

Investment funds: Notice-and-access for securityholders' meetings

On September 8, 2016, the *Autorité des marchés financiers* (the “Authority” or “we”) granted an exemption from the requirement¹ to send an information circular to each registered securityholder, so that the investment funds can instead send a notice-and-access document according to the procedure set out in the decision.²

The Authority therefore wishes to inform fund managers that we are prepared to consider granting exemptions setting out similar representations and conditions.

1. Background

Currently, a reporting issuer that is not an investment fund may, subject to certain conditions, use notice-and-access to send a notice, rather than an information circular, to each registered holder or beneficial owner of its securities. The notice contains specific information regarding the meeting and an explanation of the notice-and-access procedure.

Certain investment fund managers in Québec filed an application in order to benefit from a similar process, subject to certain conditions, and thereby modernize communications relating to meetings of investment fund securityholders.

2. Comments

In the application, the investment fund managers submitted that a meeting of investment fund securityholders is no different than a meeting of securityholders of a reporting issuer that is not an investment fund. Consequently, if such an issuer can use the notice-and-access procedure set forth in the regulation and send a notice-and-access document rather than an information circular, then allowing an investment fund to do the same would not be detrimental to the protection of investors.

The notice-and-access procedure in no way deprives any investment fund securityholders of the possibility of obtaining an information circular in the manner they prefer. The conditions of the decision stipulate, among other things, that the notice-and-access document must be sent to securityholders sufficiently in advance of the meeting so that a holder who so wishes may obtain a paper copy of the information circular. It also stipulates that the information circular be posted to the website of the investment fund manager or of the fund, and that the notice-and-access document sent to the holder indicate the addresses of the SEDAR website and the other website where the proxy-related materials are posted.

Furthermore, the decision in no way affects investment fund securityholders' access to information documents of the same quality as those currently available to them: The decision changes neither the requirement to prepare an information circular nor the content thereof.

¹ More specifically, paragraph 12.2(2)(a) of Regulation 81-106 respecting Investment Fund Continuous Disclosure, CQLR, c. V-1.1, r. 42.

² Decision No. 2016-FI-0093, dated September 8, 2016.

We would like to draw managers' attention to the requirement, in accordance with the standard of care set out in the applicable legislation, that a manager may use the notice-and-access procedure for a particular meeting only if it has concluded that it is appropriate to do so, after having considered the purpose of the meeting and the possibility that the investment fund may obtain a higher participation rate by sending securityholders the information circular with the other proxy-related materials.

Questions

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