

March 9, 2020

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Superintendent of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Superintendent of Securities, Newfoundland and Labrador  
Superintendent of Securities, Yukon Territory  
Superintendent of Securities, Northwest Territories  
Superintendent of Securities, Nunavut**

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Dear Sirs/Mesdames:

**Re: CSA Consultation Paper 51-405 Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers**

The Canadian Bankers Association (“**CBA**”) appreciates the opportunity to comment on *CSA Consultation Paper 51-405 – Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers* (“**Consultation Paper**”). The CBA is the voice of more than 60 domestic and foreign banks that help drive Canada’s economic growth and prosperity. The CBA advocates for public policies that contribute to a sound, thriving banking system to ensure Canadians can succeed in their financial goals.

Overall, we are supportive of the adoption of an Access Equals Delivery (“**AED**”) model which we believe is a continuation of the electronic delivery of issuer documents that is permitted and already substantially taking place under securities regimes and corporate statutes in Canada. Many issuers, including the banks, are already using electronic delivery for continuous disclosure materials and the process is well established.

The following are some specific comments we have in response to the questions raised in the Consultation Paper.

Introducing an AED Model in Canada

As bank issuers, our members support the introduction of the AED model for the delivery of various issuer disclosure documents including, as discussed below, prospectuses, certain continuous disclosure documents, rights offering materials, proxy-related materials, and takeover bid and issuer bid circulars.

Along with the environmental benefits of lessening paper distributions which is widely supported by investors, the model would help make communications with investors more timely and efficient through enhanced electronic delivery. The adoption of AED provides the flexibility to offer both electronic and print formats as options for disclosures. While offering greater electronic access, the model allows for the continuation of paper disclosures for those investors who prefer to receive these items in paper format.

Scope of Application

We agree with the initial application of AED to prospectuses and certain continuous disclosure documents in the near term.

We do not believe, however, that AED should apply for all types of prospectuses as it would create information overflow that could be unnecessarily burdensome as well as distracting to the market. For one, securities purchases only occur once a prospectus supplement and/or pricing supplement is filed for a specific offering, which may be some time after the preliminary or final shelf prospectus is filed. Also, there

are certain offerings (e.g. under medium term note or continuous distribution programs) where there are multiple offerings occurring each month, and possibly multiple times a week, and a news release is not issued for each offering.

We also believe that the AED model should be extended, perhaps through tiered implementation, to other disclosure documents including: rights offering materials, proxy-related materials, and takeover bid and issuer bid circulars. As long as accessible options are provided for those with preferences for paper materials, it would be beneficial to adopt AED for these additional disclosures.

We note that electronic delivery for proxy-related materials allows for a hybrid approach, whereby investors have the option of opting-in for electronic delivery of documents if preferred. Similarly, under notice-and-access, issuers mail out one-page notices rather than an entire disclosure package, and then investors have the option to request paper copies at no cost. This is the approach taken for proxy voting information by companies incorporated under various provincial *Business Corporations Acts* as well as the *Canada Business Corporations Act*. Also, a similar approach has been taken by investment fund issuers under the CSA's point-of-sale delivery requirements. The U.S. model goes even further, giving issuers the option of requiring votes to be casted electronically once a paper notice has been mailed to shareholders.

One factor to consider for whether issuers decide to move to an AED model is the impact on proxy voter turnout as issuers will want to ensure that turnout levels are maintained or enhanced. That being said, whether chosen by issuers or not, AED offers another potential means to encourage voter turnout.

### Alerting Investors to Delivery

#### *News Releases*

A news release is an adequate mechanism to alert investors. However, we believe that requiring news releases for each stage of filings would create an unnecessary higher volume of news releases and this would be disruptive to the market. For frequent issuers such as the banks, where there are often several issuances each week and possibly more than one offering per day, this would be extremely onerous and potentially confusing to the market.

We do not believe a news release should be required for both preliminary and final prospectuses. As indicated earlier, notifications are already provided under the current process for electronic delivery without always issuing a news release. Also, as indicated above, actual share purchases only occur once prospectus or pricing supplements are filed off the shelf, so it would only be appropriate to issue a news release at this stage.

Where a news release is required, we believe that it should include information which advises investors of: (i) the nature and content of disclosures made, (ii) where electronic documents can be accessed (i.e. SEDAR, issuer's website), and (iii) how a paper copy can be obtained (e.g. upon request).

Further consideration should be given as to whether a news release should be required at all for electronic delivery as there are other means to alert investors (e.g. in term sheets posted to a website).

### *Issuer Websites*

Issuer websites are already a common platform used for posting disclosure documents. If other digital platforms are to be made available for making disclosures, we would need to understand what those are before providing any comments.

### Changes to Voting Infrastructure

We expect that some changes will be required to account for the adoption of an AED model for proxies. For instance, changes will be required to what voting instructions are provided to shareholders.

### Withdrawal Periods

We support a withdrawal period of 48 hours that is calculated from the time at which the investor is given electronic access to the prospectus.

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Thank you for considering our comments. Please do not hesitate to contact me with any questions you have.

Sincerely,

