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To:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Office of the Attorney General, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

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Dear Ms. Beaudoin and Mr. Hungerford,

Re: Proposed Amendments to National Policy 11-201 *Delivery of Documents by Electronic Means*

This letter represents the comments of Broadridge Investor Communications Corporation ("Broadridge") in response to the publication of proposed amendments to National Policy 11-201 *Delivery of Documents by Electronic Means* (NP 11-201).

Broadridge welcomes dialogue on investor communication matters in Canada, the U.S., and globally. We participate actively in these very important discussions, providing implementation experience and quantitative data. In addition, we value and invest heavily in continuous improvement, particularly in technological solutions, that support the efficient and assured delivery of documents to investors.¹

We endorse the fundamental objectives that underlie the CSA's initiatives to promote the use of electronic technologies to deliver investor communications. We believe that further clarification of several key definitions contained in the proposed amendments to NP 11-201, will help ensure that the laudable objectives are realized. We believe the overall objectives of the Instrument should be to:

- Ensure the efficient and timely dissemination of documents electronically, while ensuring investors receive the information to which they are entitled
- Promote the use of technology to encourage a cost-efficient process for the delivery of documents electronically
- Recognize investor preference for the receipt of documents

Introduction

Technology has enabled tremendous improvements in the investor communication process in the past 25 years. This has benefitted issuers, investors, and indeed all industry participants. It has made possible tremendous **efficiencies**, reducing costs, and improving the speed and accuracy with which issuers and intermediaries can communicate with investors. It has increased **equity** in investor communications by supporting a model of investor choice and allowing investors to specify what materials they want to receive, how they want to receive them, as well as how they want to hold their shares. Technology also promotes greater **engagement** of investors. Through better communication, transparency and, ultimately, investor participation are improved.

Technological evolution relies on - and at the same time allows - regulatory evolution. Together, new regulations and innovative, technology-based solutions that permit the practical implementation of new rules are driving efficiency, equity, and more robust investor engagement.

Broadridge has a long history of bringing innovative, technology-based solutions to the Canadian capital market. Since 2004, our data management solutions - including managed account processing, individual consolidation, ProxyEdge®, and electronic delivery - combined with regulatory changes like those contained in National Instrument 51-102 *Continuous Disclosure Obligations* – have saved issuers in Canada over \$109.5 million.

¹ Broadridge is an industry leader in the Canadian financial marketplace, facilitating the delivery of investor communications since 1987. Our services include delivery of investor communications on behalf of corporate issuers, mutual funds, banks, and brokers and trust companies, in compliance with industry regulations. We currently support 70 proximate intermediaries representing 230 financial institutions and approximately 3,600 public issuers in Canada, as well as custodians and institutional investors.

Broadridge's global reach also provides U.S. and other foreign investors the opportunity to receive communications from Canadian reporting issuers. Unique to Broadridge is our combined industry, regulatory, and information technology expertise. Our clients rely on us to help them efficiently and cost-effectively comply with industry laws and regulations.

One of the first examples of our ability to leverage technology, to drive efficiency in investor communications, is electronic voting. We proactively approached the CSA regarding our proposal and after receiving regulatory relief introduced telephone voting in 1998.

Adoption of e-voting channels has increased from about 37% in 1998 to 89% in 2010, and this has contributed to the efficiency of the voting process and the significant reduction in costs to issuers, as well as increased voter participation rates.

Electronic delivery of proxy materials represents another opportunity to drive efficiency and cost reductions in the communication process. While e-delivery in the U.S. is well entrenched, there is room to increase participation here in Canada. Broadridge introduced e-delivery to the Canadian market in 2000. While the initial adoption of the service was low, its implementation is increasing rapidly. From July 1, 2010 to May 31, 2011, 383 Canadian issuers utilized electronic delivery to provide proxy notification of meetings to just over 1.9 million investors who have requested electronic delivery of their proxy materials. Comparatively, in 2010, 26.9 million U.S. securityholders received their proxy notifications by electronic delivery, an increase of 5.7 million securityholders from 2009.

Broadridge also utilizes other technologies to effect electronic delivery of documents including Investor MailboxSM, a product that allows investors to retrieve documents directly from their financial institution's secure site. In addition, investors are using technology platforms to receive other documents as part of their investment portfolios, such as prospectuses and trade confirmations.

The most recent example of Broadridge's innovative deployment of new technology is Mobile ProxyVote[®], our solution that allows investors to vote from handheld electronic devices such as smart phones, tablets, and other mobile devices. Mobile ProxyVote is an excellent example of how technology-based tools are implemented and their use refined. The development of this technology was in direct response to investors' rapidly changing preferences for accessing information 'on-the-go.'

Comments, Questions and Responses to Proposed Amendments

Part 1 – General Comments

Definitions

“delivered” – Many of the methods of e-delivery do not involve the documents being sent to the individual investors. Rather, the documents are not sent, but are made available to an investor through a link to a website or by logging into a secure site to pick up a document. The wording of the definition of “delivered” suggests active sending, rather than making the document available for investors to receive or to access by taking steps to retrieve it. The terms used in the definition should be amended to clearly include making documents available to better reflect how the actual document retrieval process works.

“electronic delivery” – The CSA should consider removing “e-mail” and “the Internet or other electronic means” from this definition and establishing a separate definition for these terms. “e-mail” and “Internet and other electronic means” processes are significantly different in their operation and technology, including how it is used for the purposes of document delivery. Specifically, what is not contemplated

here is the use of a secure website, which requires the recipient to log into the site using security credentials to gain access to the documents.

We note some recurring terms are undefined. We ask that CSA provide definitions for the following terms:

"deliverer" – This term is used in several places where it is not clear if "deliverer" means the issuer or intermediary with the delivery obligation under securities legislation, or the party/agent actually carrying out the delivery functions. This, coupled with the proposed deletion of the language in the current section 2.1(7) regarding delivery by third party agents, creates some ambiguity.

"Securities Industry Participants" – This term is used in several sections of the document but has no definition associated with it.

Investor Preferences Should Be Honoured

We note that the requirement for consent to e-delivery generally is governed by statutory requirements set out in electronic commerce legislation or corporate law, which may require an express consent or may permit a deliverer to rely on an inferred consent for an electronic delivery to be effective. The changes proposed to the Policy would eliminate most of the guidance on the form and content of a consent required for e-delivery of documents under securities legislation, while keeping the guidance that the process of obtaining express consent, and then delivering the document as that consent requires, would assist in ensuring e-delivery is carried out effectively. In our view, it is very important that the investor retain the right to receive the documents in the form, electronic or paper, that they prefer and those preferences should be honoured. Investors who are not computer literate or do not have easy access to a computer should not be compelled to access important disclosure documents on the Internet.

(1.3) Other Legislation and Rules

The CSA should expand the scope of this section to include investors' personal information. The wording in section 1.3(3) should be amended to include the underlined language:

"Documents required to be delivered under securities laws, including documents sent electronically, and other information about investors, may be subject to the protections of privacy legislation."

(1.4) Application of This Policy

CSA should remove the references to specific documents in the second sentence of section 1.4(1), as this list is subject to change as other document types become required to be delivered. Most of the rest of the examples that appear in the current policy are proposed to be deleted, so it is not clear why this list of documents required to be delivered under securities legislation remains in this section.

Part 2 – Electronic Delivery of Documents

2.1 Basic Components of Electronic Delivery

The term 'notice' is used in several contexts throughout the revised policy; however, it is not clear when or if a separate communication to the investor must precede every electronic delivery. This ambiguity is compounded by the proposed deletion of the specific acknowledgement that some electronic deliveries do not need prior notice (contained in current section 2.2(2)). In practice, the client receives general notice that materials are to be delivered electronically as part of the consent process. Depending on the method used to deliver a document electronically, there may or may not be a need for a separate notice. For example, if the delivery of a trade confirmation is made by fax or by e-mail with an attachment, the fax or e-mail containing the information should be considered sufficient notice. In contrast, if the information is to be posted to a website,² then a separate notice advising the investor the information is available and how to access it might be appropriate.

It would be helpful if additional clarification were provided in this area.

2.3 Notice

Was the wording in this section intended to require the delivery of a notice prior to the delivery of each separate document? If so, the CSA should consider the effects of requiring multiple deliveries, including the quality of the investor experience and the incremental cost to the issuer, intermediary, or investment fund company.

We do agree that documents that are made available supporting event driven communications (i.e. proxy, corporate actions, reorganizations, prospectus fulfillment, Fund Facts, financial statements, etc.) should require a notification to be sent to investors to advise them of available material.

For documents accessed through a secure intermediary website or mailbox, where the documents are posted at the same time every month or where the recipient agrees to monitor the site for documents, a separate notice should not be necessary. We note the wording "Alternatively, the consent could evidence the agreement of the recipient to monitor the deliverer's website on a regular basis, thereby eliminating any need for the deliverer to provide separate notice to the recipient" is not being carried forward from the current section 2.2(3). This is currently common practice for this type of service. It would be helpful if the CSA would provide guidance that if, as part of the consent process, a recipient expressly agrees to this arrangement, that the CSA would not object.

2.4 Access

We note that there is inconsistency between section 2.4(3) of the proposed Policy and the proposed amendments to National Instrument 54-101 (NI 54-101) regarding Notice and Access. In the proposed amendments to NP 11-201, the provision states: "...meeting materials delivered by way of posting to a website should remain posted until at least the date of the meeting." The proposed amendment to NI 54-101, set out in section 2.7.1(1)(d)(ii), states the proxy related material is to be left posted until the next annual meeting that follows the meeting to which the material relates. The provision in section 2.4(3) of the proposed Policy should either be amended to conform to the proposed amendments to NI 54-101 or another example substituted.

² Other than documents posted on an agreed fixed schedule, such as monthly account statements.

We also note that section 2.4(4) of the proposed Policy, regarding the ability to keep a permanent copy of the document, uses different language from section 4.2(3), but the objective of the two sections appears to be the same. We believe that the language contained in section 4.2(3) is clearer and should be used in both sections of the Policy.

2.6 Effecting Delivery

Clarification of section 2.6(2) would be useful. If a deliverer receives notice that the electronic delivery has failed (whether of a notice, a document with electronic links embedded, or an e-mail with the documents attached), is the deliverer automatically obliged to send paper copies of the documents to that investor or may another method be used? For example, if an e-mail notice of posting of material to a website comes back as undeliverable, may the deliverer then send a letter setting out the same information and provide the link to the website or are they obliged to send the underlying paper documents? We believe that it should be sufficient to send the same information as contained in the electronic notification in a paper notice, without including the underlying documents, such as an information circular. The documents would continue to be made available at the website indicated in the notice. Delivery of the document would create an undue expense to the deliverer, as the expectation was that the documents were going to be made available electronically. Also, from an investor preference perspective, this approach addresses the issue of an e-mail change and ensures investors continue to be enrolled in the delivery method that they prefer.

Part 3 – Miscellaneous Electronic Delivery Matters

3.3. Hyperlinks

Section 3.3 (3) – It should be noted that the use of hyperlinks contributes to efficiency in the delivery process. Hyperlinks embedded into a document should have a direct relationship to the document to which they refer. The use of hyperlinks in notices should be treated separately from hyperlinks in documents, such as prospectuses that are required to be delivered.

Section 3.3 (6) – We would ask for further clarity on the role of a “third party provider.” Like the term “deliverer,” it creates some ambiguity as to its meaning. It should be also noted that most industry participants use the services of third party providers/agents for e-delivery since the required infrastructure is too complex and too expensive for them to manage it internally.

3.4 Multimedia Communications

The CSA should consider easing some of the limiting language regarding multimedia communications to allow for the development and delivery of documents that support access to information for persons with disabilities, or to graphically replicate information for the sole purpose of representing that information in a user-friendly, easy to understand format that supports financial literacy initiatives.

3.5 Timing of Electronic Delivery

The CSA should consider the appropriateness of this section that requires contemporaneous delivery. Recipients who have instructed their intermediaries to receive investor material by electronic means should have that instruction honoured. Recipients who have chosen to receive paper-based material delivered through the postal system should recognize, as the recent postal strike illustrates, that this type of delivery may be subject to disruption and which carries an inherent delay in its delivery as compared to electronic means.

Further, there is a potential conflict between this provision and the proposed changes to NI 54-101. The proposed changes to NI 54-101 to facilitate Notice and Access (in section 2.7.1 (1)(d)) state that public access to the information circular and the notice must be given (on a third party website) on or before the same day that the issuer sends the documents to registered holders and posts them on SEDAR. Section 3.5 of the proposed Policy says the electronic access must not precede the posting. The rationale for the 'on or before' timing under NI 54-101, set out in the CSA Notice accompanying the proposed amendment, seems compelling. This section of NP 11-201 should either be conformed, or have an exception added for specific posting requirements under securities legislation so that the conflict is eliminated.

Part 4 – Proxy Documents

4.1 Proxy Delivery Requirements

It is noted that there is no reference to requirements for Notice and Access as contemplated under the amendments to NI 54-101. It is not entirely clear how these amendments and those considered under NP 11-201 align. The CSA should consider additional wording to be included in this section to accommodate the delivery requirements under Notice and Access.

General Discussion Items

1. Do you believe that the Policy presents any impediments to electronic delivery?

While the proposed amendments to NP 11-201 do not present any specific impediments to the use of electronic delivery, it does not reflect current best practices nor does it envision the future state of electronic communication between issuers, intermediaries, and investors.

The CSA must recognize that technology is ever changing and that when proposing language, whether in guidance or in regulation, that it not restrict the use of new methods of delivery or evolving technology available to industry participants. Electronic delivery also contributes to reduced costs both financially and environmentally. In 2010 in Canada, cost savings from print and postage to issuers who utilized electronic delivery was estimated at \$2.7 million. New methods of delivery such as Investor Mailbox, a portal that provides the investor a centralized location where electronic notifications are delivered within an intermediary's secure site, is fast becoming a favoured alternative to traditional e-mail notification to an investor's public e-mail account. In the U.S. and globally, Investor Mailbox is available by participating brokers to over 14 million online account holders.



2. The Policy describes four basic components for electronic delivery. Do the requirements of other legislation, including electronic commerce legislation and corporate legislation, impact your ability to satisfy the four basic components for electronic delivery described in the Policy?

The CSA should make available to industry participants the interplay of “other legislation” in order to provide a clear understanding of how one may impact the other. Some industry participants may not be familiar with this legislation and therefore not able to comment sufficiently on what capacity they might play. Certainly, each of the laws or the interactions of each should not be so burdensome or complicated, so as to create a negative experience for the recipient or to place unreasonable and costly demands on the deliverer of the notice.

Conclusion

We believe that efficient communication is fundamental to good corporate governance, meaningful investor participation, and a strong capital market in Canada. We provide and support a cost-efficient infrastructure for large and small companies, that improves the efficiency of the communication process and ensures communication can be delivered based on investor preference. We are working with all participants and continuing to invest in our business to create the tools that will ensure efficiency, equity, and engagement in the investor communication process.

In closing, Broadridge is committed to making ongoing investments necessary to maintain and build upon Canada’s electronic communication system. We have collected and analyzed quantitative data on e-delivery, and believe this information would be indispensable in providing greater clarity as to the current state of electronic delivery and provide insight into the opportunities for greater enhancements to e-delivery practices. Broadridge will make this information available to the CSA upon request.

We look forward to working with all concerned parties and share the CSA’s commitment to continually improving efficiency, equity, and engagement for investor communications in Canada.

Sincerely,

(signed Patricia Rosch)

Patricia Rosch
President
Broadridge
Investor Communication Solutions, International