

6.1.7 Notice and Request for Comment - Proposed Rule 71-802, Implementing National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers

NOTICE AND REQUEST FOR COMMENT

PROPOSED RULE 71-802 IMPLEMENTING NATIONAL INSTRUMENT 71-102 CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS

Introduction

The Commission is publishing for comment a revised version of proposed Commission Rule 71-802 *Implementing National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (the "Proposed Implementing Rule").

Substance and Purpose

The Proposed Implementing Rule is a local Ontario rule implementing National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* ("NI 71-102") in Ontario. The Proposed Implementing Rule contains exemptions from certain provisions of the *Securities Act* (Ontario) (the "Act") and rules made under the Act that are necessary in order to implement NI 71-102.

Background

On June 21, 2002 we published for comment the first version of NI 71-102 and the Proposed Implementing Rule (the 2002 Proposal). For additional background information on the 2002 Proposal, as well as a detailed summary of its contents, please refer to the notice that was published with those versions.

On the same date as publication of this Notice, the Canadian Securities Administrators (CSA) are publishing for comment a revised version of NI 71-102. For a summary of the changes made to NI 71-102, please refer to the CSA Notice and Request for comment regarding NI 71-102.

Comments

We received no comments on the Proposed Implementing Rule that was part of the 2002 Proposal.

Summary of Changes to the Proposed Implementing Rule

No material changes have been made to the Proposed Implementing Rule.

Authority

Paragraph 143(1)36 of the Act, which authorizes the Ontario Securities Commission (the "Commission") to make rules varying the Act for foreign issuers to facilitate, among other things, compliance with requirements applicable or relating to reporting issuers and the making of going private transactions and related party transactions where the foreign issuers are subject to requirements of the laws of other jurisdictions that the Commission considers are adequate in light of the purposes and principles of the Act, provides the Commission with the authority to make the Proposed Implementing Rule.

The following provisions of the Act also provide the Commission with authority to make the Proposed Implementing Rule. Paragraph 143(1)22 authorizes the Commission to make rules prescribing requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to requirements under the Act. Paragraph 143(1)23 authorizes the Commission to make rules exempting reporting issuers from any requirement of Part XVIII (Continuous Disclosure) of the Act. Paragraph 143(1)25 authorizes the Commission to make rules prescribing requirements in respect of financial accounting, reporting and auditing for purposes of the Act, the regulations and the rules. Paragraph 143(1)26 authorizes the Commission to make rules prescribing requirements for the validity and solicitation of proxies. Paragraph 143(1)27 authorizes the Commission to make rules providing for the application of Part XVIII (Continuous Disclosure) and Part XIX (Proxies and Proxy Solicitation) in respect of registered holders or beneficial owners of voting securities or equity securities of reporting issuers or other persons or companies on behalf of whom the securities are held, including requirements for reporting issuers, recognized clearing agencies, registered holders, registrants and other persons or companies who hold securities on behalf of persons or companies but who are not the registered holders. Paragraph 143(1)28 authorizes the Commission to make rules regulating take-over bids, issuer bids, insider bids, going private transactions and related party transactions, including early warning provisions. Paragraph 143(1)30 authorizes the Commission to make rules providing for exemptions from any requirement of Part XXI (Insider Trading and Self-Dealing) of the Act. Paragraph 143(1)39 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. Paragraph 143(1)49 authorizes the Commission to make rules varying the Act to permit or require methods of filing or delivery, to or by issuers, security holders or others, of documents, information, reports or other communications required under or governed by Ontario securities law. Paragraph 143(1)56 authorizes the Commission to make rules providing for exemptions from or varying any or all of the time periods in the Act.

Anticipated Costs and Benefits

For a summary of the anticipated costs and benefits of NI 71-102 see CSA Notice and Request for Comment regarding NI 71-102.

Comments

Interested parties are invited to make written submissions with respect to the Proposed Implementing Rule. Submissions received by August 19, 2003 will be considered. Submissions should be addressed to the Commission at the following address:

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If you are not sending your comments by e-mail, please send a diskette containing your comments (in Windows format, Word).

We cannot keep submissions confidential because securities legislation requires that a summary of the written comments received during the comment period be published.

Questions may be referred to:

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Text of Proposed Rule

The text of the Proposed Implementing Rule follows.