

1.1.5 CSA Staff Notice 52-323 – Coming into Force of National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* and Consequential Policy Amendments

CSA STAFF NOTICE 52-323

**COMING INTO FORCE OF NATIONAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS
AND CONSEQUENTIAL POLICY AMENDMENTS**

Background

On August 15, 2008, the Canadian Securities Administrators (CSA or we) published notice that effective December 15, 2008, subject to applicable ministerial approvals, we would repeal Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109), Form 52-109F1, 52-109FT1, 52-109F2 and 52-109FT2 and withdraw Companion Policy 52-109CP and replace them with the following:

- National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109);
- Forms 52-109F1, 52-109FV1, 52-109F1 – IPO/RTO, 52-109F1R, 52-109F1 – AIF, 52-109F2, 52-109FV2, 52-109F2 – IPO/RTO and 52-109F2R (the Forms); and
- Companion Policy 52-109CP *Certification of Disclosure in Issuers' Annual and Interim Filings* (Companion Policy 52-109CP, together with NI 52-109 and the Forms, the New Materials).

The CSA also indicated that, in conjunction with the New Materials, we would make consequential amendments to Form 51-102F1 *Management's Discussion & Analysis* of National Instrument 51-102 *Continuous Disclosure Obligations* (the Consequential Amendments).

Applicable Ministerial Approvals Obtained

The New Materials and Consequential Amendments have received all applicable ministerial approvals and, as a result, will come into force in all CSA jurisdictions effective December 15, 2008.

Transition

The New Materials apply in respect of annual filings and interim filings for financial periods of reporting issuers (other than investment funds) ending on or after December 15, 2008. We remind issuers that the requirements of MI 52-109, although repealed effective December 15, 2008, will continue to apply for officers' certificates relating to financial periods ending before December 15, 2008.

Consequential Policy Amendments

In addition to the Consequential Amendments, effective December 15, 2008, we are making consequential amendments to the following policies (the Consequential Policy Amendments) in order to replace existing cross-references to MI 52-109 with references to NI 52-109:

- National Policy 12-202 *Revocation of a Compliance-Related Cease Trade Order*
- National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults*
- National Policy 41-201 *Income Trusts and Other Indirect Offerings* (NP 41-201)
- Companion Policy 51-102CP *Continuous Disclosure Obligations*
- Companion Policy 71-102CP *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*

We are also making a further consequential amendment to NP 41-201 by striking out the reference to Part 4 of Companion Policy 52-109CP in section 7.1 of NP 41-201 and substituting a reference to section 3.2 of Companion Policy 52-109CP.

In Quebec, the Consequential Policy Amendments replacing existing cross-references to MI 52-109 with references to NI 52-109 are not applicable.

The Consequential Policy Amendments are contained in Appendices "A" to "E" to this notice.

Questions

Please refer your questions to any of the following individuals:

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APPENDIX "A"

**AMENDMENTS TO NATIONAL POLICY 12-202
REVOCATION OF A COMPLIANCE-RELATED CEASE TRADE ORDER**

1. **National Policy 12-202 *Revocation of a Compliance-Related Cease Trade Order* is amended:**
 - (a) **in Part 2 by,**
 - (i) **striking out "MI 52-109" and substituting "NI 52-109"; and**
 - (ii) **striking out "Multilateral" and substituting "National".**
 - (b) **in paragraph 3.1(1)(b) by striking out "Multilateral" and substituting "National".**
 - (c) **in subsection 3.1(2) by striking out "MI 52-109" wherever it occurs and substituting "NI 52-109".**
2. **This amendment comes into force December 15, 2008.**

APPENDIX "B"

**AMENDMENTS TO NATIONAL POLICY 12-203
CEASE TRADE ORDERS FOR CONTINUOUS DISCLOSURE DEFAULTS**

1. **National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults* is amended in Part 2 by striking out "Multilateral" and substituting "National".**
2. **This amendment comes into force December 15, 2008.**

APPENDIX "C"

**AMENDMENTS TO NATIONAL POLICY 41-201
INCOME TRUSTS AND OTHER INDIRECT OFFERINGS**

1. **National Policy 41-201 *Income Trusts and Other Indirect Offerings* is amended in section 7.1 by,**
 - (a) **striking out** "Multilateral Instrument 52-109" **wherever it occurs and substituting** "National Instrument 52-109".
 - (b) **striking out** "MI 52-109" **wherever it occurs and substituting** "NI 52-109".
 - (c) **striking out** "part 4 of Companion Policy 52-109CP" **and substituting** "section 3.2 of Companion Policy 52-109CP".

2. **This amendment comes into force December 15, 2008.**

APPENDIX "D"

**AMENDMENTS TO COMPANION POLICY 51-102
CONTINUOUS DISCLOSURE OBLIGATIONS**

1. **Companion Policy 51-102CP *Continuous Disclosure Obligations* is amended in section 1.6 by striking out "Multilateral" and substituting "National".**
2. **This amendment comes into force December 15, 2008.**

APPENDIX "E"

**AMENDMENTS TO COMPANION POLICY 71-102CP
CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS**

1. **Companion Policy 71-102CP *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* is amended in paragraph 6.4(b) by striking out "Multilateral" and substituting "National".**
2. **This amendment comes into force December 15, 2008.**