

NOTICE OF PROPOSED AMENDMENTS TO RULE 52-501 FINANCIAL STATEMENTS

This notice is accompanied by the text of proposed amendments to Rule 52-501 Financial Statements ("Rule 52-501") which are being published for comment.

Substance and Purpose of Proposed Amendments

The substance and purpose of the proposed amendments to Rule 52-501 are to

- (a) amend the definition of "foreign issuer" in Rule 52-501 to correspond to that in Rule 45-102 Resale of Securities and proposed Rule 72-502 Continuous Disclosure and Other Exemptions relating to Foreign Issuers ("Rule 72-502") and to add a definition of "restricted shares";
- (b) continue the relief granted by paragraphs (9) and (10) of the order and rules implementing Ontario Securities Commission Policy 7.1 Application of Requirements of the Securities Act to Certain Reporting Issuers ("Policy 7.1") to all reporting issuers, other than mutual funds, from the requirement to send annual financial statements to security holders concurrently with the filing of the statements and from the requirement to send financial statements to holders of securities other than voting securities and restricted shares; and
- (c) require a reporting issuer, other than a mutual fund, to send interim financial statements required to be filed under subsection 2.2(2) of Rule 52-501 to holders of its voting securities and of its restricted shares.

The proposed amendments in (a) and (b) above are consequential amendments resulting from the reformulation of Policy 7.1 into proposed Rule 72-502. The proposed amendment in (c) closes a gap in the requirements to deliver interim financial statements to security holders.

Summary of Proposed Amendments

Section 1.1 of the proposed amendments amends Rule 52-501 by amending the definition of "foreign issuer" to correspond to the definition in proposed Rule 72-502, adding a definition of "restricted shares" and adding Part 3 Delivery of Financial Statements. Proposed subsection 3.1(1) of Rule 52-501 provides that a reporting issuer subject to Rule 52-501 is exempt from

- (a) the requirement of section 79 of the Act, other than the requirement to send financial statements to holders of voting securities and of restricted shares, and
- (b) the requirement of section 79 of the Act to send annual financial statements to security holders concurrently with the filing of the statements under section 78 of the Act if the issuer sends the statements
 - (i) concurrently with the sending of the information circular under clause 86(1)(a) of the Act, and
 - (ii) within 140 days after the end of the financial year.

Proposed subsection 3.1(2) of Rule 52-501 requires an issuer to send interim financial statements filed under subsection 2.2(2) of Rule 52-501 to its security holders concurrently with the filing of the statements. The need for a delivery requirement in Rule 52-501 arises because the delivery requirement in section 79 of the Act is limited to annual and interim financial statements filed under the Act.

Section 2.1 provides that the amendments come into force on July 1, 2002.

Authority for Proposed Amendments

Paragraph 143(1)39 of the Act authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules, including financial statements, proxies and information circulars.

Alternatives Considered

In proposing the addition of paragraph 3.1(1)(b) to Rule 52-501, the Commission considered whether it was necessary given that section 79 of the Act deems compliance by the issuer with the laws of its jurisdiction of incorporation, organization or continuance to be compliance with section 79. The Commission determined to broaden the relief to all reporting issuers other than mutual funds.

Unpublished Materials

In proposing amendments to Rule 52-501, the Commission has not relied on any significant unpublished study, report or other written materials.

Anticipated Costs and Benefits

The benefit provided by the proposed amendments is the reduction for issuers of delivery costs of continuous disclosure information. The proposed amendments impose no material costs.

Comments

Interested parties are invited to make written submissions with respect to the proposed amendments to Rule 52-501. Submissions received no later than January 11, 2002 will be considered. Given that the date of expiry of the rules implementing Policy 7.1 is July 1, 2002, submissions received after January 11, 2002 cannot be considered.

Submissions should be made in duplicate to:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario M5H 3S8

A diskette containing the submissions (in DOS or Windows format, preferably WordPerfect) should also be submitted. Comment letters submitted in response to requests for comment are placed on the public file and form part of the public record, unless confidentiality is requested. Although comment letters requesting confidentiality will not be placed on the public file, freedom of information legislation may require the Commission to make some letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to any comment letters.

Questions may be referred to:

Kathy Soden or Joan Beck
Ontario Securities Commission
(416) 593-8149/(416) 593-8254
ksoden@osc.gov.on.ca
jbeck@osc.gov.on.ca

Text of Proposed Amendments to Rule 52-501

The text of the proposed amendments to Rule 52-501 follows.

DATED: October 12, 2001.

**AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 52-501
FINANCIAL STATEMENTS**

PART 1 AMENDMENTS

1.1 Amendments - Rule 52-501 Financial Statements is amended by

- (a) renaming Part 1 as "Definitions and Application";
- (b) deleting section 1.1 and substituting therefor

"1.1 Definitions - In this Rule

"foreign issuer" means an issuer that is not incorporated or organized under the laws of Canada or a jurisdiction,¹ unless

- (a) outstanding voting securities carrying more than 50 percent of the votes for the election of directors are owned of record directly or indirectly by residents of Canada, and
- (b) any one or more of
 - (i) the majority of the senior officers or directors of the issuer are residents of Canada,
 - (ii) more than 50 percent of the assets of the issuer are located in Canada, or
 - (iii) the business of the issuer is administered principally in Canada; and

"restricted shares" has the meaning ascribed to that term in Rule 56-501 Restricted Shares."

- (c) adding

"Part 3 Delivery of Financial Statements

3.1 Delivery of Financial Statements

- (1) A reporting issuer subject to this Rule is exempt from
 - (a) the requirement of section 79 of the Act, other than the requirement to send financial statements to the holders of voting securities and of restricted shares; and
 - (b) the requirement of section 79 of the Act to send annual financial statements to security holders concurrently with the filing of the statements under section 78 of the Act if the issuer sends the statements
 - (i) concurrently with the sending of the information circular under clause 86(1)(a) of the Act, and
 - (ii) within 140 days after the end of the financial year.
- (2) An issuer shall send interim financial statements required to be filed under subsection 2.2(2) to the holders of its voting securities and of its restricted shares concurrently with the filing of the statements."

- (d) renumbering Part 3 Transition as Part 4 and section 3.1 as section 4.1; and

- (e) renumbering Part 4 Exemption as Part 5 and section 4.1 as section 5.1.

¹ The term "jurisdiction" is defined in National Instrument 14-101 Definitions as "means a province or territory of Canada except when used in the term foreign jurisdiction".

PART 2 EFFECTIVE DATE

2.1 Effective Date - These Amendments come into force on July 1, 2002.