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2005-04-26 13:13

On April 8, 2005 we submitted 'Torys' comment letter on the proposed repeal and replacement of NI44-101, *Short Form Prospectus Distributions*. We have just noticed what we believe to be two glitches in the drafting of the proposed rule and wanted to bring these to your attention.

New Reporting Issuers

Issuers must have "current annual financial statements" and a "current AIF" to access the short form system. New reporting issuers that are not yet required to file annual financial statements under the continuous disclosure rule are granted an exemption from the requirement to have current annual financial statements and a current AIF (s. 2.9(1) under the Alternative A eligibility requirements and s. 2.7(1) under the Alternative B eligibility requirements).

Item 11.1 of Form 44-101 sets out the documents that must be incorporated by reference in the short form prospectus, including:

#1 - the issuer's current AIF, if it has one, and

#8 - any other disclosure document which the issuer has filed ... since the beginning of the financial year in respect of which the issuer's current AIF is filed.

We are wondering if there is a disconnect between the new reporting issuer's exemption in s. 2.9(1)/2.7(1) of the instrument and Item 11.1 of the Form. Should an IPO prospectus be deemed to be a "current AIF" so that it is incorporated by reference into the short form prospectus?

Incorporation of Prior Prospectuses into a Short Form Prospectus

Also, it would appear that any long form or short form prospectuses that have been filed since the beginning of the financial year in respect of which the issuer's current AIF is filed would have to be incorporated by reference into a subsequent short form prospectus under Item 11.1 #8 since they are "disclosure material". We believe that preliminary and final prospectuses should be carved out of this item of disclosure.

If you wish to discuss these points, please contact Bob Karp at 416.865.7515 or me at 416.865.7635. Thank you.

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