

REGULATION TO AMEND REGULATION 51-102 RESPECTING CONTINUOUS DISCLOSURE OBLIGATIONS

Securities Act

(R.S.Q., c. V-1.1, a. 331.1, par. (1), (2), (3), (4.1), (8), (11), (20) and (34))

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

(1) by inserting, after the definition of the expression “common share”, the following:

““corporate law” has the same meaning as in section 1.1 of Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer (c. V-1.1, r. 29);”;

(2) by inserting, after the definition of the expression “non-voting security”, the following:

““notice-and-access” has the same meaning as in section 1.1 of Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer;”;

(3) by inserting, after the definition of the expression “proxy”, the following:

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

(4) by deleting, in paragraph (g) of the definition of the expression “solicit”, “(Decision 2003-C-0082, 03-03-03)”;

(5) by inserting after the definition of the expression “solicit”, the following:

““special meeting” has the same meaning as in section 1.1 of Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer;

““special resolution” has the same meaning as in section 1.1 of Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer;

““stratification” has the same meaning as in section 1.1 of Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer;”.

2. Section 4.6 of the Regulation is amended:

(1) by replacing paragraph (1) with the following:

“(1) 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.”;

(2) by replacing, in paragraph (2), the words “The reporting issuer must” with the words “Despite paragraph (1), the reporting issuer must”;

(3) by replacing, in paragraph (4), “2 years” with the words “one year”;

3. Section 5.6 of the Regulation is amended, in the French text of paragraph (3), by replacing the words “porteurs véritables” with the words “propriétaires véritables”.

4. Section 8.4 of the Regulation is amended, in the French text:

(1) by replacing, in subparagraph (i) of subparagraph (b) of paragraph (5), the words “au cours de cet exercice” with the words “depuis le début de cet exercice”;

(2) in paragraph (7):

(a) by deleting the words “sauf en regard du sous-paragraphe f”;

(b) by replacing, in subparagraph (d), the words “conformément dans le” with the words “conformément au”;

5. The Regulation is amended by inserting, after section 9.1, the following:

“9.1.1. Notice-and-Access

(1) A person 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;

(vi) a plain-language explanation of notice-and-access that includes the following information:

(A) if the person 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 Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer (c. V-1.1, r. 29);

(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 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 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 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 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 has sent to registered holders or beneficial owners of voting securities;

(b) any written communications the person 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’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 regarding the use of other delivery methods to send proxy-related materials; or

(c) prevent a person 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.”.

6. Section 13.4 of the Regulation is amended, in the French text of paragraph (3):

(1) by replacing the words “si les conditions suivantes sont réunies” with the words “lorsque les conditions suivantes sont réunies”;

(2) by replacing, in subparagraph (b), the words “l’initié n’est pas le garant et” with the words “si l’initié n’est pas garant”;

(3) by replacing subparagraph (c) with the following:

“c) si l’initié est garant, il n’est propriétaire véritable d’aucun titre garanti désigné.”.

7. Form 51-102F5 of the Regulation is amended by inserting, after item 4.2, the following:

“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 Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer (c. V-1.1, r. 29);

(c) a statement that management of the reporting issuer does not intend to pay for intermediaries to forward to objecting beneficial owners under Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer 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.”.

8. Despite section 9.1.1 of the Regulation, as enacted by section 5, a person 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.

9. A reporting issuer must not rely on section 9.1.5 of the Regulation, as enacted by section 5, in respect of a meeting that takes place before February 15, 2013.

10. This Regulation comes into force on February 11, 2013.