



**Conor J. Cronin**  
Business Law Group



PERLEY-ROBERTSON,  
HILL & MCDUGALL LLP/s.r.l.

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### Promotional and Problematic Disclosure

Public companies (Reporting Issuers) must follow the disclosure requirements set out in National Instrument 51-102. The standards of such disclosure expected by Canadian regulators are set out in National Policy 51-201.

The disclosure made by Reporting Issuers may affect the public's investing decisions. For this reason, disclosure must be done in a manner that is fair and timely. Information disclosed in a news release must not be selective and must not be overly promotional.

On November 29, 2018 the Canadian Securities Administrators (CSA) released CSA Staff Notice 51-356 *Problematic promotional activities by issuers*. This is the second notice in 3 months the CSA has issued with regards to incomplete, problematic, and deficient disclosure practices by Reporting Issuers in Canada. In October, the CSA issued Staff Notice 51-357 which was a review by regulators in Alberta, British Columbia, Ontario, and Quebec of the disclosure practices of 70 Reporting Issuers operating in the cannabis industry. In CSA Staff Notice 51-356, the CSA states that it has noticed promotional activities by issuers across all sectors "that are either untrue or unbalanced to such an extent that they may mislead investors".

Problematic behaviour and promotional activities the CSA has identified as potentially misleading include:

- disseminating presentations, marketing materials, social media posts, or other information that describe early stage plans with unwarranted certainty, or make unsupported assertions about growth of markets or demand for a product;
- issuing numerous news releases that disclose no new material facts;
- compensating third parties, who use social media and general investing blogs to promote issuers, but do not disclose their agency, compensation and/or financial interest;
- announcing an issuer name and/or business change to reference an emerging industry or technology such as block chain, cannabis, battery minerals, or cryptocurrency without a supporting business plan or comprehensive risk disclosure;
- announcing a positive event such as a large acquisition then subsequently changing or cancelling the transaction with no announcement. In addition, the initial announcement sometimes fails to disclose material conditions necessary to complete the transaction such as financing or due diligence, and the issuer sometimes fails to file corresponding material contracts or material change reports.

Perley-Robertson, Hill &  
McDougall LLP/s.r.l

1400-340 Rue Albert Street  
Ottawa, ON  
K1R 0A5

T: 613.238.2022  
F: 613.238.8775

[www.perlaw.ca](http://www.perlaw.ca)



PERLEY-ROBERTSON,  
HILL & MCDUGALL LLP/s.r.l.

Reporting Issuers should remember that they are expected to comply with securities laws when issuing promotional news releases including:

- prohibitions against false or misleading statements,
- identifying forward looking statements as such,
- avoidance of exaggerative promotional commentary,
- not participating in chat rooms and bulletin boards.

Reporting Issuers should be aware that problematic disclosure, like the examples cited above, could lead to enforcement measures being imposed by regulators. Such measures may require the Issuer to issue a clarifying news release, remove promotional language from its website or social media, and refile continuous disclosure materials.

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