

January 30, 2013

BULLETIN

Canada Adopts Notice-and-Access

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On November 29, 2012, the Canadian Securities Administrators (“**CSA**”) adopted amendments to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* and National Instrument 51-102 *Continuous Disclosure Obligations*.

These amendments follow the similar rule changes implemented by the US Securities and Exchange Commission (SEC) effective as of January 2009. The CSA amendments, which are known as the notice-and-access mechanism, are intended to improve and simplify the process for reporting issuers to send proxy-related materials to registered holders and beneficial owners of securities. Essentially, issuers will be able to send to shareholders, a much reduced package of materials, together with the document required to cast their vote. Provided that in all jurisdictions the required ministerial approvals are obtained, the amendments will come into force on **February 11, 2013**. However, reporting issuers will only be permitted to use notice-and-access in respect of meetings that occur on or after March 1, 2013.

I. What is the notice-and-access mechanism?

Notice-and-access is voluntary. If a reporting issuer opts to use the notice-and-access mechanism it will allow them to post proxy-related materials (i.e. annual financial statements, management’s discussion and analysis and meeting circulars) on a non-SEDAR website. The issuer will also be required to send a notice informing the beneficial owners that the proxy-related have been posted and information on how to access them online.

However, it should be noted investment funds will not be permitted to use notice-and-access.

II. How to use notice-and-access?

If notice-and-access is used for the first time, the notification must be filed at least 25 days before the record date for notice (therefore at least 65 days before the date of the meeting).

In order to use notice-and-access, a reporting issuer must set the record date for notice of the meeting date to be at least 40 days before the meeting. In addition, a reporting



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issuer must file a notification of meeting and record dates containing information about the meeting and notify of the use of notice-and-access on SEDAR.

For subsequent meetings, the delay is shortened to 3 days prior to the record date for notice.

III. What should be included in the notification?

The reporting issuer must send to shareholders a notice package that contains the notice and relevant voting information (a form of proxy or voting instruction form as applicable).

The notice must include the following:

- basic information about the meeting and matters to be voted on (i.e. date, time and location of meeting);
- web address where the proxy-related materials are posted (and if applicable financial statements and management discussion and analysis); and
- information on the notice-and-access process.

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