

REGULATION TO AMEND REGULATION 51-102 RESPECTING CONTINUOUS DISCLOSURE OBLIGATIONS

Securities Act
(R.S.Q., c. V-1.1, s. 331.1, par. (1), (2), (3), (8), (9), (11), (19), (20) and (34))

1. Section 1.1 of Regulation 51-102 respecting Continuous Disclosure Obligations is amended:

(1) by adding the following definition after the definition of “material change”:

““material contract” means any contract that an issuer or any of its subsidiaries is a party to, that is material to the issuer;”;

(2) in the French text of the definition of “personne informée”, by replacing the word “afférents” with “rattachés”.

2. Paragraph 8.4(5)(b) of the Regulation is amended by replacing “after the ending date” with “since the beginning”.

3. Subparagraph 8.10(3)(e)(ii) of the Regulation is amended by replacing “after the ending date” with “since the beginning”.

4. Section 10.1 of the Regulation is amended:

(1) in subsection (1):

(a) in the French text of paragraph (b), by adding “, « préférentielle »” after “« privilégiée »”;

(b) in the French text of paragraphs (c) and (e), by replacing the word “afférents” with “rattachés”;

(2) in the French text of subsection (5), by adding “, « préférentielle »” after “« privilégiée »”.

5. Section 12.2 of the Regulation is replaced by the following:

“12.2 Filing of Other Material Contracts

(1) Unless previously filed, a reporting issuer must file a copy of any material contract, other than a contract entered into in the ordinary course of business, that was entered into within the last financial year, or before the last financial year but is still in effect.

(2) For the purposes of this Regulation, a “contract entered into in the ordinary course of business” does not include the following:

(a) any contract to which directors, officers or promoters are parties, unless the contracts are for the purchase or sale of current assets at fair value;

(b) any continuing contract to sell the major part of the reporting issuer's products or services or to purchase the major part of the reporting issuer's requirements of goods, services, or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which the reporting issuer's business depends to a material extent;

(c) any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 20% of such fixed assets of the reporting issuer on a consolidated basis;

(d) any credit agreements;

(e) any management or administration agreements; and

(f) any contract on which the reporting issuer's business is substantially dependent.

(3) A reporting issuer may omit or mark so as to be unreadable certain provisions of a contract referred to in subsection (1) or (2) if

(a) an executive officer of the reporting issuer has reasonable grounds to believe that disclosure of those provisions would be seriously prejudicial to the interests of the reporting issuer or would violate confidentiality provisions;

(b) an executive officer of the reporting issuer has reasonable grounds to believe that those provisions do not contain information relating to the reporting issuer or its securities that would be necessary to understanding the contract; and

(c) in the copy of the material contract filed by the reporting issuer, immediately after a provision has been omitted or marked so as to be unreadable, the reporting issuer includes a description of the type of information that has been omitted or marked so as to be unreadable.

(4) For the purposes of this Regulation, provisions that are "necessary to understanding the contract" include provisions disclosing the following:

(a) the name or description of a material customer or a material supplier;
(b) interest rate and other similar terms in a material credit agreement;

(c) the duration and nature of all patents, trademarks, licenses, franchises and concessions held;

(d) required disclosure in the MD&A section relating to loan arrangements and instalment payment obligations on debt;

(e) disclosure about related party transactions;

(f) material contingency, indemnification, anti-assignability, and take-or-pay clauses; and

(g) financial covenants in material financing or credit agreements.

(5) Despite subsection (1), a reporting issuer is not required to file a material contract entered into before January 1, 2002."

6. The French text of subparagraph 13.3(2)(h)(iii) of the Regulation is amended by replacing the word "afférents" with "rattachés".

7. Section 13.4 of the Regulation is amended:

(1) in subsection (1):

(a) in the definition of "designated credit support securities":

(i) by replacing "in respect of which a credit supporter has provided" with "in respect of which a parent credit supporter has provided";

(ii) by adding "non-convertible" before "securities of the credit supporter" wherever it occurs;

(b) by adding the following definition after the definition of "designated credit support securities":

"parent credit supporter" means a credit supporter of which the reporting issuer is a subsidiary;";

(c) by adding the following definition after the definition of "designated credit support securities":

"subsidiary credit supporter" means a credit supporter that is a subsidiary of the parent credit supporter;";

(2) in subsection (1.1):

(a) in paragraph (b), by deleting "of consolidating summary financial information";

(b) by adding "parent" before "credit supporter" wherever it occurs;

(c) by replacing paragraph (c) with the following:

"(c) all subsidiary entity columns must account for investments in non-credit supporter subsidiaries under the equity method.";

(3) in subsection (2):

(a) by replacing the word "subsection" with "section";

(b) by adding "parent" before "credit supporter" wherever it occurs and, in the French text, by replacing the words "et détenus par eux" with "et détenus par elles";

(c) by adding the following after paragraph (j), and making the necessary changes:

"(k) no person or company other than the parent credit supporter has provided a guarantee or alternative credit support for the payments to be made under any issued and outstanding securities of the credit support issuer.

(2.1) A credit support issuer satisfies the requirements of this Regulation where there is a parent credit supporter and one or more subsidiary credit supporters if

(a) the conditions in paragraphs (2)(a) to (f), (i), and (j) are complied with;

(b) the parent credit supporter controls each subsidiary credit supporter and parent credit supporter has consolidated the financial statements of each subsidiary credit supporter into the parent credit supporter's financial statements that are filed or referred to under paragraph (2)(d);

(c) the credit support issuer files, in electronic format, in the notice referred to in clause (2)(d)(ii)(A) or in or with the copy of the interim and annual consolidated financial statements filed under subparagraph (2)(d)(i) or clause (2)(d)(ii)(B), for the periods covered by the interim or annual consolidated financial statements of the parent credit supporter filed, consolidating summary financial information for the parent credit supporter presented with a separate column for each of the following:

(i) the parent credit supporter;

(ii) the credit support issuer;

(iii) each subsidiary credit supporter on a combined basis;

(iv) any other subsidiaries of the parent credit supporter on a combined basis;

(v) consolidating adjustments; and

vi) the total consolidated amounts;

(d) no person or company, other than the parent credit supporter or a subsidiary credit supporter has provided a guarantee or alternative credit support for the payments to be made under the issued and outstanding designated credit support securities; and

(e) the guarantees or alternative credit supports are joint and several.

(2.2) Despite paragraph (2.1)(c), the information set out in a column in accordance with

(a) subparagraph (2.1)(c)(iv), may be combined with the information set out in accordance with any of the other columns in paragraph (2.1)(c); if each item of the summary financial information set out in a column in accordance with paragraph (2.1)(c)(iv) represents less than 3% of the corresponding items on the consolidated financial statements of the parent credit supporter being filed or referred to under paragraph (2)(d),

(b) subparagraph (2.1)(c)(ii) may be combined with the information set out in accordance with any of the other columns in paragraph (2.1)(c); if the credit support issuer has minimal assets, operations, revenues or cash flows other than those related to the issuance, administration and repayment of the securities described in paragraph (2)(c).";

(4) in subsection (3), by replacing paragraphs (a) to (e) with the following:

- “(a) the conditions in paragraphs (2)(a) to (c) are complied with;
- (b) if the insider is not a credit supporter,

- (i) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning a credit supporter before the material facts or material changes are generally disclosed, and

- (ii) the insider is not an insider of a credit supporter in any capacity other than by virtue of being an insider of the credit support issuer; and

- (c) if the insider is a credit supporter, the insider does not beneficially own any designated credit support securities;”;

(5) in subsection (4), by adding “parent” before “credit supporter” wherever it appears.

8. The French text of Form 51-102F1, Management’s Discussion and Analysis, of the Regulation is amended, in instruction (A) of Item 1.9, by replacing the word “apparentés” with “personnes apparentées”.

9. Form 51-102F2, Annual Information Form, of the Regulation is amended:

(1) in the French text of paragraph (a) of Item 3.2, by replacing the word “afférents” with “rattachés”;

(2) in Item 5.2, by replacing “Risks should be disclosed in the order of their seriousness” with “Disclose the risks in order of seriousness from the most serious to the least serious. A risk factor should not be deemphasized by including excessive caveats or conditions.”;

(3) by adding the following subsection after subsection (2) of Item 5.3:

“(2.1) If any of the information disclosed in accordance with subsection (2) has been audited, disclose the existence and results of the audit.”;

(4) by replacing Item 6 with the following:

“Item 6

Dividends or Distributions

6.1 Dividends or Distributions

(1) Disclose the amount of cash dividends or distributions declared per security for each class of your company’s securities for each of the three most recently completed financial years.

(2) Describe any restriction that could prevent your company from paying dividends or distributions.

(3) Disclose your company’s current dividend policy and any intended change in dividend policy. ”;

(4) in subsection (2) of Item 8, by adding “but is traded or quoted on a foreign marketplace” after “If a class of securities of your company is not traded or quoted on a Canadian marketplace.”;

(5) by replacing Item 9 with the following:

“Item 9

Escrowed Securities and Securities Subject to Contractual Restriction on Transfer

9.1 Escrowed Securities and Securities Subject to Contractual Restriction on Transfer

(1) State, in substantially the following tabular form, the number of securities of each class of your company held, to your company’s knowledge, in escrow or that are subject to a

contractual restriction on transfer and the percentage that number represents of the outstanding securities of that class for your company's most recently completed financial year.

ESCROWED SECURITIES AND SECURITIES SUBJECT TO CONTRACTUAL RESTRICTION ON TRANSFER

Designation of class	Number of securities held in escrow or that are subject to a contractual restriction on transfer	Percentage of class

(2) In a note to the table disclose the name of the depository, if any, and the date of and conditions governing the release of the securities from escrow or the date the contractual restriction on transfer ends, as applicable.

INSTRUCTION

For purposes of this item, escrow includes securities subject to a pooling agreement.”;

(6) in the French text of the instructions of Item 12.1, by replacing the words “a la connaissance” with “à la connaissance”;

(7) in Item 15.1:

(a) by replacing subsection (1) with the following:

“(1) Give particulars of every material contract, other than a contract entered into in the ordinary course of business, that was entered into within the most recently completed financial year, or before the most recently completed financial year but is still in effect.”;

(b) by deleting subparagraph (i) of the instruction.

10. Form 51-102F5, Information Circular, of the Regulation is amended:

(1) in the French text of subsection (g) of Item 7.1, by replacing the word “afférents” with “rattachés”;

(2) in the French text of instruction (iv) of Item 11, by replacing the words “rabais important accordé” with “décote importante accordée”.

11. This Regulation comes into force on •.