-SEDAR website where the proxy-related materials are ~~located;~~ posted;

~~D.(iv)~~ D.(iv) a reminder to review the information circular before voting;

~~E.(v)~~ E.(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;

~~(ii)(vi)~~ (ii)(vi) a ~~document in~~ plain language ~~that explains~~ explanation of notice-and-access ~~and that~~ includes the following information:

~~A. —why the person or company is using notice and access;~~

~~B.~~(A) if the person or company is using stratification, ~~which a list of the types of~~ registered holders or beneficial owners ~~are receiving~~ who will receive paper copies of the information circular and, if applicable, the documents in paragraph (2)(b);

~~C.~~(B) the estimated date and time by which a request for a paper copy of the information circular ~~should~~ 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;

~~D.~~(C) an explanation of how the registered holder is to return the proxy, including any deadline for return of the proxy;

~~E.~~(D) the page numbers sections 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.~~(E) a toll-free telephone number the registered holder can call to ~~ask questions~~ get information 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~~ notice required by ~~paragraphs (a) and (b), and~~ 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 documents, the notice and form of proxy~~ are sent at least 30 days before the date ~~fixed for~~ of the meeting;
- (~~c~~) in the case of a solicitation by or on behalf of management of the reporting issuer, ~~at least 30 days before the date fixed for the meeting~~ the reporting issuer files on SEDAR the notification ~~required by subsection 2.2(1) of~~ meeting and record dates in the manner and within the time specified by NI 54-101;
- (~~e~~) public electronic access to the information circular, form of proxy and the ~~documents~~ notice in paragraph (a) is provided on or before the day date that the person or company soliciting proxies sends the ~~documents in paragraphs (a), 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, ~~for a period ending no earlier than the date of the first annual meeting following the meeting to which~~ until the date that is one year from the date that the documents ~~relate, at~~ are posted, on a website ~~address~~ other than the ~~address~~ website for SEDAR;
 - (~~f~~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 ~~documents~~ notice in paragraph (a) to the registered holder; up to and including the date of the meeting, including any adjournment;
 - (~~g~~f) if a request ~~is received~~ 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 (~~f~~e) or by any other means, a paper copy of ~~the information circular~~ any such document requested is sent free of charge ~~to~~ 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) ~~A person or company~~ 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 ~~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:~~ 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);

~~(a) post on a website that is not SEDAR a document in plain language that explains notice and access;~~

~~(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.~~

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.

9.1.39.1.2 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)(ed)(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 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 ~~or not~~.

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

(a) access, read and search the documents on the website;

(b) download and print the documents.

9.1.49.1.3 Consent to other delivery methods — ~~Nothing in~~ For greater certainty, section 9.1.1 ~~shall be interpreted as~~does not

(a) ~~restricting~~prevent a registered holder of voting securities from consenting to a ~~reporting issuer~~person or company's use of other delivery methods to send proxy-related materials.;

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

9.1.59.1.4 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 ~~where~~when the reporting issuer uses notice-and-access.

- (2) ~~Where~~If a reporting issuer has obtained standing instructions from a registered holder under subsection (1), the reporting issuer must do ~~all~~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) ~~with the documents required by paragraphs 9.1.1(1)(a) and (b);~~
 - (b) ~~provide a mechanism for~~include with the notice under paragraph (a) a description, or otherwise inform the registered holder of, the means by which the registered holder ~~to~~may 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).~~

9.1.69.1.5 Compliance with SEC Notice-and-Access Rules – ~~Section 9.1 does not apply to a~~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 ~~it satisfies~~ both of the following apply:

- (a) the SEC issuer is subject to, and complies with ~~requirements under~~ Rule 14a-16 under the 1934 Act;

- (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~~apply:
 - (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~~section:*

- 4.3 The information circular must ~~state~~include the following ~~information~~, 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 ~~is being~~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 ~~has decided~~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 ~~it is~~in 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.~~ 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.

6. (1) Despite section 9.1.1 of National Instrument 51-102, as enacted by section 4 of this Instrument, 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 Instrument, in respect of a meeting that takes place before February 15, 2013.

6.7. This Instrument ~~is effective on [*]~~comes into force on February 11, 2013.