

Access Equals Delivery May 10-2022

CSA NOTICE AND REQUEST FOR COMMENT PROPOSED AMENDMENTS AND PROPOSED CHANGES TO IMPLEMENT AN ACCESS EQUALS DELIVERY (AED) MODEL FOR NON-INVESTMENT FUND REPORTING ISSUER

[CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers \(osc.ca\)](#)

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Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
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I appreciate the opportunity to comment on *access equal delivery* (“AED”) for financial statements, the MD&A, and news releases. At the outset I am really shocked with all the very intelligent people involved with the Canadian Securities Administrators (“CSA”) that this proposal is even being considered in its current form.

Before getting into my concerns, as an **IMPORTANT** initial step I recommend that investor testing be implemented before introducing AED. This testing (not a complete list) should exam investor preferences, usage of key documents such as the MD&A and financial reports, alternate methods used to obtain issuer information, barriers to usage etc. After all, my understanding is that the CSA is an advocate for investors and this proposal leaves investors totally in the dark.

First off, access **DOES NOT** equal delivery unless delivery is actually made. What about investors that do not have Internet access or where Internet access is very problematic? Imagine all investors hunting news releases which will tell them about information that all investors are then expected to search

SEDAR to locate. Do you really expect retail investors to access news releases for all the companies that they invest in on a predetermined frequency and read all news releases to see if there is information that they should be requesting? What guarantees are there that all investors will see all news releases? Are the CSA really expecting investors to research investment opportunities and additionally spend valuable time researching news releases? Is this what the CSA defines as investor protection or is this just caving in to a specific segment that is only interested in supposedly reducing costs and of course saying that they are concerned about the environment, which is what everyone says to attempt to justify all proposals.

How does this AED proposal relate to investor protection as I see no relationship to investor protection? If this information can be subject to AED, why not mandate all information subject to AED as there appears to be information inconsistency in the way information is communicated to investors. Why not just come out and say that companies do not want to send information out to investors anymore once they invest in them but are more than willing to provide information to get investors to invest as that may impact capital acquisition.

Let me be frank, from my personal perspective, this proposal will make it harder and more time consuming for me to follow the investments I own as currently proposed. In fact, it will cause me to reduce the quantum of my investment holdings and move the capital to investment vehicles where the information is provided, trust me they do exist. Why not require companies email their investors either an electronic copy or a direct hyperlink to the document(s) that by the way should reside on their own websites? Alternately, why not email investors the hyperlink to the documents on SEDAR as SEDAR is not that easy to navigate as I have used SEDAR before and it can be very daunting to vulnerable investors? Either of the two proposals is far more efficient and effective for investors than requiring investors to scan news releases for information and is the KISS principle in action.

Consequently, to effect and ensure true delivery, I recommend that an email and/or text message be sent to all investors who want delivery of the designated documents. The message should contain the document and/or a hyperlink to where it can be found and downloaded. That is a modern, efficient, effective, environmentally responsible and reliable method of ensuring delivery. Requiring shareholders to hunt down news releases is not the way forward.

Furthermore, even if the ("CSA") deems that delivery has been made, it should not be assumed that it has been received by the investor. Hunting news release(s) does not in any stretch of the imagination constitute access, notification, or delivery from any logical viewpoint. I strongly recommend that the CSA move away from the deemed delivery idea since it is manifestly wrong and is not supported by any investor research / testing. It is certainly not the average Canadian's interpretation of the word *delivery*. In addition, for example, it is not even the dictionary definition of delivery that can be found at hyperlink <https://www.dictionary.com/browse/delivery>. The stroke of the CSA pen does not change the English language dictionary of delivery or investors understanding of what delivery actually means. All provincial legislatures should ensure that never happens.

It also seems strange that issuers would expend so much time, effort and cash preparing the applicable documents and then not really want to ensure the documents actually reach the shareholders, the owners of the respective Company.

I note that the CSA expect that those security holders that have historically requested copies of financial statements and related MD&A will continue to do so under AED for Financial Statements which suggests

that printing and mailing costs will not decline from this component of the shareholder base which is the basis for the AED proposal. Document copy requests might even increase if investors are unable to effectively use the controversial news release "delivery" approach. If so, this could impact the Ontario Securities Commission ("OSC") cost-benefit analysis in the direction of maintaining the status quo or a better disclosure alternative. Investor testing and surveys can help improve the quality of the cost-benefit analysis. It seems to me that a basic criterion for a modern issuer would be for it to maintain a website with a prominent investor relations section. The CSA proposal, as it stands, does not mandate such a website.

I am relieved to note that, despite industry lobbying, the CSA is not moving ahead with watering down mutual fund or ETF disclosure rules OR disclosure documents that prompt timely or important shareholder action. Even "burden" reduction has its limits.

SEDAR

The Terms of Use, last updated 8 years ago, should be reviewed to ensure they are congruent with current practices and laws.

The website should provide a mechanism for users to file complaints and / or suggestions for improvement.

The identities and contact details of the senior executives responsible for the operation of SEDAR should be posted on the website

I don't think anyone disagrees that SEDAR has not kept up with IT or internet technology. I strongly recommend cleaning up SEDAR **before** implementing any changes to the disclosure document delivery process.

I strongly recommend that paragraph 8 modification to the SEDAR Terms of Use be deleted. The Alberta Securities Commission ("ASC") should not have the right to discontinue and /or suspend a national public interest website in whole or in part, at any time, without prior notice to users or approval of other provincial securities commissions. This would be even more important if the AED proposal is implemented.

CONCLUSION

I **DO NOT** agree that news releases will be effective in notifying retail investors of the posting of a regulatory disclosure. As the current system is working, why fix it unless a superior system, such as electronic delivery, replaces it? This aspect of the AED proposal needs to be supported by publicly disclosed independent empirical research.

An enhanced modernized SEDAR needs to be implemented to have a posting notification service before AED comes into force. More importantly, all issuers should be required to maintain an investor section on their respective website where shareholders can easily access any / all financial disclosures including press releases

If AED is implemented, investors **MUST** be forewarned and educated on AED and given, for example, a year, to make adjustments of their preferences.

Issuers that do not comply with their AED obligations, such as they are, should be sanctioned by enforcement, which I know will most probably never happen as the CSA's main stakeholders are the issuers.

The bottom line is that the AED proposal is currently not ready for implementation until many improvements are made. If the CSA is looking to improve retail investor disclosure, it should improve Fund Facts, stop investment funds from greenwashing, and enhance its process for uncovering and penalizing through active enforcement, misleading financial disclosures.

Permission is granted for posting this communication on CSA member websites and / or on the CSA website in the document entirety, not excerpts thereof.

Thanks for your attention to this matter.

Rick Price