

B.5.2 Companion Policy 13-103 System for Electronic Data Analysis and Retrieval + (SEDAR+)

**COMPANION POLICY 13-103
SYSTEM FOR ELECTRONIC DATA ANALYSIS AND RETRIEVAL +
(SEDAR+)**

Introduction

The purpose of this Companion Policy is to provide guidance on how securities regulatory authorities and regulators (we or us) interpret or apply certain provisions of National Instrument 13-103 *System for Electronic Data Analysis and Retrieval + (SEDAR+)* (the Instrument). This Companion Policy includes explanations, discussion and examples of the application of various parts of the Instrument.

Phased approach to SEDAR+

The National Systems Renewal Program of the Canadian Securities Administrators (CSA) proposes to implement the System for Electronic Data Analysis and Retrieval + (SEDAR+) in several phases, with the objective of replacing all current CSA national systems. The first phase (Phase 1) replaces the System for Electronic Document Analysis and Retrieval (SEDAR), the National Cease Trade Order Database and the Disciplined List. Phase 1 relates principally to documents filed by issuers with securities regulatory authorities or regulators, including:

- all documents previously filed with or delivered through SEDAR;
- Form 45-106F1 *Report of Exempt Distribution*, previously filed in the British Columbia Securities Commission (BCSC) eServices system, the Ontario Securities Commission (OSC) Electronic Filing Portal, and in all other jurisdictions on SEDAR.

In future phases of SEDAR+, we expect SEDAR+ will be capable of accepting the transmission of documents filed with or delivered to securities regulatory authorities and regulators by insiders, registrants, derivatives market participants and regulated entities (such as a marketplace, a self-regulatory body or self-regulatory organization, or a clearing agency).

Phasing of applications, pre-filings and documents under decisions

Applications, pre-filings, and documents filed or delivered under decisions, are being brought into SEDAR+ in a phased manner. Phase 1 of SEDAR+ generally includes all applications, pre-filings and documents previously filed or delivered by issuers, whether in the BCSC eServices system, the OSC Electronic Filing Portal, or by email, courier or regular mail including, but not limited to, applications:

- for an exemption from a provision of securities legislation;
- to be designated as a reporting issuer, mutual fund or non-redeemable investment fund;
- to cease to be a reporting issuer;
- for a full or partial revocation of a cease trade order;
- for a management cease trade order.

Generally, a person or company that is an issuer will file or deliver through SEDAR+ an application, pre-filing, or document filed or delivered under a decision, while a person or company that is an insider, a registrant, a derivatives market participant or a regulated entity will file or deliver the document in the same manner as it currently does, until a future phase of SEDAR+. In future phases of SEDAR+, we expect that SEDAR+ will be capable of accepting the transmission of applications, pre-filings or other documents filed or delivered to securities regulatory authorities or regulators by insiders, registrants, derivatives market participants and regulated entities.

If a provision of Canadian securities legislation is included in Column A of the Appendix of the Instrument, a pre-filing in relation to that provision or an application for an exemption from that provision will not be filed through SEDAR+ at this time, except in the limited circumstances outlined in Column B of the Appendix.

Generally when an application is filed in SEDAR+ pursuant to Column B of the Appendix, and a decision is made, the filer should also transmit through SEDAR+ all documents required to be filed or delivered pursuant to the decision.

Section 1 – Definitions and Interpretation

Unless defined in the Instrument, terms used in the Instrument have the same meanings as in National Instrument 14-101 *Definitions*.

The term “document” includes any report, form, application, pre-filing, information, material and notice, as well as a copy thereof, and applies to a document that is required or permitted to be filed or deposited with, or delivered, furnished, sent, provided, submitted or otherwise transmitted to, a securities regulatory authority or regulator.

Section 2 – Transmission of documents through SEDAR+

We consider the requirement in section 2 that documents filed with or delivered to us be transmitted through SEDAR+ will generally include filings referred to in policies or staff notices. Examples include a “pre-filing” or “waiver application” under National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions* (NP 11-202), a “pre-filing” under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* and the review of a prospectus on confidential pre-file basis under CSA Staff Notice 43-310 *Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)*.

Section 3 – Transmission of documents outside of SEDAR+

Under paragraph 3(i), the Instrument does not apply to a document required or permitted to be filed or delivered under any of the provisions of securities legislation set out in Column A of the Appendix of the Instrument, unless an exception in Column B applies. The same applies to any document that a person or company is required or permitted to file or deliver pursuant to a decision or order issued in respect of any of the provisions of securities legislation set out in Column A of the Appendix, unless an exception in Column B applies. We expect that all of these documents will be incorporated into SEDAR+ in future phases of SEDAR+.

A person or company will file these documents with, or deliver them to, the securities regulatory authority or regulator in the same manner that it currently does, including by email, courier or regular mail, through the System for Electronic Disclosure by Insiders (SEDI), or through the National Registration Database. For example, an issuer filing an issuer event report under National Instrument 55-102 *System for Electronic Disclosure by Insiders* will transmit this information through SEDI.

The Appendix also contains certain exceptions set out in Column B relating to documents filed under the provisions of securities legislation indicated in Column A that will be transmitted through SEDAR+ in Phase 1. For example, Multilateral Instrument 45-108 *Crowdfunding* contains certain registration requirements for funding portals and registered individuals of funding portals, which will be filed outside of SEDAR+ until a future phase of SEDAR+. The exceptions in Column B that relate to Multilateral Instrument 45-108 *Crowdfunding* are the following documents that an issuer will transmit through SEDAR+ as part of Phase 1:

- a Form 45-106F1 *Report of Exempt Distribution*;
- a crowdfunding offering document;
- additional distribution material;
- financial statements filed by an issuer that is not a reporting issuer;
- a notice of use of proceeds.

Subsection 5(1) – Payment of fees

A filer should consult Multilateral Instrument 13-102 *System Fees* to determine whether it is required to pay a system fee when transmitting a document in SEDAR+, and the amount of any applicable system fee. A filer should consult the local fee rules in each jurisdiction to determine whether it is also required to pay a regulatory filing fee when transmitting a document to the securities regulatory authority or regulator, and the amount of any applicable regulatory filing fee.

Subsection 5(4) – Significant connection

In order to determine the jurisdiction with which a person or company has the most significant connection, a filer should refer to the factors outlined in subsection 3.4(7) of NP 11-202.

Subsection 7(3) – Decisions and orders in British Columbia

Because of differing legislative requirements, subsection 7(1) of the Instrument does not apply in British Columbia. The British Columbia Securities Commission has issued BC Instrument 13-505 *Filings Made under Decisions*, which has the same effect as subsection 7(1) of the Instrument.

Using format and templates specified in SEDAR+

A person or company satisfies a requirement in securities legislation to file a document with, or deliver a document to, the securities regulatory authority or regulator in a prescribed format by transmitting the information in the manner and using the format and templates, if any, specified in SEDAR+. For example, SEDAR+ requires a filer to transmit Form 45-106F1 *Report of Exempt Distribution* in the format and using the templates specified in SEDAR+. In doing so, the filer satisfies all requirements of Form 45-106F1 *Report of Exempt Distribution* that relate to the prescribed format of the report.

Effective time of filing or delivery

SEDAR+ is generally available 24 hours a day, 7 days a week. We consider a document to be filed with or delivered to the securities regulatory authority or regulator when the transmission of the document through SEDAR+ has been completed. SEDAR+ allows a filer to confirm the date and time that the transmission of a document was completed.

Although SEDAR+ is generally available every day to receive documents, Canadian securities legislation or Canadian securities directions that refer to a review of a document by the securities regulatory authority or regulator (for example our timelines to provide a filer with comments on our review of a preliminary prospectus) will continue to provide that the review be carried out within a certain number of business days.

Consent

In certain jurisdictions, the securities regulatory authority or regulator must consent to a document being filed with or delivered to it by the transmission of the document through SEDAR+. We take the view that the acceptance of documents transmitted through SEDAR+ in accordance with the Instrument satisfies any such consent requirement of the securities regulatory authority or regulator contained in electronic commerce legislation.

Requirement to file more than one copy of a document

If any provision of securities legislation requires a person or company to file with or deliver to the securities regulatory authority or regulator more than one copy of a document, the transmission of the document through SEDAR+ in accordance with the Instrument satisfies such a requirement.

Official copy of documents

We consider that, for purposes of securities legislation, securities directions or any other related purpose, an official record of any document transmitted through SEDAR+ is the document stored in SEDAR+.

Certified copy of documents

Securities legislation in certain jurisdictions contains a requirement to produce or make available an original or certified copy of information filed under the securities legislation. We take the view that the securities regulatory authority or regulator satisfies such a requirement by providing a printed copy of the information that contains, or is accompanied by, a certificate of the securities regulatory authority or regulator confirming that the printed copy is a copy of the information filed in SEDAR+.

Use of SEDAR+ by the securities regulatory authority or regulator

The securities regulatory authority or regulator will transmit certain documents through SEDAR+. For example, we will generally transmit through SEDAR+ a receipt and other confirmation of acceptance for a document transmitted through SEDAR+, such as a receipt for a prospectus. We will also generally transmit through SEDAR+ comment related to a prospectus or an application for an exemption that has been filed through SEDAR+.

Public accessibility of documents in SEDAR+

Securities legislation generally requires that the securities regulatory authority or regulator make documents filed with it available for public inspection during normal business hours. We consider that the securities regulatory authority or regulator satisfies this requirement by making such documents publicly available in SEDAR+.

Under securities legislation, documents required or permitted to be delivered are not required to be publicly available but may be subject to an application made under freedom of information legislation. Filers that transmit information in SEDAR+ are responsible for complying with applicable privacy laws.

Changing access to transmitted documents

To change the access status of a document from public to private, a person or company should submit a formal request for confidentiality, generally by way of an application made to the securities regulatory authority or regulator, under the relevant provisions of securities legislation. The securities regulatory authority or regulator will generally not change the access status of a

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document from public to private until the request has been reviewed, and a decision has been made in favour of the person or company.

In the following limited circumstances, we will consider changing the access status of a document from public to private in SEDAR+ without a formal request for confidentiality:

- a person or company transmits a document under the incorrect profile;
- a person or company transmits a fee form with an incorrect calculation;
- a person or company transmits a document that contains a virus;
- a person or company entitled to file a redacted version of a material contract or agreement transmits a non-redacted version of the document in error;
- a recipient agency inadvertently makes a document public in connection with a prospectus filing which should have remained private.

To request a change in the access status of a document from public to private in SEDAR+ in these circumstances, a person or company should make a written request to its principal regulator, determined in accordance with subsection 5(2), 5(3) or 5(4) of the Instrument. Since there may be no formal request for confidentiality and, as a result, no confidentiality decision in these limited circumstances, filers should note that documents that are required to be filed and whose access is changed to private in SEDAR+ may still be made available for public inspection under securities legislation.

Filers should also note that changing the access status of a document from public to private in SEDAR+ does not necessarily remove the document from the public domain. For example, various search engines may continue to index the document, notwithstanding that we have changed the access status of the document to private in SEDAR+. We do not assist filers to remove documents from the public domain.

Documents filed with or delivered to us may also be subject to disclosure under freedom of information legislation.