

Chapter 6

Request for Comments

6.1.1 CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers



Canadian Securities
Administrators

Autorités canadiennes
en valeurs mobilières

CSA NOTICE AND REQUEST FOR COMMENT

PROPOSED AMENDMENTS AND PROPOSED CHANGES TO IMPLEMENT AN ACCESS EQUALS DELIVERY MODEL FOR NON-INVESTMENT FUND REPORTING ISSUERS

April 7, 2022

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing for a 90-day comment period, proposed amendments and proposed changes to

- National Instrument 41-101 *General Prospectus Requirements*,
- National Instrument 44-101 *Short Form Prospectus Distributions*,
- National Instrument 44-102 *Shelf Distributions*,
- National Instrument 44-103 *Post-Receipt Pricing*,
- National Instrument 51-102 *Continuous Disclosure Obligations*,
- National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating To Foreign Issuers*,
- Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements*,
- Companion Policy 44-102CP to National Instrument 44-102 *Shelf Distributions*,
- Companion Policy 44-103CP to National Instrument 44-103 *Post-Receipt Pricing*, and
- Companion Policy 51-102CP *Continuous Disclosure Obligations*;

as well as related proposed consequential changes to

- National Policy 11-201 *Electronic Delivery of Documents*,
- National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means*, and
- Companion Policy 54-101CP to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*,

(collectively, the **Proposed Amendments**).

The public comment period will end on **July 6, 2022**.

The text of the Proposed Amendments is contained in Annexes A through M of this notice and will also be available on websites of CSA jurisdictions, including:

www.lautorite.gc.ca

www.albertasecurities.com

www.bcsc.bc.ca

nssc.novascotia.ca
www.fcncb.ca
www.osc.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Substance and Purpose

The Proposed Amendments implement an access equals delivery model for prospectuses generally, annual financial statements, interim financial reports and related management's discussion & analysis (**MD&A**) for non-investment fund reporting issuers.

The proposed access equals delivery model (the **AED Model**) contemplates the following:

- in all jurisdictions except British Columbia, providing public electronic access to a document and alerting investors that the document is available will constitute delivery for prospectuses under securities legislation;
- in British Columbia, an exemption from the requirement under securities legislation to send a prospectus (the **BC Exemption**) will permit access *instead of* delivery;
- for annual financial statements, interim financial reports and related MD&A, providing public electronic access to the documents and alerting investors that the documents are available will constitute delivery for the documents; and
- in all cases, delivery of a document will occur, or the conditions in the BC Exemption will be met, when:
 - the document is filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**), and
 - where applicable, a news release is issued and filed on SEDAR indicating that the document is available electronically and that a paper or an electronic copy can be obtained upon request.

The purpose of the proposed AED Model is to modernize the way documents are made available to investors and reduce costs associated with the printing and mailing of documents, which are currently borne by issuers. The proposed AED Model provides a more cost-efficient, timely and environmentally friendly manner of communicating information to investors than paper delivery. In our view, the proposed AED Model reduces regulatory burden on issuers without compromising investor protection.

We recognize that information technology is an important and useful tool in facilitating communication with investors. The proposed AED Model is consistent with the general evolution of our capital markets, including how investors are increasingly accessing and consuming information electronically.

The proposed AED Model offers benefits for both issuers and investors. The proposed AED Model further facilitates the communication of information by enabling issuers to reach more investors in a faster and more effective manner than by mailing documents. SEDAR is a common, standardized platform that provides ease and convenience of use for investors, allowing them to access and search for specific information in a document more efficiently than they would otherwise be able to with paper copies of documents.

The proposed AED Model does not remove an investor's ability to request documents in paper or electronic form or prevent an issuer from delivering financial statements and related MD&A based on an investor's standing instructions.

The Proposed Amendments would implement the proposed AED Model for prospectuses generally, annual financial statements, interim financial reports and related MD&A. In our view, the proposed AED Model is well suited for these types of documents, which are increasingly being accessed electronically by investors. At this time, we are not proposing an access equals delivery model for the delivery of documents that require immediate shareholder action and participation, such as proxy-related materials and take-over bid and issuer bid circulars.

Background

On January 9, 2020, we published CSA Consultation Paper 51-405 *Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers*. The purpose of the consultation was to provide a forum for discussion on the appropriateness of implementing an access equals delivery model in the Canadian market. We solicited views on whether an access equals delivery model should be introduced, the types of documents to which an access equals delivery model should apply and the mechanics of a potential access equals delivery model.

The comment period ended on March 9, 2020. We received 30 comment letters from various market participants, including issuers, investors, industry associations and law firms. We wish to thank all commenters for contributing to the consultation.

We have reviewed the comments received, and we note as follows:

- A large majority of commenters expressed general support for implementing an access equals delivery model.
- A majority of commenters expressed support for prioritizing implementing an access equals delivery model for prospectuses, annual financial statements, interim financial reports and related MD&A.
- Although many commenters expressed general support for extending an access equals delivery model to other types of documents, such as proxy-related materials and takeover bid and issuer bid circulars, some commenters indicated that the CSA should carefully consider the impact of introducing an access equals delivery model to documents that require a time sensitive response from investors.
- Several commenters submitted that filing a document on SEDAR (and not also posting the document on the issuer's website) is sufficient as it provides a common, standardized platform that allows investors to access issuers' documents.
- A majority of commenters agreed that a news release is sufficient to alert investors that the document is available electronically.
- Commenters identified several benefits of an access equals delivery model, including reducing regulatory burden and costs for issuers, modernizing the way documents are made available to investors and promoting a more environmentally friendly manner of communicating information than paper delivery.
- The main limitations to implementing an access equals delivery model identified by commenters are the delivery requirements outside of securities legislation (e.g. corporate law) and electronic transactions legislation. In addition, some commenters noted the potential negative impact on investor engagement.

In light of the comments received and our analysis, we think it is appropriate to propose the AED Model for prospectuses generally, annual financial statements, interim financial reports and related MD&A into the Canadian market.

Summary of the Proposed Amendments

Prospectuses

The proposed AED Model applies to all types of prospectuses, except rights offerings by way of prospectus and medium-term note (MTN) programs and other continuous distributions under a shelf prospectus. The proposed AED Model may not be suitable for a rights offering by way of prospectus since this type of distribution requires a time sensitive response. MTN programs and other continuous distributions under a shelf prospectus are dealt with in a different manner in our rules and are not suited for the proposed AED Model. It also does not apply to a prospectus offering of investment fund securities.

Except in British Columbia, the Proposed Amendments contemplate that a prospectus or any amendment must be delivered or sent by providing access to the document in accordance with the procedures set out in the rules, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

British Columbia is instead providing an exemption from the prospectus delivery requirements because it better aligns with British Columbia's legislative authority and approach to legislative drafting. The BC Exemption is intended to achieve the same outcome as the AED Model proposed in the other jurisdictions.

The Proposed Amendments stipulate that, in all jurisdictions except British Columbia, access to the final prospectus or any amendment has been provided if:

- the issuer has filed the document on SEDAR and a receipt has been issued for the document, and
- the issuer has issued and filed a news release on SEDAR announcing that the document is available and accessible on SEDAR, indicating the securities that are offered and specifying that a paper or an electronic copy of the document can be obtained upon request.

Under the BC Exemption, a dealer is exempt from requirements under securities legislation to send a final prospectus or any amendment to a purchaser if these same conditions are met.

The Proposed Amendments clarify that, under the proposed AED Model, the right to withdraw from an agreement to purchase securities may be exercised within 2 business days after the later of (a) the date that access to the final prospectus or any amendment has been provided, and (b) the date that the purchaser has entered into the agreement to purchase the securities. In British Columbia, it is a condition of the BC Exemption that an equivalent right be provided to a purchaser.

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We are also proposing to require a cross-reference on the front page of the prospectus to alert investors to the section that explains how the withdrawal right period is calculated under the AED Model.

For the preliminary prospectus or any amendment, the Proposed Amendments stipulate that access has been provided if the issuer has filed the document on SEDAR and a receipt has been issued for the document. In this scenario, the Proposed Amendments do not require that the issuer issue and file a news release on SEDAR to alert investors because investors should be aware of when the preliminary prospectus is available by virtue of their interest in the distribution. In our view the requirement to file a news release is important in connection with the final prospectus because the investor's withdrawal right period is calculated at this stage.

The Proposed Amendments clarify how the AED Model applies to the advertising and marketing of a prospectus offering, including with respect to the preliminary prospectus, and update the statements contained in the marketing materials to inform investors that the prospectus or any amendment is available on SEDAR and that a copy of the document can be obtained upon request.

The proposed AED Model has been adapted to suit the particularities of different types of prospectuses, i.e. long-form prospectuses, short-form prospectuses, shelf prospectuses and post-receipt pricing prospectuses.

In certain jurisdictions, amendments to local securities acts may be required to fully implement the Proposed Amendments.

Financial Statements and related MD&A

The Proposed Amendments contemplate that the proposed AED Model applies to annual financial statements, interim financial reports and related MD&A.

The Proposed Amendments provide that the issuer must issue and file a news release to inform investors that its financial statements and related MD&A are available on SEDAR, unless the issuer complies with the current delivery requirements. The Proposed Amendments stipulate that access to the financial statements and related MD&A has been provided if

- the issuer has filed the documents on SEDAR, and
- on the same day that it has filed the documents, the issuer has issued and filed a news release on SEDAR announcing that the documents are available electronically and specifying that a paper or an electronic copy of the documents can be obtained upon request.

We think the proposed AED Model is especially well suited for these types of documents since investors are generally aware that the documents will be available on SEDAR. Investors can also predict when the documents will be available since they are subject to prescribed filing deadlines.

Issuers may still be required to comply with certain delivery requirements under corporate law and other applicable requirements to which they may be subject.

The proposed AED Model would also be available to SEC foreign issuers and designated foreign issuers.

Consequential Amendments

We are proposing changes to National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means* to clarify that the investment dealer conducting a road show must make an oral statement at the commencement of the road show that the relevant prospectus or any amendment is available on SEDAR, or provide the investor with a copy of the relevant prospectus or any amendment.

We are proposing changes to Companion Policy 54-101CP to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* to clarify the interaction between the current delivery requirements and the proposed AED Model with respect to financial statements and related MD&A.

Local Matters

Where applicable, an additional annex is being published in any local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

Request for Comments

We welcome your comments on the Proposed Amendments and also invite comments on the following specific questions.

1. With regards to financial statements and related MD&A, the Proposed Amendments provide that an issuer must issue and file a news release on SEDAR announcing that the documents are available electronically and specifying that a paper or an electronic copy of the documents can be obtained upon request.
 - a. Would the requirement to issue and file a news release be unduly costly or onerous in these circumstances? If so, why? Would the burden differ depending on whether the issuer is a venture issuer or not?
 - b. Should we consider alternative ways to alert investors of the availability of a document that could be less onerous? Which ones and why?

Please submit your comments in writing on or before **July 6, 2022**. Please send your comments by email in Microsoft Word format.

Please address your submission to all members of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
The Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Deliver your comments only to the addresses below. Your comments will be distributed to the other participating CSA members.

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
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Québec (Québec) G1V 5C1
Fax: 514 864-8381
Email: consultation-en-cours@lautorite.qc.ca

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416 593-2318
Email: comments@osc.gov.on.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Contents of Annexes

- Annex A: Proposed Amendments to National Instrument 41-101 *General Prospectus Requirements*
- Annex B: Proposed Changes to Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements*
- Annex C: Proposed Amendments to National Instrument 44-101 *Short Form Prospectus Distributions*

- Annex D: Proposed Amendments to National Instrument 44-102 *Shelf Distributions*
- Annex E: Proposed Changes to Companion Policy 44-102CP to National Instrument 44-102 *Shelf Distributions*
- Annex F: Proposed Amendments to National Instrument 44-103 *Post-Receipt Pricing*
- Annex G: Proposed Changes to Companion Policy 44-103CP to National Instrument 44-103 *Post-Receipt Pricing*
- Annex H: Proposed Amendments to National Instrument 51-102 *Continuous Disclosure Obligations*
- Annex I: Proposed Changes to Companion Policy 51-102CP *Continuous Disclosure Obligations*
- Annex J: Proposed Amendments to National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating To Foreign Issuers*
- Annex K: Proposed Changes to National Policy 11-201 *Electronic Delivery of Documents*
- Annex L: Proposed Changes to National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means*
- Annex M: Proposed Changes to Companion Policy 54-101CP to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*

Questions

Please refer your questions to any of the following:

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ANNEX A

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. *National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.*
2. *The following is added after Part 2:*

PART 2A: Access to a Prospectus

Application

2A.1 This Part does not apply in respect of

- (a) a prospectus to distribute rights,
- (b) a prospectus filed under NI 44-102 or NI 44-103, and
- (c) a prospectus to distribute securities of an investment fund.

Access equals delivery

2A.2(1) This section does not apply in British Columbia.

- (2) The requirement under securities legislation to deliver or send a prospectus or any amendment is satisfied when access to the document has been provided in accordance with subsection 2A.3(3) or (6).
- (3) The prospectus or any amendment is delivered or sent on the date that access to the document has been provided in accordance with subsection 2A.3(3) or (6).
- (4) The prospectus or any amendment is received on the date the document has been delivered or sent in accordance with subsection (3).
- (5) Except in Saskatchewan, if the final prospectus or any amendment is delivered or sent in accordance with subsection 2A.3(3), the right to withdraw from, or in Quebec the right to rescind, an agreement to purchase a security provided to a purchaser under securities legislation may be exercised within 2 business days after the later of
 - (a) the date the document is received in accordance with subsection (4), and
 - (b) the date that the purchaser has entered into the agreement to purchase the security.
- (6) In Saskatchewan, if the final prospectus or any amendment has been delivered or sent in accordance with subsection 2A.3(3), a purchaser that is not a registrant may cancel a purchase if the purchaser has not sold or otherwise transferred beneficial ownership of the security and the person or company from whom the purchaser purchased the security receives notice in writing to cancel the agreement of purchase and sale for the security at any time up to 2 business days after the later of
 - (a) the date that the document is received in accordance with subsection (4), and
 - (b) the date that the purchaser has entered into the agreement to purchase the security.

Procedures

2A.3(1) This section does not apply in British Columbia.

- (2) A final prospectus or any amendment must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.
- (3) Access to the final prospectus or any amendment has been provided if
 - (a) the document has been filed on SEDAR and a receipt has been issued for the document, and

- (b) on the same day the document was filed, a news release has been issued and filed on SEDAR that states
 - (i) in the title of the news release, that the document is available,
 - (ii) that the document is accessible at www.sedar.com,
 - (iii) the securities that are offered under the document, and
 - (iv) the following:

“An electronic or paper copy of the final prospectus or any amendment may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable.”
- (4) If a prospective purchaser requests a copy of the preliminary prospectus or any amendment, or a purchaser requests a copy of the final prospectus or any amendment, from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the prospective purchaser or purchaser at the email address or address specified in the request.
- (5) Except if a prospective purchaser indicates an interest in purchasing a security and requests a copy of the preliminary prospectus or any amendment, such document that is required to be delivered or sent must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.
- (6) Access to the preliminary prospectus or any amendment has been provided if the issuer has filed on SEDAR, and a receipt has been issued for, the document.

Exemption from requirement to send prospectus - British Columbia

2A.4 (1) In British Columbia, a dealer is exempt from a requirement under securities legislation to send a final prospectus or any amendment if

- (a) the document has been filed on SEDAR and a receipt has been issued for the document, and
- (b) on the same day the document was filed, a news release has been issued and filed on SEDAR that states
 - (i) in the title of the news release, that the document is available,
 - (ii) that the document is accessible at www.sedar.com,
 - (iii) the securities that are offered under the document, and
 - (iv) the following:

“An electronic or paper copy of the final prospectus or any amendment may be obtained, without charge, from [*insert contact information for the issuer or dealer, as applicable*] by providing the contact with an email address or address, as applicable.”
- (2) In British Columbia, a dealer or issuer that solicits an expression of interest from a prospective purchaser is exempt from the requirement in securities legislation to send a copy of the preliminary prospectus or any amendment to the prospective purchaser if the document has been filed on SEDAR and a receipt has been issued for the document.
- (3) If a purchaser requests a copy of the final prospectus or any amendment from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the purchaser at the email address or address specified in the request.
- (4) If a dealer relies on subsection (1), an agreement of purchase and sale is not binding on a purchaser if the dealer from whom the purchaser purchases the security receives written notice sent by the purchaser, evidencing the intention of the purchaser not to be bound by the agreement, not later than 2 business days after the later of
 - (a) the date that conditions referred to in subsection (1) are satisfied, and

(b) the date of the agreement.

(5) Subsection (4) does not apply if the purchaser

(a) is a registrant, or

(b) disposes of the beneficial ownership of the security referred to in subsection (4), otherwise than to realize on collateral given for debt, before the end of the time referred to in subsection (4).

(6) For the purposes of this section, receipt of the notice referred to in subsection (4) by a dealer that acted as agent of the seller with respect to the sale of the security referred to in subsection (1) is deemed to be receipt by the seller on the date on which the dealer received the notice..

3. Subsection 13.1(1) is amended

(a) **by adding** “and is available on SEDAR” **after** “A preliminary prospectus containing important information relating to these securities has been filed with securities commissions or similar authorities in certain jurisdictions of Canada”, **and**

(b) **by deleting** “name and”.

4. Subsection 13.2(1) is amended

(a) **by adding** “and is available on SEDAR” **after** “The prospectus contains important detailed information about the securities being offered”, **and**

(b) **by deleting** “name and”.

5. Subsection 13.5(2) is amended by adding “and is available on SEDAR” **after** “A preliminary prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]”.

6. Subsection 13.6(2) is amended by adding “and is available on SEDAR” **after** “A final prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]”.

7. Paragraph 13.7(1)(g) is replaced with the following:

(g) the investment dealer

(i) includes, in the marketing materials, a statement that the preliminary prospectus or any amendment is available on SEDAR, or

(ii) provides, with the marketing materials, a copy of the preliminary prospectus or any amendment..

8. Subsection 13.7(5) is amended

(a) **by adding** “and is available on SEDAR. Copies of the preliminary prospectus or any amendment may be obtained from [insert contact information for dealer or other relevant person or entity.]” **after** “A preliminary prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]”, **and**

(b) **by deleting** “A copy of the preliminary prospectus, and any amendment, is required to be delivered with this document.”.

9. Paragraph 13.8(1)(g) is replaced with the following:

(g) the investment dealer

(i) includes, in the marketing materials, a statement that the final prospectus or any amendment is available on SEDAR, or

(ii) provides, with the marketing materials, a copy of the final prospectus or any amendment..

10. **Subsection 13.8(5) is amended**

- (a) **by adding** “and is available on SEDAR. Copies of the final prospectus or any amendment may be obtained from [insert contact information for dealer or other relevant person or entity.]” **after** “A final prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]”, **and**
- (b) **by deleting** “A copy of the final prospectus, and any amendment, is required to be delivered with this document.”.

11. **Paragraph 13.9(3)(c) is replaced with the following:**

- (c) make an oral statement at the commencement of the road show that the preliminary prospectus or any amendment is available on SEDAR, or provide the investor with a copy of the preliminary prospectus or any amendment..

12. **Subsection 13.9(4) is amended by adding** “The preliminary prospectus or any amendment is available on SEDAR.” **after** “Investors should read the preliminary prospectus, the final prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

13. **Paragraph 13.10(3)(c) is replaced with the following:**

- (c) make an oral statement at the commencement of the road show that the final prospectus or any amendment is available on SEDAR, or provide the investor with a copy of the final prospectus or any amendment..

14. **Subsection 13.10(4) is amended by adding** “The final prospectus or any amendment is available on SEDAR.” **after** “Investors should read the final prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

15. **Section 16.1 is amended by adding** “and despite subsection 2A.3(5),” **after** “Except in Ontario,.

16. **Schedule 3 of APPENDIX A is amended by replacing the address of the regulator in Québec with the following:**

Autorité des marchés financiers

Attention: Responsable de l'accès à l'information

800, rue du Square-Victoria, 22e étage

C.P. 246, Place Victoria

Montréal, Québec H4Z 1G3

Telephone: (514) 395-0337

Toll Free in Québec: (877) 525-0337

www.lautorite.qc.ca

17. **Form 41-101F1 INFORMATION REQUIRED IN A PROSPECTUS is amended by adding the following section:**

Right of withdrawal

1.10.1 Include a cross-reference to the section in the prospectus or any amendment where information about the right to withdraw from an agreement to purchase securities is provided..

18. **Form 41-101F1 INFORMATION REQUIRED IN A PROSPECTUS is amended by adding the following section:**

Access procedures - general

30.1.1 If the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of the Instrument, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the prospectus or any amendment is available on SEDAR, replace the second sentence in the statement required under section 30.1 with a sentence in substantially the following form:

“This right may be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities.”.

19. Form 41-101F1 INFORMATION REQUIRED IN A PROSPECTUS is amended by adding the following section:

Access procedures - non-fixed price offerings

30.2.1 In the case of a non-fixed price offering, if the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of the Instrument, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the prospectus or any amendment is available on SEDAR, replace, if applicable in the jurisdiction in which the prospectus is filed, the second sentence in the statement in section 30.1 with a sentence in substantially the following form:

“Irrespective of the determination at a later date of the purchase price of the securities distributed, this right may only be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities.”.

Effective date

20. (1) This Instrument comes into force on *.
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after *, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX B

PROPOSED CHANGES TO
COMPANION POLICY 41-101CP TO NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. *Companion Policy 41-101CP to National Instrument 41-101 General Prospectus Requirements is changed by this Document.*

2. *The following Part is added:*

PART 2A: Access to a Prospectus

Delivery obligation

2A.1 Securities legislation generally requires a dealer who receives an order to purchase a security offered in a distribution to deliver or send to the purchaser a copy of the prospectus or any amendment. Securities legislation generally requires a dealer who solicits expressions of interest from a prospective purchaser to deliver or send to the prospective purchaser a copy of the preliminary prospectus or any amendment.

In jurisdictions except British Columbia, under subsection 2A.3(2) or (5), a dealer must provide access to the document in accordance with subsection 2A.3(3) or (6) of the Instrument to satisfy its delivery obligation under securities legislation, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

In British Columbia, a dealer is provided with an exemption from the requirement in securities legislation to send a prospectus, preliminary prospectus or any amendment if the conditions set out in subsection 2A.4(1) or (2) are met..

3. *Section 6.2 is amended by adding the following subsection:*

Copies of a prospectus

(7.1) The term “copy” or “copies” in the legends of marketing materials referred to in Part 13 of the Instrument, Part 7 of NI 44-101, Part 9A of NI 44-102 and Part 4A of NI 44-103 means a paper or an electronic copy..

4. These changes become effective on *.

ANNEX C

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-101 *SHORT FORM PROSPECTUS DISTRIBUTIONS*

1. ***National Instrument 44-101 Short Form Prospectus Distributions is amended by this Instrument.***

2. ***Paragraph 7.2(c) is replaced with the following:***

- (c) upon issuance of a receipt for the preliminary short form prospectus,
 - (i) a written or oral statement that the preliminary short form prospectus is available on SEDAR is made to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, or
 - (ii) a copy of the preliminary short form prospectus is sent to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, and.

3. ***Paragraph 7.4(2)(c) is replaced with the following:***

- (c) upon issuance of a receipt for the preliminary short form prospectus,
 - (i) a written or oral statement that the preliminary short form prospectus is available on SEDAR is made to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, or
 - (ii) a copy of the preliminary short form prospectus is sent to each person or company that, in response to the solicitation, expressed an interest in acquiring the securities, and.

4. ***Subsection 7.5(2) is replaced with the following:***

- (2) A standard term sheet provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A preliminary short form prospectus containing important information relating to the securities described in this document has not yet been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The preliminary short form prospectus will be available on SEDAR. A copy of the preliminary short form prospectus may be obtained from [insert contact information for the investment dealer or underwriters]. There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final short form prospectus has been issued.

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the preliminary short form prospectus, final short form prospectus and any amendment, for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision..

5. ***Paragraph 7.6(1)(g) is replaced with the following:***

- (g) the marketing materials include a statement that the preliminary short form prospectus will be available on SEDAR, or, upon issuance of a receipt for the preliminary short form prospectus, a copy of the preliminary short form prospectus is sent to each person or company that received the marketing materials and expressed an interest in acquiring the securities..

6. ***Subsection 7.6(5) is replaced with the following:***

- (5) Marketing materials provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A preliminary short form prospectus containing important information relating to the securities described in this document has not yet been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada]. The preliminary short form prospectus will be available on SEDAR. A copy of the preliminary short form prospectus may be obtained from [insert contact information for the investment dealer or underwriters].

There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final short form prospectus has been issued.

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the preliminary short form prospectus, final short form prospectus and any amendment, for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision..

7. Paragraph 7.7(3)(c) is replaced with the following:

- (c) make an oral statement at the commencement of the road show that the preliminary prospectus or any amendment will be available on SEDAR, or, upon issuance of a receipt for the preliminary prospectus, provide the investor with a copy of the preliminary prospectus or any amendment..

8. Item 1 of Form 44-101F1 SHORT FORM PROSPECTUS is amended by adding the following section:

1.9.1 Right of Withdrawal

Include a cross-reference to the section in the short form prospectus or any amendment where information about the right to withdraw from an agreement to purchase securities is provided..

9. Item 20 of Form 44-101F1 SHORT FORM PROSPECTUS is amended by adding the following sections:

20.1.1 Access Procedures – General

If the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of NI 41-101, under subsection 6A.3(3) or 6A.4(1) of NI 44-102, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the short form prospectus or any amendment is available on SEDAR, replace the second sentence in the statement required under section 20.1 with a sentence in substantially the following form:

This right may be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities., **and**

20.2.1 Access Procedures – Non-fixed Price Offerings

In the case of a non-fixed price offering, if the issuer intends to issue and file, under subsection 2A.3(3) or 2A.4(1) of NI 41-101, under subsection 6A.3(3) or 6A.4(1) of NI 44-102, or under subsection 2A.3(3) or 2A.4(1) of NI 44-103, a news release announcing that the short form prospectus or any amendment is available on SEDAR, replace, if applicable in the jurisdiction in which the short form prospectus is filed, the second sentence in the statement required under section 20.1 with a sentence in substantially the following form:

“Irrespective of the determination at a later date of the purchase price of the securities distributed, this right may only be exercised within 2 business days after the later of (a) the date that the issuer (i) filed the prospectus or any amendment on SEDAR and a receipt is issued for the document, and (ii) issued and filed a news release on SEDAR announcing that the document is available, and (b) the date that the purchaser has entered into an agreement to purchase the securities.”.

10. (1) This Instrument comes into force on •.
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after •, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX D

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-102 *SHELF DISTRIBUTIONS*

1. *National Instrument 44-102 Shelf Distributions is amended by this Instrument.*
2. *Section 6.7 is amended by replacing “The” before “shelf prospectus supplement” with “Subject to Part 6A, the”.*
3. *The following Part is added:*

PART 6A ACCESS TO SHELF PROSPECTUS SUPPLEMENTS AND BASE SHELF PROSPECTUSES

6A.1 Application - This Part does not apply in respect of

- (a) a prospectus to distribute securities by way of an MTN program or other continuous distribution, and
- (b) a prospectus to distribute securities of an investment fund.

6A.2 Access equals delivery

- (1) This section does not apply in British Columbia.
- (2) The requirement under securities legislation to deliver or send a prospectus is satisfied when access to the shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents has been provided in accordance with subsection 6A.3(3) or (6).
- (3) The shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents is delivered or sent on the date that access to the document has been provided in accordance with subsection 6A.3(3) or (6).
- (4) The shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is received on the date the document has been delivered or sent in accordance with subsection (3).
- (5) Except in Saskatchewan, if the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is delivered or sent in accordance with subsection 6A.3(3), the right to withdraw from, or in Quebec the right to rescind, an agreement to purchase a security provided to a purchaser under securities legislation may be exercised within 2 business days after the later of
 - (a) the date the document is received in accordance with subsection (4); and
 - (b) the date that the purchaser has entered into the agreement to purchase the security.
- (6) In Saskatchewan, if the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents has been delivered or sent in accordance with subsection 6A.3(3), a purchaser that is not a registrant may cancel a purchase if the purchaser has not sold or otherwise transferred beneficial ownership of the security and the person or company from whom the purchaser purchased the security receives notice in writing to cancel the agreement of purchase and sale for the security at any time up to 2 business days after the later of
 - (a) the date that the document is received in accordance with subsection (4), and
 - (b) the date that the purchaser has entered into the agreement to purchase the security.

6A.3 Procedures

- (1) This section does not apply in British Columbia.
- (2) A shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.
- (3) Access to the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents has been provided if
 - (a) the base shelf prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document,

- (b) the shelf prospectus supplement or any amendment has been filed on SEDAR, and
- (c) on the same day the shelf prospectus supplement or any amendment was filed, a news release has been issued and filed on SEDAR that states
 - (i) in the title of the news release, that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is available,
 - (ii) that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is accessible at www.sedar.com,
 - (iii) the securities that are offered under the shelf prospectus supplement, and
 - (iv) the following:

“An electronic or paper copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents may be obtained, without charge, from *[insert contact information for the issuer or dealer, as applicable]* by providing the contact with an email address or address, as applicable.”
- (4) If a prospective purchaser requests a copy of the preliminary base shelf prospectus or any amendment, or a purchaser requests a copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents, from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the prospective purchase or purchaser at the email address or address specified in the request.
- (5) Except if a prospective purchaser indicates an interest in purchasing a security and requests a copy of the preliminary base shelf prospectus or any amendment, such document that is required to be delivered or sent must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.
- (6) Access to the preliminary base shelf prospectus or any amendment has been provided if the issuer has filed on SEDAR, and a receipt has been issued for, the document.

6A.4 Exemption from requirement to send prospectus - British Columbia

- (1) In British Columbia, a dealer is exempt from a requirement under securities legislation to send a prospectus or any amendment if
 - (a) the base shelf prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document,
 - (b) the shelf prospectus supplement or any amendment has been filed on SEDAR, and
 - (c) on the same day the shelf prospectus supplement or any amendment was filed, a news release has been issued and filed on SEDAR that states
 - (i) in the title of the news release, that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is available,
 - (ii) that the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is accessible at www.sedar.com,
 - (iii) the securities that are offered under the shelf prospectus supplement, and
 - (iv) the following:

“An electronic or paper copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents may be obtained, without charge, from *[insert contact information for the issuer or dealer, as applicable]* by providing the contact with an email address or address, as applicable.”
- (2) In British Columbia, a dealer or issuer that solicits an expression of interest from a prospective purchaser is exempt from the requirement in securities legislation to send a copy of the preliminary base shelf prospectus or any amendment to the prospective purchaser if the document has been filed on SEDAR and a receipt has been issued for the document.

- (3) If a purchaser requests a copy of the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the purchaser at the email address or address specified in the request.
- (4) If a dealer relies on subsection (1), an agreement of purchase and sale is not binding on a purchaser if the dealer from whom the purchaser purchases the security receives written notice sent by the purchaser, evidencing the intention of the purchaser not to be bound by the agreement, not later than 2 business days after the later of
 - (a) the date that conditions referred to in subsection (1) are satisfied, and
 - (b) the date of the agreement.
- (5) Subsection (4) does not apply if the purchaser
 - (a) is a registrant, or
 - (b) disposes of the beneficial ownership of the security referred to in subsection (4), otherwise than to realize on collateral given for debt, before the end of the time referred to in subsection (4).
- (6) For the purposes of this section, receipt of the notice referred to in subsection (4) by a dealer that acted as agent of the seller with respect to the sale of the security referred to in subsection (1) is deemed to be receipt by the seller on the date on which the dealer received the notice..

4. Subsection 9.2(1) is replaced with the following:

- (1) The following provisions do not apply to an issuer distributing a security under an ATM prospectus:
 - (a) section 7.2 of NI 41-101;
 - (b) section 1.9A of Form 44-101F1;
 - (c) item 20 of Form 44-101F1;
 - (d) item 8 of section 5.5 of this Instrument;
 - (e) Part 6A of this Instrument..

5. Subsection 9A.2(2) is replaced with the following:

- (2) A standard term sheet provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A final base shelf prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authority[ies] in [each of/certain of the provinces/provinces and territories of Canada].

The final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR. Copies of the documents may be obtained from [insert contact information for the investment dealer or underwriters].

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision..

6. Paragraph 9A.3(1)(g) is replaced with the following:

- (g) the investment dealer
 - (i) includes, in the marketing materials, a statement that the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR, or
 - (ii) provides, with the marketing materials, a copy of the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement that have been filed..

7. **Subsection 9A.3(5) is replaced with the following:**

- (5) Marketing materials provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A final base shelf prospectus containing important information relating to the securities described in this document has been filed with the securities regulatory authority[ies] in [each of/certain of the provinces/provinces and territories of Canada].

The final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR. Copies of the documents may be obtained from [*insert contact information for the investment dealer or underwriters*].

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision..

8. **Paragraph 9A.4(3)(c) is replaced with the following:**

- (c) make an oral statement at the commencement of the road show that the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR, or provide the investor with a copy of the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement that have been filed..

9. **Subsection 9A.4(4) is amended by adding** “The final base shelf prospectus, any amendment and any applicable shelf prospectus supplement are available on SEDAR.” **after** “Investors should read the final base shelf prospectus, any amendment and any applicable shelf prospectus supplement for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”.

10. (1) This Instrument comes into force on *.
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after *, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX E

PROPOSED CHANGES TO
COMPANION POLICY 44-102CP TO NATIONAL INSTRUMENT 44-102 *SHELF DISTRIBUTIONS*

1. ***Companion Policy 44-102CP to National Instrument 44-102 Shelf Distributions is changed by this Document.***
2. ***Subsection 2.6(3) is changed by adding “, subject to Part 6A,” after “NI 44-102 provides that”.***
3. ***Section 2.9 is replaced with the following:***

2.9 Rights of Rescission or Withdrawal

The securities regulatory authorities are of the view that statutory rights of rescission or withdrawal commence from the time of the purchaser's receipt of all relevant shelf prospectus supplements. It is only at this time that the entire prospectus has been delivered. If the shelf prospectus supplement, the corresponding base shelf prospectus or any amendment to the documents is delivered or sent in accordance with Part 6A of the Instrument, statutory rights of rescission or withdrawal commence from the later of (i) the date the shelf prospectus supplement or any amendment was filed on SEDAR and a news release was issued and filed on SEDAR announcing that the document is available, and (ii) the date that the purchaser has entered into the agreement to purchase the security..

4. ***The following Part is added:***

PART 2A ACCESS TO SHELF PROSPECTUS SUPPLEMENTS AND BASE SHELF PROSPECTUSES

2A.1 Delivery Obligation

Securities legislation generally requires a dealer who receives an order to purchase a security offered in a distribution to deliver or send to the purchaser a copy of the prospectus or any amendment. Securities legislation generally requires a dealer who solicits expressions of interest from a prospective purchaser to deliver or send to the prospective purchaser a copy of the preliminary prospectus or any amendment.

In jurisdictions except British Columbia, under subsection 6A.3(2) or (5), a dealer must provide access to the shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents in accordance with subsection 6A.3(3) or (6) of the Instrument to satisfy its delivery obligation under securities legislation, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

In British Columbia, a dealer is provided with an exemption from the requirement in securities legislation to send a shelf prospectus supplement, the corresponding base shelf prospectus, the preliminary base shelf prospectus or any amendment to the documents if the conditions set out in subsection 6A.4(1) or (2) are met..

5. These changes become effective on ●.

ANNEX F

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-103 *POST-RECEIPT PRICING*

1. *National Instrument 44-103 Post-Receipt Pricing is amended by this Instrument.*
2. *The following Part is added:*

PART 2A ACCESS TO SUPPLEMENTED PREP PROSPECTUSES

2A.1 Application - This Part does not apply in respect of a prospectus to distribute securities of an investment fund.

2A.2 Access equals delivery

- (1) This section does not apply in British Columbia.
- (2) The requirement under securities legislation to deliver or send a prospectus is satisfied when access to the supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents has been provided in accordance with subsection 2A.3(3) or (6).
- (3) The supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents is delivered or sent on the date that access to the document has been provided in accordance with subsection 2A.3(3) or (6).
- (4) The supplemented PREP prospectus or any amendment is received on the date the document has been delivered or sent in accordance with subsection (3).
- (5) Except in Saskatchewan, if the supplemented PREP prospectus or any amendment is delivered or sent in accordance with subsection 2A.3(3), the right to withdraw from, or in Quebec the right to rescind, an agreement to purchase a security provided to a purchaser under securities legislation may be exercised within 2 business days after the later of
 - (a) the date the document is received in accordance with subsection (4), and
 - (b) the date that the purchaser has entered into the agreement to purchase the security.
- (6) In Saskatchewan, if the supplemented PREP prospectus or any amendment has been delivered or sent in accordance with subsection 2A.3(3), a purchaser that is not a registrant may cancel a purchase if the purchaser has not sold or otherwise transferred beneficial ownership of the security and the person or company from whom the purchaser purchased the security receives notice in writing to cancel the agreement of purchase and sale for the security at any time up to 2 business days after the later of
 - (a) the date that the document is received in accordance with subsection (4), and
 - (b) the date that the purchaser has entered into the agreement to purchase the security.

2A.3 Procedures

- (1) This section does not apply in British Columbia.
- (2) A supplemented PREP prospectus or any amendment must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.
- (3) Access to the supplemented PREP prospectus or any amendment has been provided if
 - (a) the base PREP prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document;
 - (b) the supplemented PREP prospectus or any amendment has been filed on SEDAR;
 - (c) on the same day the supplemented PREP prospectus or any amendment was filed, a news release has been issued and filed on SEDAR that states
 - (i) in the title of the news release, that the supplemented PREP prospectus or any amendment is available,

- (ii) that the supplemented PREP prospectus or any amendment is accessible at www.sedar.com,
- (iii) the securities that are offered under the supplemented PREP prospectus, and
- (iv) the following:

“An electronic or paper copy of the supplemented PREP prospectus or any amendment may be obtained, without charge, from *[insert contact information for the issuer or dealer, as applicable]* by providing the contact with an email address or address, as applicable.”

- (4) If a prospective purchaser requests a copy of the preliminary base PREP prospectus or any amendment, or a purchaser requests a copy of the supplemented PREP prospectus or any amendment, from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the prospective purchaser or purchaser at the email address or address specified in the request.
- (5) Except if a prospective purchaser indicates an interest in purchasing a security and requests a copy of the preliminary base PREP prospectus or any amendment, such document that is required to be delivered or sent must be delivered or sent by providing access to the document, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.
- (6) Access to the preliminary base PREP prospectus or any amendment has been provided if the issuer has filed on SEDAR, and a receipt has been issued for, the document.

2A.4 Exemption from requirement to send prospectus – British Columbia

- (1) In British Columbia, a dealer is exempt from a requirement under securities legislation to send a prospectus or any amendment if
 - (a) the base PREP prospectus or any amendment has been filed on SEDAR and a receipt has been issued for the document,
 - (b) a supplemented PREP prospectus or any amendment has been filed on SEDAR, and
 - (c) on the same day the supplemented PREP prospectus or any amendment was filed, a news release has been issued and filed on SEDAR that states
 - (i) in the title of the news release, that the supplemented PREP prospectus or any amendment is available,
 - (ii) that the supplemented PREP prospectus or any amendment is accessible at www.sedar.com,
 - (iii) the securities that are offered under the supplemented PREP prospectus, and
 - (iv) the following:

“An electronic or paper copy of the supplemented PREP prospectus or any amendment may be obtained, without charge, from *[insert contact information for the issuer or dealer, as applicable]* by providing the contact with an email address or address, as applicable.”
- (2) In British Columbia, a dealer or issuer that solicits expressions of interest from a prospective purchaser is exempt from the requirement in securities legislation to send a copy of the preliminary base PREP prospectus or any amendment to the prospective purchaser if the document has been filed on SEDAR and a receipt has been issued for the document.
- (3) If a purchaser requests a copy of the supplemented PREP prospectus or any amendment from the issuer or dealer, a copy of the document must be sent by the issuer or dealer within 2 business days and without charge to the purchaser at the email address or address specified in the request.
- (4) If a dealer relies on subsection (1), an agreement of purchase and sale is not binding on a purchaser if the dealer from whom the purchaser purchases the security receives written notice sent by the purchaser, evidencing the intention of the purchaser not to be bound by the agreement, not later than 2 business days after the later of
 - (a) the date that conditions referred to in subsection (1) are satisfied, and
 - (b) the date of the agreement.

- (5) Subsection (4) does not apply if the purchaser
 - (a) is a registrant, or
 - (b) disposes of the beneficial ownership of the security referred to in subsection (4), otherwise than to realize on collateral given for debt, before the end of the time referred to in subsection (4).
- (6) For the purposes of this section, receipt of the notice referred to in subsection (4) by a dealer that acted as agent of the seller with respect to the sale of the security referred to in subsection (1) is deemed to be receipt by the seller on the date on which the dealer received the notice..

3. Section 4A.2 is amended by replacing subsection (2) with the following:

- (2) A standard term sheet provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A [final base PREP prospectus/supplemented PREP prospectus] containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The [final base PREP prospectus/supplemented PREP prospectus] or any amendment is available on SEDAR. A copy of the document may be obtained from [*insert contact information for the investment dealer or underwriters*].

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the supplemented PREP prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision..

4. Paragraph 4A.3(1)(g) is replaced with the following:

- (g) the investment dealer
 - (i) includes, in the marketing materials, a statement that the final base PREP prospectus or any amendment, or if it has been filed, the supplemented PREP prospectus or any amendment, is available on SEDAR, or
 - (ii) provides, with the marketing materials, a copy of the final base PREP prospectus or any amendment, or if it has been filed, the supplemented PREP prospectus or any amendment..

5. Subsection 4A.3(6) is replaced with the following:

- (6) Marketing materials provided under subsection (1) must be dated and include the following legend, or words to the same effect, on the first page:

A [final base PREP prospectus/supplemented PREP prospectus] containing important information relating to the securities described in this document has been filed with the securities regulatory authorit[y/ies] in [each of/certain of the provinces/provinces and territories of Canada].

The [final base PREP prospectus/supplemented PREP prospectus] or any amendment is available on SEDAR. A copy of the document may be obtained from [*insert contact information for the investment dealer or underwriters*].

This document does not provide full disclosure of all material facts relating to the securities offered. Investors should read the supplemented PREP prospectus and any amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision..

6. Paragraph 4A.4(3)(c) is replaced with the following:

- (c) make an oral statement at the commencement of the road show that the final base PREP prospectus and any amendment, or if they have been filed, the supplemented PREP prospectus and any amendment, are available on SEDAR, or provide the investor with a copy of the final base PREP prospectus and any amendment, or if they have been filed, the supplemented PREP prospectus and any amendment..

7. Subsection 4A.4(4) is amended by adding “The [final base PREP prospectus/ supplemented PREP prospectus] or any amendment is available on SEDAR.” after “Investors should read the supplemented PREP prospectus and any

amendment for disclosure of those facts, especially risk factors relating to the securities offered, before making an investment decision.”

8. (1) This Instrument comes into force on *.
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after *, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX G

PROPOSED CHANGES TO
COMPANION POLICY 44-103CP TO NATIONAL INSTRUMENT 44-103 *POST-RECEIPT PRICING*

1. ***Companion Policy 44-103CP to National Instrument 44-103 Post-Receipt Pricing is changed by this Document.***
2. ***The following Part is added:***

PART 2A ACCESS TO SUPPLEMENTED PREP PROSPECTUSES

2A.1 Delivery Obligation – Securities legislation generally requires a dealer who receives an order to purchase a security offered in a distribution to deliver or send to the purchaser a copy of the prospectus or any amendment. Securities legislation generally requires a dealer who solicits expressions of interest from a prospective purchaser to deliver or send to the prospective purchaser a copy of the preliminary prospectus or any amendment.

In jurisdictions except British Columbia, under subsection 2A.3(2) or (5), a dealer must provide access to the supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents in accordance with subsection 2A.3(3) or (6) of the Instrument to satisfy its delivery obligation under securities legislation, unless the document is delivered or sent pursuant to another procedure prescribed by securities legislation.

In British Columbia, a dealer is provided with an exemption from the requirement in securities legislation to send a supplemented PREP prospectus, the preliminary base PREP prospectus or any amendment to the documents if the conditions set out in subsection 2A.4(1) or (2) are met..

3. ***Section 3.3 is replaced with the following:***
 - 3.3 **Rights of Rescission or Withdrawal** – The securities regulatory authorities are of the view that statutory rights of rescission or withdrawal commence from the time of the purchaser's receipt of a supplemented PREP prospectus. It is only at this time that the entire prospectus has been delivered. If the supplemented PREP prospectus or any amendment is delivered or sent in accordance with Part 2A of the Instrument, statutory rights of rescission or withdrawal commence from the later of (i) the date the supplemented PREP prospectus or any amendment was filed on SEDAR, and a news release was issued and filed on SEDAR announcing that the document is available, and (ii) the date that the purchaser has entered into the agreement to purchase the security..
4. These changes become effective on ●.

ANNEX H

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. ***National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.***
 2. ***The following is added after section 4.2:***
 - 4.2.1 **Access to Annual Financial Statements**
 - (1) A reporting issuer must issue and file a news release in accordance with subsection (2) unless the reporting issuer complies with paragraph 4.6(1)(a) or subsection 4.6(5).
 - (2) A reporting issuer that has filed its annual financial statements and MD&A for the annual financial statements on SEDAR, as required by sections 4.1 and 5.1, must issue and file a news release on SEDAR on the same day that it has filed the documents that states:
 - (a) in the title that the documents are available,
 - (b) that the documents are accessible at www.sedar.com, and
 - (c) the following

“An electronic or paper copy of the annual financial statements and MD&A for the annual financial statements may be obtained, without charge, by a registered holder or beneficial owner of the reporting issuer’s securities, other than debt instruments, from [insert contact information for the reporting issuer] by providing the contact person with an email address or address, as applicable.”.
 3. ***The following is added after section 4.4:***
 - 4.4.1 **Access to an Interim Financial Report**
 - (1) A reporting issuer must issue and file a news release in accordance with subsection (2) unless the reporting issuer complies with paragraph 4.6(1)(b).
 - (2) A reporting issuer that has filed its interim financial report and MD&A for the interim financial report on SEDAR, as required by sections 4.3 and 5.1, must issue and file a news release on SEDAR on the same day that it has filed the documents that states:
 - (a) in the title that the documents are available,
 - (b) that the documents are accessible at www.sedar.com, and
 - (c) the following

“An electronic or paper copy of the interim financial report and MD&A for the interim financial report may be obtained, without charge, by a registered holder or beneficial owner of the reporting issuer’s securities, other than debt instruments, from [insert contact information for the reporting issuer] by providing the contact person with an email address or address, as applicable.”.
 4. ***Subsection 4.6(1) is amended***
 - (a) ***by replacing*** “Subject to subsection (2)” ***with*** “Unless the reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2)”, ***and***
 - (b) ***in paragraph (a) by deleting*** “paper”.
- Effective date**
5. (1) This Instrument comes into force on [•].
 - (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after [•], this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX I

PROPOSED CHANGES TO
COMPANION POLICY 51-102CP *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. ***Companion Policy 51-102CP Continuous Disclosure Obligations is changed by this Document.***
2. ***The following is added after section 3.3:***
 - 3.3.1 **Access to financial statements**
 - (1) The news releases required by subsections 4.2.1(2) and 4.4.1(2) of the Instrument are intended to inform the registered holders and beneficial owners of the reporting issuer's securities, other than debt instruments, that the reporting issuer's annual financial statements and related MD&A, and interim financial reports and related MD&A are available on SEDAR.
 - (2) If a request for a copy of the financial statements is received from a registered holder or beneficial owner of the reporting issuer's securities, other than debt instruments, the reporting issuer must send a copy of the document requested to the registered holder or beneficial owner at the email address or address specified in the request by the delivery deadline set out in paragraph 4.6(3)(c) of the Instrument..
3. ***Subsection 3.5(1) is changed by replacing the first sentence with the following:***

Unless the reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2), subsection 4.6(1) of the Instrument requires reporting issuers to send a request form to the registered holders and beneficial owners of their securities, other than debt instruments..
4. This change becomes effective on [•].

ANNEX J

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 71-102 *CONTINUOUS DISCLOSURE AND
OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS*

1. ***National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers is amended by this Instrument.***
2. ***Section 3.2 is amended by adding “Except as provided in section 3.2.1,” before “If a person”.***
3. ***The following is added after section 3.2:***
 - 3.2.1 Access to Financial Statements and MD&A by Canadian Securityholders**
 - (1) Despite section 3.2, a person or company may issue and file a news release in accordance with subsection (2).
 - (2) A person or company that has filed its financial statements and MD&A on SEDAR, as required by this Instrument, may issue and file a news release on SEDAR on the same day that it has filed the documents that states:
 - (a) in the title that the documents are available,
 - (b) that the documents are accessible at www.sedar.com, and
 - (c) the following

“An electronic or paper copy of the financial statements and MD&A may be obtained, without charge, by a holder of the person or company’s securities from [insert contact information for the person or company] by providing the contact person with an email address or address, as applicable.”
 - (3) If a holder of the person or company’s securities requests a copy of the financial statements or MD&A from the person or company, a copy of the document must be sent by the person or company, within 10 calendar days and without charge, to the holder of the person or company’s securities at the email address or address specified in the request.
 - (4) A person or company is not required to send a copy of the financial statements or MD&A under subsection (3) that were filed more than one year before the person or company receives the request..
4. ***Paragraph 4.3(d) is amended by adding “or 3.2.1” after “section 3.2”.***
5. ***Paragraph 4.4(c) is amended by adding “or 3.2.1” after “section 3.2”.***
6. ***Paragraph 5.4(c) is amended by adding “or 3.2.1” after “section 3.2”.***
7. ***Paragraph 5.5(c) is amended by adding “or 3.2.1” after “section 3.2”.***

Effective Date

8. (1) This Instrument comes into force on *.
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after *, this Instrument come into force on the day on which it is filed with the Registrar of Regulations.

ANNEX K

PROPOSED CHANGES TO
NATIONAL POLICY 11-201 *ELECTRONIC DELIVERY OF DOCUMENTS*

1. *National Policy 11-201 Electronic Delivery of Documents is changed by this Document.*
2. *Subsection 2.2(1) is changed by adding “generally” after “Securities legislation”.*
3. This change becomes effective on *.

ANNEX L

PROPOSED CHANGES TO
NATIONAL POLICY 47-201 *TRADING SECURITIES USING THE INTERNET AND OTHER ELECTRONIC MEANS*

1. *National Policy 47-201 Trading Securities Using the Internet and Other Electronic Means is changed by this Document.*
2. *The following is added to the beginning of the third bullet in subsection 2.7(3):*

“make an oral statement at the commencement of the road show that the relevant prospectus and any amendment are available on SEDAR, or”.
3. This change becomes effective on [•].

ANNEX M

PROPOSED CHANGES TO
COMPANION POLICY 54-101CP TO NATIONAL INSTRUMENT 54-101 COMMUNICATION WITH
BENEFICIAL OWNERS OF SECURITIES OF A REPORTING ISSUER

1. ***Companion Policy 54-101CP to National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer is changed by this Document.***

2. ***Section 4.1 is replaced with the following:***

By completing a client response form as provided in Part 3 of the Instrument, a beneficial owner gives notice of its choices concerning the receipt of materials and the disclosure of ownership information concerning it. Pursuant to section 3.4 of the Instrument, a beneficial owner may, by notice to the intermediary through which it holds, change any prior instructions given in a client response form. Proximate intermediaries should alert their clients to the costs and other consequences of the options in the client response form. Unless the reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2) of National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102"), paragraph 4.6(1)(a) and subsection 4.6(5) of NI 51-102 requires reporting issuers to send annually a request form to the registered holders and beneficial holders of its securities that the holders may use to request a copy of the reporting issuer's financial statements and MD&A. Failing to return the request form or otherwise specifically request a copy of the financial statements or MD&A from the reporting issuer will override the beneficial owner's standing instructions under this Instrument in respect of the financial statements. However, a beneficial owner's standing instructions under this Instrument in respect of the financial statements will not be overridden if a reporting issuer issues and files a news release in accordance with subsections 4.2.1(2) and 4.4.1(2) of NI 51-102..

3. This change becomes effective on [•].

ANNEX N

LOCAL MATTERS ONTARIO SECURITIES COMMISSION

1. Introduction

The Ontario Securities Commission (the **Commission**) is publishing this Annex to supplement the CSA Notice and Request for Comment (the **CSA Notice**) and to set out matters required to be addressed by the *Securities Act* (Ontario) (the **Act**).

The CSA are publishing for comment proposed amendments and proposed changes to existing rules and policies (the **CSA Proposed Amendments**) to implement an access equals delivery model for prospectuses generally, annual financial statements, interim financial reports and related management's discussion & analysis (**MD&A**) for non-investment fund reporting issuers.

Please refer to the main body of the CSA Notice.

2. Local Amendments

In connection with the CSA Proposed Amendments, the Commission is also publishing for comment proposed amendments (**Local Proposed Amendments**, and together with the CSA Proposed Amendments, the **Proposed Amendments**) to Ontario Securities Commission Rule 51-801 *Implementing National Instrument 51-102 Continuous Disclosure Obligations* (attached as Schedule N1 to this Annex).

The Local Proposed Amendments are consequential to the proposed amendments to NI 51-102 and clarify that the requirement under section 79 of the Act to deliver financial statements does not apply to a reporting issuer that complies with the access procedures set out in section 4.2.1 and section 4.4.1 of NI 51-102.

3. Rationale for Intervention

We recognize that information technology is an important and useful tool in improving communication with investors and are committed to facilitating electronic access to documents where appropriate. Our objective is to enhance the accessibility of information for investors while reducing regulatory burden on issuers. An access equals delivery model is consistent with the general evolution of our capital markets, including changes in technology and, in particular, the increased availability and accessibility of information.

4. Proposed Intervention

Under the proposed access equals delivery model, providing public electronic access to a document and, where applicable, alerting investors that the document is available constitutes delivery under securities legislation (the **proposed AED Model**). Specifically, delivery is effected once

- the document is filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**), and
- where applicable, a news release is issued and filed on SEDAR indicating that the document is available electronically and that a paper or an electronic copy can be obtained upon request.

The purpose of the proposed AED Model is to modernize the way certain documents are made available to investors and reduce costs associated with the printing and mailing of documents, which are currently borne by issuers. The proposed AED Model provides a more cost-efficient, timely and environmentally friendly manner of communicating information to investors than paper delivery. In our view, the proposed AED Model reduces regulatory burden on issuers without compromising investor protection. The proposed AED Model is consistent with the recommendation in the Capital Markets Modernization Taskforce Final Report dated January 2021 that an access equals delivery model should replace the defaulted delivery of disclosure documents of all issuers, including prospectuses, annual financial statements, interim financial reports and related MD&A.

5. Affected Stakeholders

a. CF Issuers

The proposed AED Model will only be available to issuers that are reporting issuers and that are not investment fund issuers (**CF Issuers**). As of December 6, 2021, there are 2,956 CF Issuers in good standing in Ontario. In addition, there are 2,052 CF Issuers in Ontario that are inactive, most of which have been cease traded. Inactive CF Issuers are not anticipated to be impacted by the proposed AED Model.

Financial Statements and Related MD&A

Currently, a CF Issuer is required to annually send a request form to the registered holders and beneficial owners of its securities, other than debt securities.¹ These registered holders and beneficial owners can use the request form to request (i) a paper copy of the CF Issuer's annual financial statements and related MD&A, and (ii) a copy of the CF Issuer's interim financial reports and related MD&A. Under the proposed AED Model as it relates to the delivery of annual financial statements, interim financial reports and their related MD&A, a CF Issuer can send these documents by providing access. Access to the annual financial statements and related MD&A and to the interim financial reports and related MD&A is provided by filing the documents on SEDAR and issuing and filing a news release on SEDAR announcing that the documents are available (**AED for Financial Statements**). Although the proposed AED Model is not mandatory, we expect that CF Issuers that regularly issue a news release in connection with the filing of their financial statements and related MD&A will choose to use AED for Financial Statements. For those CF Issuers, the use of AED for Financial Statements does not impose additional financial burden and saves them from annually sending a request form to securityholders.

Prospectuses

As described in detail below, the requirements to provide a copy of the preliminary prospectus and the final prospectus in connection with a prospectus distribution are on the investment dealer. However, we understand that the cost of copying and sending these documents is included as part of the expenses of the offering² and are borne by the issuer. In 2021, a total of 1716 prospectuses were filed in Ontario and in 2020, 966 prospectuses were filed in Ontario.³

b. Investment Dealers

Prospectuses

Currently, investment dealers may solicit expressions of interest to purchase securities under a prospectus distribution during the waiting period⁴ if the prospective purchaser is provided a copy of the preliminary prospectus.⁵ An investment dealer is required to also send a copy of the preliminary prospectus to each prospective purchaser who, without solicitation, indicates an interest in purchasing the security and requests a copy of the preliminary prospectus.⁶ An investment dealer that receives an order or subscription for securities offered under a distribution for which a prospectus is required, must send by prepaid mail or deliver the final prospectus to the purchaser.⁷

Generally, under the proposed AED Model, access to a preliminary prospectus is provided by filing the document on SEDAR and a receipt being issued for the preliminary prospectus, and access to the final prospectus is provided by (i) filing the document on SEDAR and a receipt being issued for the final prospectus, and (ii) the CF Issuer issuing and filing a news release on SEDAR announcing that the final prospectus is available (collectively, **AED for Prospectuses**). Investment dealers that distribute securities in connection with prospectus offerings by CF Issuers will potentially benefit from the proposed AED Model. As of December 31, 2021, there are 162 investment dealers registered in Ontario.

We expect that investment dealers distributing securities in connection with prospectus offerings by CF Issuers that are required to send a copy of the preliminary prospectus to prospective purchasers or the final prospectus to purchasers under the distribution will want CF Issuers to use AED for Prospectuses. Although the cost of printing and delivering prospectuses may be paid by the issuer in a prospectus distribution, the investment dealer bears compliance-related costs associated with this obligation.

c. Securityholders/ Purchasers

Financial Statements and Related MD&A

If the proposed AED Model is adopted, we anticipate that AED for Financial Statements will have little impact on registered holders and beneficial owners of a CF Issuer's securities. Currently, securityholders must annually request to receive copies of financial statements and related MD&A. We understand that less than 0.5% of securityholders requested to receive copies of financial statements and related MD&A in each of 2019 and 2018. Securityholders of CF Issuers that use AED for Financial Statements that want to receive copies of financial statements and related MD&A can do so on a one-off basis or through standing instructions. We expect that those securityholders that have historically requested copies of financial statements and related MD&A will continue to do so under AED for Financial Statements.

¹ Section 4.6 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**).

² The Commission does not collect data concerning expenses in connection with a prospectus distribution and does not receive or otherwise have access to the percentage of total expenses that relate to the obligation to provide a copy of the preliminary prospectus and the final prospectus to prospective purchasers and purchasers under a prospectus distribution.

³ This includes preliminary prospectuses, final prospectuses, shelf prospectuses, PREP prospectuses and amendments to these documents. This does not include shelf prospectuses filed in respect of a medium-term note programs or rights offering prospectuses.

⁴ The period after receipt of the preliminary prospectus relating to an offering and before receipt of the final prospectus.

⁵ Paragraph 65(2)(c) of the *Securities Act* (Ontario) (the **Act**).

⁶ Section 66 of the **Act**.

⁷ Subsection 71(1) of the **Act**. However, this obligation does not apply to a dealer acting as agent for the purchaser.

Prospectuses

AED for Prospectuses will potentially impact prospective purchasers from whom an investment dealer solicits expressions of interest or who, without solicitation, indicate an interest in purchasing securities offered under a prospectus distribution, as well as purchasers under the distribution. Investors that purchase their securities through a prospectus exempt transaction or who purchase their securities in the secondary market, typically over a stock exchange, will not be impacted by the proposed AED Model.

- d. Third-party Service Providers

Financial Statements and Related MD&A

If the proposed AED Model is adopted and CF Issuers use AED for Financial Statements, those CF Issuers will not be required under securities law to annually send to registered and beneficial owners of their securities the form with which securityholders can request to receive annual financial statements, interim financial reports and related MD&A. Third-party service providers that annually copy and send the request form and track any request forms that are returned on behalf of CF Issuers will be impacted.

Prospectuses

Third-party service providers will also be impacted if CF Issuers use AED for Prospectuses because investment dealers will not be required to send a copy of the preliminary prospectus to prospective purchasers or the final prospectus to purchasers under the distribution. Copies of each preliminary prospectus or final prospectus will only need to be printed and sent when prospective purchasers and purchasers request physical copies. To the extent that third-party service providers are currently retained to copy and send prospectuses in connection with a prospectus distribution, those service providers will be impacted.

6. Anticipated Costs and Benefits of the Proposed Amendments

The following section analyzes the anticipated costs and benefits to the affected stakeholders described above. Data limitations present challenges to quantifying all the costs and benefits of the proposed AED Model. Few securityholders hold securities of CF Issuers registered in their own name. Most securityholders hold their securities of CF Issuers through intermediaries. These beneficial securityholders include (i) objecting beneficial owners (**OBOs**) that have each provided instructions that it objects to the intermediary disclosing ownership information about the beneficial owner to the CF Issuer, and (ii) non-objecting beneficial owners (**NOBOs**) that have each provided instructions that it does not object to the intermediary disclosing ownership information about the beneficial owner to the CF Issuer. Generally, a CF Issuer can obtain information concerning its number of registered securityholders and NOBOs but not OBOs. However, the Commission does not receive or otherwise have access to this information. As a result, we are unable to quantify the benefit related to not copying and sending an annual request form to such securityholders. Similarly, the Commission does not collect data concerning the number of prospective purchasers and purchasers under prospectus distributions by CF Issuers and we are therefore unable to quantify the benefit in respect of not being required to send copies of the preliminary prospectus and final prospectuses under AED for Prospectuses.

When considering the costs related to adopting AED for Financial Statements and AED for Prospectuses, it is important to recognize that CF Issuers are not required to use the proposed AED Model. Instead, the proposed AED Model provides an option to use AED for Financial Statements rather than sending financial statements and related MD&A and an option to use AED for Prospectuses rather than sending preliminary and final prospectuses. Moreover, under the proposed AED Model, prospective purchasers, purchasers and securityholders, retain the ability to request paper or electronic copies of prospectuses, and financial statements and related MD&A either on a one-off basis or through standing instructions with their dealer-advisors. Therefore, much of the anticipated costs are assumed to be at the discretion of these affected stakeholders.

- a. CF Issuers

Financial Statements and Related MD&A

The benefit to CF Issuers in using AED for Financial Statements is that they will not need to annually copy and send request forms to securityholders and keep track of request forms returned by securityholders. Currently, the request form is likely copied and sent to securityholders together with the CF Issuer's annual proxy materials. As a result, the incremental cost to copy and send the one page is likely minimal. Depending on whether printing is completed in-house or externally, the cost to copy one page is between \$0.05 and \$0.40. Assuming for example that a CF Issuer has 1,000 registered securityholders and NOBOs, the cost to copy one additional page is \$0.25 and there is no additional cost to send the one page to securityholders with their annual proxy materials, the CF Issuer will save \$250 per year.

As mentioned above, under AED for Financial Statements, CF Issuers will not need to annually track returned request forms. However, CF Issuers will still be required to keep track of requests from securityholders for copies of financial statements and related MD&A and there should be no new costs related to record keeping as a result of AED for Financial Statements. Currently, securityholders can give standing instructions to their dealer-advisors that they want to receive copies of financial statements and MD&A. The ability to provide standing instructions is unchanged by AED for Financial Statements.

CF Issuers are currently required to file their financial statements and related MD&A on SEDAR. To use AED for Financial Statements, a CF Issuer is also required to issue and file a news release announcing that the financial statements and related MD&A are available on SEDAR. The requirement to issue and file a news release may impose a new cost to CF Issuers that use AED for Financial Statements. We undertook a review of a sample of reporting issuers listed on the Toronto Stock Exchange (TSX) and TSX Venture Exchange (TSXV) to collect data on the number of small, medium and large sized issuers that routinely issue news releases announcing that they have released financial statements and related MD&A⁸. Of the sample of issuers included in our review, as of November 30, 2021, approximately 94% of TSX listed issuers and 35% of TSXV listed issuers issued a news release to announce the availability of their annual financial statements and interim financial reports⁹. For those CF Issuers, there will be little or no additional cost to add the disclosure required by AED for Financial Statements to the news release. However, for CF Issuers that do not typically issue a news release to announce the release of their financial statements and related MD&A, if they choose to use AED for Financial Statements, they will bear the cost of issuing and filing a news release on SEDAR. Of the 2,956 CF Issuers that are active as of December 6, 2021, 1,994 are venture issuers. Based on our review of the sample of reporting issuers listed on the TSXV, less than 50% of venture issuers are likely to already issue a news release in connection with their financial statements and related MD&A. More specifically, we estimate that 65% of TSXV listed issuers do not currently issue news releases to announce the availability of their financial statements and would incur ongoing additional costs of approximately \$1,500 to issue and file a news release, or \$6,000 per year, in connection with using AED for Financial Statements¹⁰.

There will also be an initial one-time cost associated with learning and meeting the specific requirements of AED for Financial Statements. We anticipate that the time spent understanding the requirements of AED for Financial Statements will be minimal. We estimate that in-house senior counsel for CF Issuers would spend approximately 6 hours to understand the CF Issuer's obligations under AED for Financial Statements and to update existing policies and procedures as necessary¹¹. The costs associated with preparing the news release announcing the availability of the CF Issuer's financial statements and related MD&A will be the most significant component of the issuer's compliance costs. We estimate that CF Issuers that are venture issuers would spend 2 hours preparing each press release required under AED for Financial Statements or 8 hours annually.

Prospectuses

Although the obligations to provide a copy of the preliminary prospectus and the final prospectus in connection with a distribution are on the investment dealer, we understand that the cost of copying and sending these documents is included as part of the expenses of the offering and are ultimately borne by the issuer. The benefit to CF Issuers who elect to use AED for Prospectuses is that they will not need to make copies of preliminary prospectuses and final prospectuses and pay for those copies to be sent to prospective purchasers and purchasers. To use AED for Prospectuses, a CF Issuer is generally required to file the preliminary prospectus or final prospectus on SEDAR, and a receipt must be issued for the document, and the issuer must issue and file a news release announcing that the final prospectus is available on SEDAR. Since all prospectuses are required to be filed on SEDAR, this represents no new additional cost to issuers. However, not all CF Issuers issue a news release announcing that they have filed a final prospectus. For those CF Issuers, the requirement to issue a news release represents a cost to use AED for Prospectuses. We assume that venture issuers are more likely to not already issue a news release in connection with a final prospectus. In 2020, an aggregate of 206 final prospectuses were filed in Ontario by CF issuers that are venture issuers and in 2021, an aggregate of 277 final prospectuses were filed in Ontario by venture issuers.¹² If these venture issuers had relied on AED for Prospectuses, then a news release costing approximately \$1,500 would have been issued in connection with each prospectus. However, it is important to point out that the cost of the news release would be de minimis relative to the amount raised by the venture issuer under the prospectus.

There will also be an initial one-time cost associated with learning the specific requirements of AED for Prospectuses. However, we anticipate that this will be minimal. We estimate that CF Issuers will spend 10 hours each understanding the requirements of AED for Prospectuses. The costs associated with preparing the news release announcing the availability of the final prospectus will be the most significant component of the issuer's compliance costs. We estimate that CF Issuers that are venture issuers will spend 3 hours preparing each news release required under AED for Prospectuses.

b. Investment Dealers

Investment dealers that distribute securities in connection with prospectus offerings by CF Issuers will benefit from the use of AED for Prospectuses because they will not be required to print and send copies of preliminary prospectuses and final prospectuses to prospective purchasers and purchasers unless they specifically request them. We expect that investment dealers will save on

⁸ Staff reviewed a stratified random sample of 80 TSX listed issuers and 170 TSXV listed issuers as at November 30, 2021. This sample includes issuers for whom Ontario is not the principal regulator. This sample includes small sized issuers with a market capitalization of less than \$150 million, medium sized issuers with a market capitalization of \$150 million to \$500 million, and large sized issuers with a market capitalization of more than \$500 million.

⁹ Although not all of the TSXV listed issuers issued a news release relating to the availability of their financial statements, most of them routinely issued news releases relating to significant developments, including financing activities and strategic updates.

¹⁰ Estimates are based on the Cision PR Newswire 2021 Pricing Guide https://cdn.ymaws.com/sites/www.ibpa-online.org/resource/resmgr/docs/PRNewswire_pricing_guide_20.pdf.

¹¹ This translates to approximately \$540 per issuer, assuming an hourly rate of \$90 for senior in-house counsel. The hourly rate is based on the Counsel Network's *In-House Counsel Compensation and Career Report 2020* <https://inhousecounsel.com/In-House-Counsel-Compensation-&-Career-Report-2020.pdf>.

¹² This includes final prospectuses and amendments to final prospectuses.

compliance costs under AED for Prospectuses because they will not need to track the delivery of a prospectus to prospective purchasers and purchasers that are required to be sent the preliminary prospectus and final prospectus, respectively. The costs applicable to investment dealers to use AED for Prospectuses will be limited to initial one-time costs associated with learning and understanding AED for Prospectuses and updating their internal processes. We estimate that each investment dealer will spend 10 hours learning about AED for Prospectuses and updating their internal processes.

c. Securityholders/ Purchasers

Financial Statements and Related MD&A

Securityholders of CF Issuers that choose to use AED for Financial Statements will no longer annually receive request forms with which the securityholder can request copies of financial statements and related MD&A. We understand that less than 0.5% of securityholders requested to receive copies of financial statements and related MD&A in each of 2019 and 2018. To continue receiving copies of financial statements and related MD&A, those securityholders will need to provide standing instructions to their dealer-advisors or request the documents on a one-off basis. Securityholders will not be prompted annually to request the documents and may not see news releases issued by the CF Issuers that announce that financial statements and related MD&A are available. However, we believe that most securityholders who want to review the financial statements and related MD&A of CF Issuers are aware that the documents become available at regular intervals during the year. Although some stakeholders have expressed concerns that securityholders may be negatively impacted¹³, we generally believe that securityholders that are interested in obtaining financial statements and related MD&A can, with minimal effort, obtain copies of those documents. As such, we do not anticipate that securityholders will incur additional costs should CF Issuers choose to use AED for Financial Statements.

Prospectuses

If AED for Prospectuses is adopted and used by a CF Issuer, prospective purchasers from whom an investment dealer solicits expressions of interest or who, without solicitation, indicate an interest in purchasing securities offered under a prospectus distribution will not receive a copy of the preliminary prospectus unless they specifically request a copy. Similarly, purchasers who order or subscribe for securities will not receive a copy of the final prospectus unless they specifically request a copy. We understand that most purchasers under a prospectus are institutional investors rather than retail investors. Generally, we expect that prospective purchasers and purchasers under a prospectus are sophisticated investors and are able to access the preliminary prospectus and final prospectus easily through SEDAR. Moreover, we have been advised that, when considering an investment in prospectus distributions, investors are aware that information relevant to their decision making is available on SEDAR and do not wait for, or rely on, paper delivery of a prospectus to inform their investment decision.¹⁴

We also note that, since prospective purchasers have either been solicited to purchase under the distribution or have indicated an interest in purchasing under the distribution without having been solicited, they can easily request a copy of the preliminary prospectus. Equally, purchasers that order or subscribe for securities can easily request a copy of the final prospectus. We do not anticipate that securityholders will incur additional costs should CF Issuers choose to use AED for Prospectuses.

d. Third-party Service Providers

Financial Statements and MD&A

If the proposed AED Model is adopted and CF Issuers use AED for Financial Statements, third-party service providers that annually copy, send and track requests to receive financial statements and related MD&A will be impacted. The impact on these third-party service providers will depend on their individual agreements with CF Issuers and is therefore difficult to estimate. We note, however, that securityholders can still request to receive copies of financial statements and related MD&A. To the extent that third-party service providers have been retained by CF Issuers to keep track of and meet requests from securityholders for financial statements and MD&A, their services may also be required under AED for Financial Statements.

Prospectuses

Adoption of the proposed AED Model and use of AED for Prospectuses by CF Issuers will also impact third-party service providers as investment dealers will not be required to send a copy of the preliminary prospectus to prospective purchasers or the final prospectus to purchasers under the distribution. Copies of the preliminary prospectus or final prospectus will only be printed and sent when prospective purchasers and purchasers request physical copies. To the extent that CF Issuers currently retain third-party service providers to complete these tasks, those service providers' revenues may be negatively impacted.

¹³ Broadridge Financial Solutions, Inc. (March 9, 2020), Bev Kennedy (January 26, 2020), and K. Kivenko (January 14, 2020).

¹⁴ Investment Industry Association of Canada (March 6, 2020).

7. Rule-making Authority

In Ontario, the following provisions of the Act provide the Commission with authority to make the Proposed Amendments:

- paragraph 16(ix) of subsection 143(1) of the Act authorizes the Commission to make rules regulating in respect of, or varying the Act to facilitate, expedite or regulate in respect of, the distribution of securities, or the issuing of receipts, including by establishing provisions for varying withdrawal rights;
- paragraph 39(ii) and paragraph 39(iii) of subsection 143(1) of the Act authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules, all applications to the Commission under the *Business Corporations Act* and all documents determined by the regulations or the rules to be ancillary to the documents, including preliminary prospectuses and prospectuses;
- paragraph 45 of subsection 143(1) of the Act authorizes the Commission to make rules establishing requirements for and procedures in respect of the use of an electronic or computer-based system for the filing, delivery or deposit of documents or information; and
- paragraph 49 of subsection 143(1) of the Act authorizes the Commission to make rules permitting or requiring, or varying the Act to permit or require, methods of filing or delivery, to or by the Commission, issuers, registrants, security holders or others, of documents, information, notices, books, records, things, reports, orders, authorizations or other communications required under or governed by Ontario securities law.

8. Alternatives Considered

a. Status Quo

An alternative considered was to maintain the *status quo*, which would mean that paper delivery would continue to be the current default unless investors “opt in” to receive documents electronically.

b. Changing the current default of paper delivery to electronic delivery

Another alternative considered was to change the current default of paper delivery to electronic delivery. Under this alternative, investors would receive documents by email unless they “opt in” to receiving paper documents as opposed to the status quo where investors must “opt in” to receive documents electronically.

There are challenges associated with changing the current default to electronic delivery, including legal uncertainties to satisfying electronic delivery of documents under other legislation such as corporate law and electronic commerce legislation that may require consent to electronic delivery. Changing the default to electronic delivery may require legislative change and would also require clarifying the current requirements regarding investor consent in National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, as well as modernizing the current guidance in National Policy 11-201 *Electronic Delivery of Documents*. An additional challenge associated with changing the current default is that the issuer may need to consult its investors and obtain an affirmative response from each respective investor (i.e. obtain an email address) in order to avail itself of electronic delivery.

c. Enhancing the current notice-and-access model

Another alternative considered was to enhance the current notice-and-access model for delivery of proxy-related materials. Since its introduction in 2013, notice-and-access has not been used by many issuers. In addition to certain requirements in the model that may deter some issuers from using notice-and-access, such as timing requirements and restrictions on use by SEC issuers, factors outside of securities legislation, including delivery requirements under corporate law and fees charged by service providers, may impact an issuer’s decision to use notice-and-access.

9. Reliance on Unpublished Studies

The Commission is not relying on any unpublished study, report or other written material in proposing the Proposed Amendments.

SCHEDULE N1

PROPOSED AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 51-801 *IMPLEMENTING NATIONAL INSTRUMENT 51-102*
CONTINUOUS DISCLOSURE OBLIGATIONS

1. *Ontario Securities Commission Rule 51-801 Implementing National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.*

2. *The following is added after section 3.5:*

3.5.1 Access to Financial Statements – Exemption – Section 79 of the Act does not apply to a reporting issuer that complies with, including in reliance on any applicable exemption or exclusion from,

- (a) section 4.2.1 of NI 51-102, in the case of annual financial statements for financial years beginning on or after January 1, 2004; and
- (b) section 4.4.1 of NI 51-102, in the case of interim financial reports for interim periods in financial years beginning on or after January 1, 2004.

Effective date

3. This Instrument comes into force on *.