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Saskatchewan Securities Commission  
The Manitoba Securities Commission  
Ontario Securities Commission  
Office of the Administrator, New Brunswick  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland  
Registrar of Securities, Northwest Territories  
Registrar of Securities, Nunavut  
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RE: National Instrument 55-102: SYSTEM FOR ELECTRONIC DATA ON  
INSIDERS (“SEDI”) published June 16<sup>th</sup>, 2000 (“NI 55-102”)

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Thank you for the opportunity to provide comments on NI – 55-102. We are very supportive of this initiative of the Canadian Securities Administrators. It will streamline the process for our insiders in the filing of their insider reporting requirements.

We offer the following comments on NI 55-102 for your consideration.

1. Sub-section 2.3 (1) of NI 55-102 provides that an insider of a SEDI issuer that is required to file an insider report in that capacity SHALL FILE THE INSIDER REPORT IN SEDI FORMAT in accordance with this instrument (*upper case used for emphasis*). Sub-section 2.2 (1) provides that an insider of a SEDI issuer SHALL FILE AN INSIDER PROFILE in SEDI format BEFORE that insider files an insider report in SEDI format.

The Toronto-Dominion Bank is very supportive of initiatives that leverage the benefits of new technologies, such as this web-enabled SEDI. However, our concerns are as follows:

- (i) at this time, not all individuals that are insiders of SEDI issuers are necessarily web-users. Although the growth of internet users in our general population is growing rapidly (an Angus Reid Poll released July 26<sup>th</sup>, 2000 reported that internet access among Canadian adults in Canada has increased from 55% to 70% in one year) the greater proportion of users still appear to be users under 35 years of age who are less likely to be insiders of SEDI issuers than individuals aged 56 and over\*.

\* U.S. research published in 1998 by the Graphics, Visualization & Usability (GVU) Center at the Georgia Institute of Technology (Georgia Tech) at [http://www.gvu.gatech.edu/gvu/user\\_surveys](http://www.gvu.gatech.edu/gvu/user_surveys) showed % of internet use by users in various age bands as follows: < 35 = 48.2%; 36-55 = 41.2%; 56 – 65 = 6.4%; and > 65 = 4.2%.

- (ii) the *Electronic Commerce Act, 2000 (Bill 88 - Ontario)* sets out standards of “functional equivalence” so that transactions are not denied legal effect solely because they are entered into electronically. While this was the first provincial e-commerce legislation of its kind, subsequent legislation was introduced in British Columbia, Saskatchewan, Manitoba and Québec. *Bill 88* does not require a person to use electronic media without his or her consent. This could be viewed as suggesting that parties may not be mandated to use electronic technologies, without their consent.
- (iii) NI 55 – 102 contemplates the filing of insider reports by facsimile transmission in sub-section 2.6 (2) which provides that an insider report that is required to be filed in paper format shall be prepared in accordance with Form 55 – 102F5. Part 3 of NI 55- 102 establishes a Temporary Hardship Exemption, which establishes a process for filing insider reports using current facsimile transmission technology.

Since the Instrument contemplates situations where insider reports must be filed in paper format and other circumstances where insiders may be exempted from SEDI filings under the Temporary Hardship Exemption, we would ask you to consider permitting insiders who are not web-enabled an opportunity to become so, in the ordinary course, and permit them to file their

insider reports using paper format and facsimile transmission technology until they are web-enabled. We recommend that sub-sections 2.2 (1) and 2.3 (1) be amended to provide as follows:

#### 2.2 Filing of Insider Profile

(1) An insider of a SEDI issuer, who is web-enabled, shall file an insider profile in SEDI format before that insider files an insider report in SEDI format. An insider who is not web-enabled, may file their insider profile in paper format by facsimile transmission until such time as they become web-enabled.

#### 2.3. Filing of Insider Reports in SEDI Format

(1) An insider of a SEDI issuer, who is web-enabled, and that is required to file an insider report in that capacity shall file the insider report in SEDI format in accordance with this Instrument. An insider who is not web-enabled, may file their insider report in paper format by facsimile transmission until such time as they become web-enabled.

(iv) The Temporary Hardship Exemption found in part 3 of this Instrument permits an insider to make a filing in paper format if short-term technical difficulties arise in filing using SEDI format. The insider must file in paper format within a prescribed timeframe and make the SEDI filing once the technical difficulties have been resolved. Insider reports prepared in paper format must be in Form 55-102F5. There may be other reasons why a SEDI insider may need recourse to a Temporary Hardship Exemption (e.g. due to illness, travelling and lack of access to a P.C., physical disability). Such circumstances might require the SEDI insider to file in paper format so we recommend that you give consideration to an expansion of this exemption to include other situations of this nature.

2. Sub-section 2.2 (3) provides that an insider of a SEDI issuer that has filed an insider profile in SEDI format SHALL FILE an amended insider profile in SEDI format within 10 days following ANY CHANGE IN THE INFORMATION contained in the insider profile. This is not currently a requirement in all jurisdictions. In fact, the current Insider Report form contemplates that changes will be noted on the form, for example, when the insider completes in Box 3 'CHANGE IN NAME ADDRESS OR TELEPHONE NUMBER FROM LAST REPORT [ ] YES [ ] NO'. We would point out that this question has been retained in Form 55-102F5.

This additional requirement will add increased demands on insiders for filing information that has traditionally been completed with the updating of other information in the filing of an insider report. We appreciate the need for insiders to file information concerning their trades in securities of the reporting issuer within the 10 day period, however, the requirement to impose this same timeframe on insiders with respect to the updating of their personal information does not seem to have the same market urgency.

We would ask you to reconsider this requirement and instead require SEDI insiders to confirm with each filing of an insider report that there has been no change to their personal information, and if there has been any change, that they be directed to update their SEDI profile at that time (perhaps by way of a direct link to their profile). This would ensure that the insiders of SEDI issuers are treated in a comparable manner to insiders who are required to file insider reports in paper format using Form 55-102F5.

3. Will the SEDI system permit persons who are SEDI insiders for multiple-SEDI issuers to file more than one profile on SEDI? This might need to be permitted to accommodate SEDI insiders who have appointed certain officers of the SEDI issuers to act as their agents for the purpose of filing their SEDI insider reports.
4. Subsection 2.8 (4) of NI 55-102 contemplates that a SEDI report is not considered filed UNTIL THE SEDI OPERATOR HAS CONFIRMED TO THE SECURITIES REGULATORY AUTHORITY THAT A PAPER FORMAT COPY OF THE INDIVIDUAL'S REGISTRATION FORM HAS BEEN COMPLETED, SIGNED AND DELIVERED IN ACCORDANCE WITH THE INSTRUMENT (*upper case for emphasis*). Please confirm if the SEDI system will confirm electronically with the SEDI insider by email that this action has been completed, upon receipt of same, so that the SEDI insider's records will show a confirmation of receipt.
5. Subsection 2.9 of NI – 55-102 contemplates that information filed subject to subsection 2.8(4) will be considered filed on the day that the transmission of the information to the SEDI application server is completed. What evidence of completed filing will be provided to a SEDI insider? Currently, an insider can maintain a copy of a fax transmission record as evidence that a fax has been received at a securities commission office. What record will be available in this system?
6. Form 55-102F2 contemplates in section 2 filing amendments of reports filed “in SEDI format”. However, there may not have been an insider report filed up to that point in time in SEDI format (as with all insider reports filed prior to December 3, 2000). It may be more appropriate to delete the reference to “in SEDI format”.
7. We would also like you to reconsider the timing that you propose for the implementation of this new regime. Many large SEDI issuers such as ours, must await the final form of this National Instrument before it may finalize a communication to its many hundreds of insiders globally on these material changes to the filing of insider report forms. These are not changes that may be centrally implemented with a few individuals in a corporate finance department, for example. We have insiders working around the world who will need to be informed on these changes, all at a time when there are numerous statutory holidays that prompt a great many people to take their personal leaves. I suspect we are not unique with this concern. We would appreciate it if you would consider a delay to the implementation of this new process to a date early in 2001. This accommodation, together with perhaps a recognition of the need for the insiders of SEDI issuers to be provided with

a phase-in period to establish their SEDI profile and commence their SEDI filings by a prescribed date (e.g. within six months of the implementation of NI 55-102), would be very much appreciated.

Thank you for providing the opportunity to share our concerns with this draft instrument.

Regards,